

# 行政院農業委員會主管法規共用系統

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## 英譯法規內容

法規名稱 (Title)： Regulations Governing Anti-money Laundering of Agricultural Financial Institutions Ch

公發布日 (Date)： 2018.12.27

法規沿革 (Legislative)： 1.Promulgated per order of Council of Agriculture No. Nong-Jin-Zi-1065074296A dated July 26, 2017 and error correction (Article 3) announced per letter No. Nong-Shou-Jin-Zi-1065074440 dated September 20, 2017.  
2.Amendment of Articles 3, 10, 14 and 15 promulgated per order of Council of Agriculture No. Nong-Jin-Zi-1075074662A dated December 27, 2018.

法規內文 (Content)： Article 1  
These Regulations are enacted pursuant to the front section of Paragraph 4, Article 7, Paragraph 3 of Article 8, Paragraph 3 of Article 9 and Paragraph 3 of Article 10 of the Money Laundering Control Act (referred to as the "Act" hereunder).

### Article 2

Terms used in these Regulations are defined as follows:

1. The term "agricultural financial institution" shall mean credit departments of farmers' associations, credit departments of fishermen's associations (collectively referred to as "credit departments" hereunder) and Agricultural Bank of Taiwan.
2. The term "a certain amount" shall mean NT\$500,000 (including the foreign currency equivalent thereof).
3. The term "cash transaction" shall mean cash receipt or payment in a single transaction (including all transactions recorded on cash deposit or withdrawal vouchers for accounting purpose), or the transaction of currency exchange.
4. The term "customer" shall mean the customers of agricultural financial institutions.
5. The term "beneficial owner" shall mean a natural person who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted, including those persons who exercise ultimate effective control over a legal person or arrangement.
6. The term "risk-based approach" (RBA) shall mean agricultural financial institutions should identify, assess and understand the money laundering and terrorist financing

(ML/TF) risks to which they are exposed and take anti-money laundering and countering terrorist financing (AML/CFT) measures commensurate to those risks in order to mitigate them. Based on the RBA, agricultural financial institutions should adopt enhanced control measures for higher risk situations, and adopt relatively simplified control measures for lower risk situations to allocate resources efficiently, and use the most appropriate and effective approach to mitigate the identified ML/TF risks.

### Article 3

An agricultural financial institution shall comply with the following provisions in undertaking customer due diligence (CDD) measures:

1. An agricultural financial institution shall not accept anonymous accounts or accounts in fictitious names for establishing or maintaining business relationship.
2. An agricultural financial institution shall undertake CDD measures when:
  - A. establishing business relations with any customer;
  - B. carrying out occasional transactions with respect to:
    - (1) a transaction (including domestic remittance) above a certain amount or multiple apparently related transactions that is above a certain amount when combined; or
    - (2) a cross-border wire transfer involving NTD30,000 or more (including the foreign currency equivalent thereof);
  - C. there is a suspicion of money laundering or terrorist financing; or
  - D. The agricultural financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
3. The CDD measures to be taken by an agricultural financial institution are as follows:
  - A. Identifying and verifying the customer's identity using reliable, independent source documents, data or information, and in addition, retaining copies of the customer's identity documents or record the relevant information thereon.
  - B. Verifying that any person purporting to act on behalf of the customer is so authorized, identifying and verifying the identity of that person using reliable, independent source documents, data or information where the customer opens an account or conducts a transaction through an agent, and in addition, retaining copies of the person's identity documents or record the relevant information thereon.

