


Content

Title :	Directions Governing the Internal Control System for Anti-Money Laundering and Countering Terrorism Financing of the Securities and Futures Sector 
Date :	2018.11.09
Legislative :	<p>1.Promulgated on January 3, 2014 per Order No. Financial-Supervisory-Securities-Corporate-1020053824 of the Financial Supervisory Commission</p> <p>2.Chinese title and full text of 17 points amended per 26 January 2017 Order No. Financial-Supervisory-Securities-Corporate-1060002350 of the Financial Supervisory Commission. The amended points will take force from 1 March 2017, with the exception of amended points 8, 9, and 14, which will take force from 1 June 2017</p> <p>3.Chinese title and full text of 9 points amended per 28 June 2017 Order No. Financial-Supervisory-Securities-Corporate-1060024432 of the Financial Supervisory Commission.</p> <p>4.Repealed on November 9, 2018 Order No. Financial-Supervisory-Securities-Corporate-10703407285 of the Financial Supervisory Commission.</p>
Content :	<p>Point 1 These Directions are specifically adopted to strengthen the anti-money laundering and countering terrorism financing (AML/CFT) mechanisms, and to enhance the soundness of the internal control and internal audit systems, of securities and futures businesses.</p> <p>Point 2 A securities or futures business's internal control system for AML/CFT shall comply with these Directions as well as relevant provisions in the Money Laundering Control Act, Terrorism Financing Prevention Act.</p> <p>Point 3 The "securities or futures business" referred to in the Directions include securities firms, securities investment and trust enterprises, securities finance enterprises, securities investment consulting enterprises, securities central depository enterprises, futures commission merchants, leverage transaction merchants, futures trust enterprises, and managed futures enterprises.</p> <p>Point 4 A securities or futures business launching new products or services, or engaging in new business practices (including new payment or delivery mechanisms, or use of new technologies for pre-existing or new products or business practices), shall assess the money laundering or terrorism financing risks that may arise in relation thereto, and establish relevant risk management measures to mitigate those identified risks.</p> <p>Point 5 Internal control system: A. A securities or futures business's internal control system for AML/CFT, and any amendments thereto, shall be approved by the board of directors. The content of the system shall include the following matters: a. The policies and procedures for identifying, assessing, and managing its money laundering and terrorism financing risks. b. AML/CFT programs adopted based on its money laundering and terrorism financing risks, and the scale of its business, in order to manage and mitigate those identified risks, and to adopt enhanced control measures on items with higher risks. c. Monitoring and control measures for compliance with AML/CFT laws and regulations, and the standard operating procedures for implementing the AML/CFT programs, which shall be incorporated into its self-audit and</p>

internal audit items, and enhanced if necessary.

B. The identification, assessment, and management of the money laundering and terrorism financing risks, as mentioned in item a. of the preceding subparagraph, shall cover at least customers, geographic areas, products and services, transactions, or payment and delivery channels, and shall be conducted in accordance with the following rules:

- a. The securities and futures business shall produce a risk assessment report.
- b. The securities and futures business shall consider all risk factors to determine the level of overall risk, and appropriate measures to mitigate the risks.
- c. The securities and futures business shall have a risk assessment update mechanism in place to ensure that risk data are kept up-to-date.
- d. The securities and futures business shall, upon the completion or updating of a risk assessment report, submit the risk assessment report to the Financial Supervisory Commission (FSC) for recordation.

C. The AML/CFT programs, as mentioned in item b. of subparagraph A. shall include the following policies, procedures, and control mechanisms:

- a. Verification of customer identity.
- b. Checking of names of customers and trading counterparties.
- c. Ongoing monitoring of accounts and transactions.
- d. Record keeping.
- e. Reporting of currency transactions above a certain amount.
- f. Reporting of transactions that are suspected of money laundering or terrorism financing.
- g. Appointment of a compliance officer at the management level in charge of AML/CFT compliance matters.
- h. Employee screening and hiring procedures.
- i. Ongoing employee training programs.
- j. An independent audit function to test the effectiveness of the AML/CFT systems.
- k. Other matters required by the AML/CFT laws and regulations and the FSC.