- C. Taking reasonable measures to identify and verify the identity of the beneficial owner of a customer, including using reliable source data or information .
  - D. Enquiring information on the purpose and intended nature of the business relationship when undertaking CDD measures, and obtaining relevant information in view of the circumstances.
4. When the customer is a legal person, an organization or a trustee, an agricultural financial institution shall understand the business nature of the customer or trust (including trust-like legal arrangements) and obtain at least the following information on the customer or the trust to identify and verify the identity of the customer:
- A. Name, legal form and proof of existence of customer or trust.
  - B. The charter or similar power document that regulates and binds the customer or the trust, except for any of the following circumstances:
    - (1) Customers/entities listed under Item C of Subparagraph 6 hereof and insurance products listed under Item D of Subparagraph 6 hereof are free of the situation described in the proviso of Subparagraph 3, Article 6 herein.
    - (2) The customer who is an organization acknowledges that it does not have a charter or similar power document.
  - C. The names of those persons having a senior management position in the customer.
  - D. The address of the registered office of the customer, and the address of its principal place of business.
5. When the customer is a legal person, an agricultural financial institution shall understand whether the customer is able to issue bearer shares and adopt appropriate measures for customers who have issued bearer shares to ensure its beneficial owners are kept up-to-date.
6. When the customer is a legal person, an organization or a trustee, an agricultural financial institution shall, in accordance with Item C of Subparagraph 3 hereof, understand the ownership or control structure of the customer or the trust, and obtain the following information to identify the beneficial owners of the customer and take reasonable measures to verify the identity of such persons:
- A. For legal persons or organizations:
    - (1) The identity of the natural persons who ultimately have a controlling ownership interest in a legal person. A controlling ownership interest refers to owning more than 25 percent of a legal person's shares or capital; an agricultural financial institution may request the shareholder list or other

documents from the customer to assist in the identification.

- (2) To the extent where no natural person exerting control through ownership interests is identified or that there is doubt as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) under (1) above, an agricultural financial institution should identify the identity of the natural persons (if any) exercising control of the customer through other means.
  - (3) Where no natural person is identified under (1) or (2) above, an agricultural financial institution shall identify the identity of the relevant natural person who holds the position of senior managing official.
- B. For trustees: the identity of the settlor(s), the trustee(s), the trust supervisor, the beneficiaries, and any other person exercising ultimate effective control over the trust, or the identity of persons in equivalent or similar positions.
- C. Except for situations provided for in the proviso of Subparagraph 3 of Article 6 herein or where the customer has issued bearer shares, an agricultural financial institution is not subject to the requirements of identifying and verifying the identity of beneficial owner set out under Item C of Subparagraph 3 hereof, provided the customer or a person having a controlling ownership interest in the customer is
- (1) a R.O.C government entity;
  - (2) an enterprise owned by the R.O.C government;
  - (3) a foreign government entity;
  - (4) a public company and its subsidiaries;
  - (5) an entity listed on a stock exchange outside of R.O.C. that is subject to regulatory disclosure requirements of its principal shareholders, and the subsidiaries of such entity;
  - (6) a financial institution supervised by the R.O.C. government, and an investment vehicles managed by such institution;
  - (7) a financial institution incorporated or established outside R.O.C. that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the Financial Action Task Force on Money Laundering (FATF), and an investment vehicle managed by such institution; or
  - (8) a fund administered by a R.O.C. government entity; or
  - (9) an employee stock ownership trust or an employee savings trust.

D. Except for situations provided for in the proviso of

Subparagraph 3 of Article 6 herein, an agricultural financial institution is not subject to the requirements of identifying and verifying the identity of beneficial owner set out under Item C of Subparagraph 3 hereof when the customer purchases property insurance, accident insurance, health insurance or an insurance product that does not require policy value reserve.