D. A securities or futures business having overseas branches (or subsidiaries) shall establish a group-level AML/CFT program, to be implemented in the branches (or subsidiaries) within the group. The program shall include the policies, procedures and controls mentioned in the preceding subparagraph, and in addition, the following particulars, without violating the information confidentiality regulations of Taiwan and of the countries or jurisdictions where the foreign branches and subsidiaries are located:

- a. Policies and procedures for sharing information within the group as required for the purposes of verifying customer identity, and money laundering and terrorism financing risk management.
- b. For AML/CFT purposes, when necessary, the overseas branches (or subsidiaries) must provide customer, account, and transaction information, as required under the group-level compliance, audit, and AML/CFT functions.
- c. Safeguards on the use and confidentiality of information exchanged.

E. A securities or futures business shall ensure that its foreign branches (and subsidiaries) apply AML/CFT measures, to the extent that the laws and regulations of the host countries or jurisdictions so permit, consistent with those implemented by the head office (or parent company). Where the minimum requirements of the countries where its head office (or parent company) and branches (or subsidiaries) are located are different, the branch (or subsidiary) shall follow the criteria which are higher. However, in case there is any doubt regarding the determination of higher or lower criteria, the determination by the competent authority of the place where the head office (or parent company) of the securities or futures business is located shall prevail. If a foreign branch or subsidiary is unable to adopt the same criteria as the head office (or parent company) due to prohibitions of foreign laws or regulations, appropriate additional measures should be taken to manage the risks of money laundering and terrorism financing, and a report shall be made to the FSC.

F. The board of directors of a securities or futures business shall bear ultimate responsibility for ensuring the establishment and maintenance of an appropriate and effective internal control system for AML/CFT. The board of directors and senior management should understand the money laundering

and terrorism financing risks and the operation of the AML/CFT programs, and adopt measures to create a culture of AML/CFT compliance.

Point 6

Chief AML/CFT officer:

A. A securities or futures business shall appoint an adequate number of AML/CFT personnel appropriate to the size and risks of the business. The board of directors of the securities or futures business shall appoint one senior officer to serve as the chief AML/CFT officer and vest the officer with full authority in coordinating and monitoring AML/CFT implementation, and ensure that the aforementioned AML/CFT personnel and the chief AML/CFT officer do not hold any concurrent posts that may have a conflict of interest with their AML/CFT responsibilities.

B. The chief AML/CFT officer mentioned in the preceding subparagraph shall be charged with the following duties:

a. Supervising the planning and implementation of policies and procedures for identifying, assessing, and monitoring money laundering and terrorism financing risks.

b. Coordinating and supervising the implementation of business-wide money laundering and terrorism financing risk identification and assessment.

c. Monitoring and controlling money laundering and terrorism financing risks.

d. Developing an AML/CFT program.

e. Coordinating and supervising the implementation of AML/CFT program.

f. Confirming compliance with AML/CFT laws and regulations, including relevant compliance templates or self-regulatory rules produced by the financial services trade association to which the securities or futures business belongs and approved by the FSC.

g. Supervising the reporting on transactions suspected of money laundering or terrorism financing, and on the properties or property interests and locations of individuals or entities designated by the Terrorism Financing Prevention Act, to the Investigation Bureau, Ministry of Justice.

C. The chief AML/CFT officer under subparagraph A. shall report to the board of directors and supervisors (or the audit committee) at least every half year, and shall immediately report to the board of directors and supervisors (or the audit committee) if he/she discovers any material breach of AML/CFT laws or regulations.

D. Any overseas business unit of a securities or futures business shall be staffed with an adequate number of AML/CFT personnel in view of the number of local branches, and the size and risks of its business, and appoint an AML/CFT officer to take charge of the coordination and supervision of AML/CFT matters.

E. The appointment of an AML/CFT officer by an overseas business unit of a securities or futures business shall comply with the local regulations and the requirements of the local authorities of the host jurisdiction. The AML/CFT officer shall be vested with full authority in coordination and supervision of AML/CFT implementation, including reporting directly to the chief AML/CFT officer mentioned in subparagraph A., and should not hold any other posts, except for the post of chief compliance officer. If the AML/CFT officer holds other concurrent posts, the foreign business unit should communicate that fact with the local competent authority to confirm that the holding of other concurrent posts will not likely result in any conflict of interest, and report the matter to the FSC for recordation.

Point 7

Implementation, internal audit, and statement of the AML/CFT internal control system:

A. The domestic and foreign business units of a securities or futures business shall appoint a senior manager to act as a supervisory officer in charge of supervising the implementation of AML/CFT related matters of the business unit, and conduct self-assessment in accordance with the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets.

B. The internal audit unit of a securities or futures business shall audit the following matters and submit audit opinions:

a. Whether the money laundering and terrorism financing risk assessment and

the AML/CFT program meet the regulatory requirements and are vigorously implemented.

b. The effectiveness of the AML/CFT program.