7. An agricultural financial institution should not establish a business relationship or carry out occasional transactions with a customer before completing the CDD process. However, an agricultural financial institution may first obtain information on the identity of the customer and any beneficial owner and complete the verification following the establishment of business relationship, provided that:
  - A. money laundering and terrorist financing risks are effectively managed, including adopting risk management procedures with respect to the conditions under which a customer may utilize the business relationship to complete a transaction prior to verification;
  - B. it would be essential not to interrupt the normal conduct of business with the customer; and
  - C. verification of the identities of customer and beneficial owner will be completed as soon as reasonably practicable following the establishment of business relationship. The agricultural financial institution shall terminate the business relationship if verification cannot be completed as soon as reasonably practicable and inform the customer in advance.
8. Where an agricultural financial institution is unable to complete the required CDD process on a customer, it should consider reporting suspicious transactions in relation to the customer.
9. If an agricultural financial institution suspects that a customer or transaction may relate to money laundering or terrorist financing activities and reasonably believes that performing the CDD process will tip-off the customer, it may choose not to pursue that process and file a suspicious transactions report instead.

#### Article 4

If there exists any of the following situations in the CDD process, an agricultural financial institution should decline to establish business relationship or carry out any transaction with the customer:

1. The customer is suspected of opening an anonymous account or using a fake name, a nominee, a shell entity, or a shell corporation to open an account;
2. The customer refuses to provide the required documents for

- identifying and verifying his/her identity;
3. Where a customer opens an account through an agent, it is difficult to check and verify the facts of agency and identity related information;
  4. The customer uses forged or altered identification documents;
  5. The customer only provides photocopies of the identification documents; the preceding provision does not apply to for businesses where a photocopy or image file of the identification document supplemented with other control measures are acceptable;
  6. Documents provided by the customer are suspicious or unclear, or the customer refuses to provide other supporting documents, or the documents provided cannot be authenticated;
  7. The customer procrastinates in providing identification documents in an unusual manner;
  8. The customer is an individual, legal entity or organization sanctioned under the Terrorism Financing Prevention Act or a terrorist or terrorist group identified or investigated by a foreign government or an international anti-money laundering organization, except for payments made under Subparagraphs 2 ~ 4, Paragraph 1, Article 6 of the Terrorism Financing Prevention Act; or
  9. Other unusual circumstances exist in the process of establishing business relationship and the customer fails to provide reasonable explanations.

#### Article 5

The CDD measures of an agricultural financial institution shall include ongoing customer due diligence and observe the following provisions:

1. An agricultural financial institution shall apply CDD measures to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained. The aforementioned appropriate times include at least:
  - A. When the customer opens a new account or enters new business relationships;
  - B. When it is time for periodic review of the customer scheduled on the basis of materiality and risk; and
  - C. When it becomes known that there is a material change to customer' s identity and background information.
2. An agricultural financial institution shall scrutinize transactions taken place during its business relationship with a customer to ensure that the transactions being conducted are consistent with the institution' s knowledge of the customer, the customer' s business and risk profile,

including, where necessary, the source of funds.

3. An agricultural financial institution shall periodically review the adequacy of customer identification information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of customers, for whom the agricultural financial institution should conduct review at least once every year.
4. An agricultural financial institution is entitled to rely on the identification and verification steps that it has already undertaken. Therefore an agricultural financial institution is allowed not to repeatedly identify and verify the identity of each customer every time that a customer conducts a transaction unless it has doubts about the veracity or adequacy of that information, discovers that the customer is involved in a transaction suspicious of money laundering or terrorist financing, or discovers that there is a material change in the way that the customer's account is operated, which is not consistent with the customer's business profile. In such events, the agricultural financial institution shall conduct CDD again in accordance with the provisions of Article 3 herein.

#### Article 6

An agricultural financial institution shall determine the extent of applying CDD and ongoing CDD measures under Subparagraph 3 of Article 3 herein and the preceding Article using a risk-based approach (RBA) and observe the following provisions:

1. For higher risk circumstances, an agricultural financial institution shall apply enhanced CDD or ongoing CDD measures by adopting additionally at least the following enhanced measures:
  - A. Obtaining the approval of senior management before establishing or entering a new business relationship;
  - B. Adopting reasonable measures to understand the sources of wealth and the source of funds of the customer; source of funds means the actual source of funds from where the funds are derived; and
  - C. Adopting enhanced ongoing monitoring of business relationship.
2. For customers from high ML/TF risk countries or regions, an agricultural financial institution shall conduct enhanced CDD measures consistent with the risks identified.
3. For lower risk circumstances, an agricultural financial institution may adopt simplified CDD measures, which shall be commensurate with the lower risk factors. However simplified CDD measures are not allowed in any of the following circumstances:

- A. Where the customers are from or in countries or regions known to have inadequate AML/CFT regimes, including but not limited to those which designated by international organizations on AML/CFT as countries or regions with serious deficiencies in their AML/CFT regime, and other countries or regions that do not or insufficiently comply with the recommendations of international organizations on AML/CFT as forwarded by the Council of Agricultural, Executive Yuan (referred to as "the Council" hereunder);  
or
- B. Where an agricultural financial institution suspects that money laundering or terrorist financing is involved.

#### Article 7

An agricultural financial institution should perform its own CDD operation. However if it is otherwise permitted by law or the Council that an agricultural financial institution may rely on third parties to perform the identification and verification of the identities of customers, agents and beneficial owners or the purpose and intended nature of the business relationship, the agricultural financial institution relying on the third party shall still bear the ultimate responsibility for CDD measures and comply with the following provisions:

1. An agricultural financial institution relying on a third party should be able to immediately obtain the necessary CDD information.
2. An agricultural financial institution should take adequate steps to satisfy itself that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.
3. An agricultural financial institution shall make sure that the third party it relies on is regulated, supervised or monitored, and has appropriate measures in place for compliance with CDD and record-keeping requirements.
4. An agricultural financial institution shall make sure that the jurisdiction at where the third party it relies on is based has AML/CFT regulations in place that are consistent with the standards set out by the FATF.

#### Article 8

Agricultural financial institutions shall observe the following provisions in checking the names of customers and trading counterparties:

1. An agricultural financial institution shall establish policies and procedures for checking the names of customers and trading counterparties using a risk-based approach to detect, match and filter customers, senior managerial

officers or beneficial owners of customers, or trading counterparties that are individuals, legal entities or organizations sanctioned under the Terrorism Financing Prevention Act or terrorists or terrorist groups identified or investigated by a foreign government or an international anti-money laundering organization.

2. The policies and procedures for checking the names of customers and trading counterparties of an agricultural financial institution shall include at least matching and filtering logics, implementation procedures and inspection standards, and shall be documented.
3. An agricultural financial institution shall document its name and account checking operations and maintain the records for a time period in accordance with Article 11 herein.

#### Article 9

Agricultural financial institutions shall observe the following provisions for ongoing monitoring of accounts or transactions:

1. An agricultural financial institution shall use a database to consolidate basic information and transaction information on all customers for inquiries for AML/CFT purpose so as to strengthen the institution's account or transaction monitoring ability. An agricultural financial institution shall also establish internal control procedures for requests and inquiries as to customer information made by various entities, and shall exercise care to ensure the confidentiality of the information.
2. An agricultural financial institution shall establish policies and procedures for account or transaction monitoring using a risk-based approach and utilize information system to assist in the detection of suspicious ML/FT transactions.
3. An agricultural financial institution shall review its policies and procedures for account or transaction monitoring based on AML/CFT regulations, nature of customers, business size and complexity, money laundering and terrorist financing related trends and information obtained from internal and external sources, and the results of internal risk assessment, and update those policies and procedures periodically.
4. The policies and procedures for account or transaction monitoring of an agricultural financial institution shall include at least the procedures for establishing a complete monitoring system, and carrying out the setting of parameters, threshold amounts, alerts and monitoring operations, the procedures for checking the monitored cases and reporting standards, and shall be documented.
5. A complete monitoring system mentioned in the preceding Subparagraph shall include the patterns published by the

trade associations in the case of Agricultural Bank of Taiwan and patterns published by the Agricultural Bank of Taiwan as well as additional monitoring patterns in reference to the money laundering and terrorist financing risk assessment or daily transaction information of the agricultural financial institution itself in the case of credit departments.

6. An agricultural financial institution shall document its ongoing account or transaction monitoring operation and maintain the records for a time period in accordance with Article 11 herein.

#### Article 10

When conducting CDD, an agricultural financial institution should adopt appropriate risk management mechanisms to determine whether a customer or beneficial owner or senior managerial officer of a customer is a person who is or has been entrusted with a prominent function by a R.O.C. government, a foreign government or an international organization (referred to as politically exposed persons (PEPs) hereunder) and observe the following provisions:

1. For a customer or beneficial owner determined to be a current PEP of a foreign government, an agricultural financial institution shall treat the customer directly as a high-risk customer, and adopt enhanced CDD measures under Subparagraph 1 of Article 6 herein.
2. For a customer or beneficial owner determined to be a current PEP of a R.O.C. government or an international organization, an agricultural financial institution shall assess risks when establishing business relationship with the person and conduct annual review thereafter. In case of higher risk business relationship with such customers, the institution shall adopt enhanced CDD measures under Subparagraph 1 of Article 6 herein.
3. For a senior managerial officer of a customer determined to be a current PEP of a R.O.C. government, a foreign government or an international organization, an agricultural financial institution shall determine whether to apply the enhanced CDD measures under Subparagraph 1 of Article 6 by considering the level of influence the officer has on the customer.
4. For former PEPs of R.O.C. or foreign governments or international organizations, an agricultural financial institution shall the level of influence that the individual could still exercise by considering relevant risk factors and determine whether to apply the provisions of the preceding three Subparagraphs based on the RBA.
5. The preceding four Subparagraphs apply to family members and close associates of PEPs. The scope of family members and close associates mentioned above will be determined in a

manner stipulated in the latter section of Paragraph 4, Article 7 of the Act.

Provisions of the preceding Paragraph do not apply when the beneficial owner or senior managerial officer of a customer specified under sub-items (1) ~ (3) and (8) of Item C, Subparagraph 6, Article 3 herein is a PEP.

#### Article 11

An agricultural financial institution shall keep records on all business relations and transactions with its customers in hard copy or electronical form and in accordance with the following provisions:

1. An agricultural financial institution shall maintain all necessary records on transactions, both domestic and international, for at least five years or a longer period as otherwise required by law.
2. An agricultural financial institution shall keep all the following information for at least five years or a longer period as otherwise required by law after the business relationship is ended, or after the date of the occasional transaction:
  - A. All records obtained through CDD measures, such as copies or records of official identification documents like passports, identity cards, driving licenses or similar documents.
  - B. Account files or contract files.
  - C. Business correspondence, including inquiries to establish the background and purpose of complex, unusual large transactions and the results of any analysis undertaken.
3. Transaction records maintained by an agricultural financial institution must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.
4. An agricultural financial institution shall ensure that information on transaction records and CDD information will be swiftly made available to the competent authorities when such requests are made with appropriate authority.

#### Article 12

Agricultural financial institutions shall comply with the following provisions with respect to cash transactions above a certain amount:

1. Verify the identity of the customer and keep relevant transaction records.
2. Conduct CDD measures in accordance with the following provisions:
  - A. Check the identity (ID) document or passport provided by the customer and record the customer's name, date of

birth, address, telephone, account number, amount of transaction, and ID number. Notwithstanding the foregoing, in case that the customer is confirmed to be exactly the accountholder, it should be clearly noted in the transaction record rather than undertaking a repeated ID verification.