C. The president of a securities or futures business shall oversee that respective units prudently evaluate and review the implementation of the AML/CFT internal control system. The chairman, president, chief auditor and chief AML/CFT officer shall jointly issue a statement on AML/CFT internal control (see attached), which shall be submitted to the board of directors for approval and disclosed on the website of the securities or futures business within three months after the end of each fiscal year, and filed via a website designated by the FSC.

D. For the Taiwan branch office of a foreign securities or futures business, its board of directors at the head office shall authorize the responsible person at the Taiwan branch to be in charge of the matters involving the board of directors or supervisors, as stated in these Directions. The statement mentioned in the preceding subparagraph, shall be provided by three persons: the responsible person of the Taiwan branch authorized by the board of directors of the head office, the chief AML/CFT officer, and the chief auditor in charge of the Taiwan area.

Point 8

Employee hiring and training:

A. A securities or futures business shall establish prudent and appropriate procedures for employee screening and hiring, including examining whether the prospective employee has integrity of character and the professional knowledge required to perform their duties.

B. The personnel of the dedicated AML/CFT unit, the chief AML/CFT officer, and the domestic-business-unit AML/CFT supervisory officer, of a securities or futures business shall meet one of the following qualification requirements within three months after appointment, and the securities or futures business shall adopt relevant control mechanisms to ensure compliance:

a. Having served as an officer or AML/CFT personnel on a full-time basis for at least 3 years.

b. The personnel of the dedicated AML/CFT unit, and the chief AML/CFT officer shall have attended not less than 24 hours of courses organized by an institution recognized by the FSC, passed the exams and received completion certificates therefor. The AML/CFT supervisory officer of domestic business units shall have attended not less than 12 hours of courses organized by an institution recognized by the FSC, passed the exams and received completion certificates therefor. A chief compliance officer concurrently holding the post of chief AML/CFT officer, or a compliance personnel concurrently holding a post as a personnel of the dedicated AML/CFT unit will be deemed to have met the qualification requirements under this item after having attended 12 hours of education and training organized by an institution recognized by the FSC.

c. Having received a domestic or international AML/CFT professional certificate issued by an institution recognized by the FSC.

C. Persons under the preceding subparagraphs who were appointed to the post prior to 30 June 2017 may be deemed to have met the qualification requirements if they meet the qualifications in any one of the following items:

a. Having met the qualification requirements in item a. or c. of the preceding subparagraph prior to 30 June 2017.

b. Having met the qualification requirement in item b. of the preceding subparagraph within the following time limit:

I. Six months after appointment, for the personnel of dedicated AML/CFT unit and the chief AML/CFT officer of a securities or futures business.

II. One year after appointment, for the AML/CFT supervisory officer of domestic business units of a securities or futures business.

D. The AML/CFT personnel and the chief AML/CFT officer of a securities or futures business and the AML/CFT supervisory personnel of its domestic business units shall at least attend 12 hours of AML/CFT training organized by internal or external training institutions approved by the chief officer under Point 6, subparagraph A. every year. The training shall cover at least newly amended laws and regulations, and trends and patterns of money

laundering and terrorism financing risks. If the person has obtained a domestic or international AML/CFT professional certificate issued by an institution recognized by the FSC in a given year, the certificate may be used to offset the training hours for the year.

E. The AML/CFT supervisory officer and the AML/CFT officer and personnel of foreign business units of a securities or futures business shall have expertise in anti-money laundering, and be familiar with relevant local laws and regulations, and shall at least attend 12 hours of training on AML/CFT offered by foreign competent authorities or relevant institutions. If no such training is available, the personnel may attend training courses offered by internal or external training institutions approved by the chief officer under Point 6, subparagraph A.

F. A securities or futures business shall arrange appropriate hours of education and on-the-job training of suitable contents on AML/CFT in view of the nature of its business for its directors, supervisors, general managers, legal compliance personnel, internal auditors, and associated persons to familiarize them with their AML/CFT duties and equip them with the professional knowhow to perform their duties.

Point 9

If a securities or futures business violates these Directions, the FSC will take appropriate sanctions commensurate with the seriousness of the violations in accordance with Articles 56, 65, 66, and 178 of the Securities and Exchange Act, Articles 100, 101, and 119 of the Futures Trading Act, Articles 102 to 104 of the Securities Investment Trust and Consulting Act, and other relevant laws and regulations.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System