- B. If the transaction is conducted by an agent, check the identity of the agent by checking his or her ID document or passport and record the name, date of birth, address, and telephone of the agent, account number, amount of transaction, and ID number.
  - C. For occasional transactions, verify the identity of the customer in accordance with Subparagraph 3 of Article 3 herein.
3. Except for situations specified in Article 13 herein, report the transaction to the Investigation Bureau, Ministry of Justice (referred to as "Investigation Bureau" hereunder) in a format prescribed by the Investigation Bureau via electronic media in five business days after the completion of transaction. If an agricultural financial institution is unable to file a report via electronic media with a legitimate reason, the institution may file a written report after obtaining the consent of the Investigation Bureau.
  4. Keep the data reported to the Investigation Bureau and relevant transaction records in accordance with Article 11 herein.

### Article 13

An agricultural financial institution is not required to file a report on any of the following cash transactions above a certain amount with the Investigation Bureau, provided the financial institution verifies the identity of the customer and keeps the transaction records thereof:

1. Deposits into the accounts opened by government agencies, state-run enterprises, institutions acting with governmental power (within the scope of mandate), public and private schools, public enterprises and government funds established where relevant regulations or contractual relationships so provide and their transactions with the agricultural financial institution.
2. Receivables and payables collected and made by an agricultural financial institution on behalf of government treasuries.
3. Transactions and fund arrangements between financial institutions. Notwithstanding the foregoing, payables to another financial institution's customer paid through an inter-bank deposit account, such as a customer cashing the check issued by another financial institution, shall be

handled as required, provided the cash transaction of the same customer exceeds a certain amount.

4. Funds paid by a lottery merchant for purchasing lottery tickets.
5. Payments collected on behalf of a third party (excluding payments deposited in designated stock subscription accounts and credit card payments collected) where the payment notice expressly bears the name, ID Card number (including the code which enables tracking of counterparty's identity), and type and amount of transaction. Nevertheless, the duplicate copy of the payment notice shall be kept as the transaction record.

In case of non-individual accounts such as those opened by department stores, megastores, supermarket chains, gas stations, hospitals, transportation businesses and hotels and restaurants which must deposit cash amounting to over a certain amount constantly or routinely in line with business needs, an agricultural financial institution may, after verifying the actual business needs, submit the name list to the Investigation Bureau. Verification and reporting of transactions on a case-by-case basis may be waived for such an account unless the Investigation Bureau responds to the contrary within ten days from the receipt of the name list. An agricultural financial institution shall examine the counterparties to the transactions exempted from reporting on a case-by-case basis at least once every year, and report to the Investigation Bureau for recordation if a counterparty no longer has business dealing as mentioned in this paragraph with it.

#### Article 14

Agricultural financial institutions shall file suspicious transaction reports in accordance with following provisions:

1. For transactions related to the monitoring patterns under Subparagraph 5 of Article 9 herein or other unusual situations, an agricultural financial institution shall promptly complete review to determine whether suspicious money laundering or terrorist financing activities are involved and save related records in accordance with Subparagraphs 4 and 6 of Article 9 herein.
2. If a transaction is deemed suspected of money laundering or terrorist financing upon review, an agricultural financial institution shall, regardless of the amount of transaction and regardless whether the transaction is completed or not, promptly file a STR with the Investigation Bureau in a format prescribed by the Bureau in no later than two business days after the report has been approved by the responsible chief compliance officer at the institution.
3. For obviously significant suspected money laundering

transactions of urgent nature, an agricultural financial institution should file a report as soon as possible to the Investigation Bureau by fax or other available means and follow it up with a written report. The agricultural financial institution is not required to submit a follow-up written report, provided the Investigation Bureau has acknowledged the receipt of report by sending a reply by fax. In such event, the agricultural financial institution shall retain the faxed reply.

4. The formats of STR and faxed reply mentioned in the preceding two subparagraphs shall be prescribed by the Investigation Bureau.
5. The data reported to the Investigation Bureau and relevant transaction records shall be kept in accordance with Article 11 herein.

#### Article 15

These Regulations shall enter into force on June 28, 2017.

The amended articles of these Regulations shall enter into force on the date of promulgation.

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資料來源：行政院農業委員會主管法規共用系統