



## Article Content

**Title :** Regulations Governing Internal Audit and Internal Control System of Anti-Money Laundering and Countering Terrorism Financing of Financial Leasing Enterprises CH

**Announced Date :** 2018-11-09

**Category :** Financial Supervisory Commission ( 金融監督管理委員會 )

**Article 1** These Regulations are enacted pursuant to Paragraph 2, Article 5 applying to Paragraph 3, Article 6 of the Money Laundering Control Act (hereinafter referred to as the “Act”).

**Article 2** The definition of “financial leasing enterprise” and “financial leasing transaction” referred to in these regulations shall be determined by Subparagraph 1 and 2, Paragraph 1, Article 2 of the Regulations Governing Anti-Money Laundering of Financial Leasing Enterprises.

**Article 3** A financial leasing enterprise shall identify and assess money laundering or terrorist financing (hereinafter referred to as the “ML/TF”)risks before launching new products, new services or new business practices related to financial leasing transactions, and establish appropriate risk management measures to mitigate identified risks.

**Article 4** The Anti-Money Laundering and Countering Terrorism Financing (hereinafter referred to as the “AML/CFT”)internal audit and internal control system established by a financial leasing enterprise conducting financial leasing transactions and any subsequent amendment thereto shall be approved by its board of directors .

The system mentioned in the preceding paragraph shall contain the following:

1. The policies and procedures to identify, assess and understand its ML/TF risks;
2. An AML/CFT program established based on ML/TF risks and business size to manage and mitigate identified risks, which also includes enhanced control measures for higher risk situations; and
3. Standard operational procedures for monitoring compliance with AML/CFT regulations and the implementation of the AML/CFT program, and enhanced if necessary.

The ML/TF risk identification, assessment and understanding mentioned in Subparagraph1of the preceding paragraph shall cover

at least customers, countries or geographic areas, products and services, transactions or delivery channels, and contain the following:

1. A risk assessment report shall be documented every two years;
2. The risk assessment shall consider all risk factors to determine the level of overall risk, and appropriate measures to mitigate the risks;
3. Keeping the risk assessment up-to-date; and
4. When the risk assessment is completed or updated, the report shall be submitted to the Financial Supervisory Commission (hereinafter referred to as the "FSC") for recordation.

The AML/CFT program mentioned in Subparagraph 2 of Paragraph 2 hereof shall include the following policies, procedures and controls:

1. Customer due diligence;
2. Watch list filtering;
3. Ongoing due diligence of transactions;
4. Record keeping;
5. Filing currency transaction report (CTR);
6. Filing suspicious ML/TF transaction report (STR);
7. Appointment of a compliance officer in charge of AML/CFT compliance matters;
8. Employee screening and hiring procedure;
9. Ongoing employee training program;
10. An independent audit function to test the effectiveness of AML/CFT system; and
11. Other matters required by the AML/CFT regulations and the FSC.

A financial leasing enterprise having branches (or subsidiaries) shall establish a group-wide AML/CFT program which shall be applicable, and appropriate to, all branches (or subsidiaries) of the group. The AML/CFT program shall include the policies, procedures and controls mentioned in the preceding paragraph, and in addition, contain the following without violating the information confidentiality regulations of the ROC and host countries or jurisdictions:

1. Policies and procedures for sharing information within the group required for the purposes of CDD and ML/TF risk management;
2. Group-level compliance, audit and AML/CFT functions to require branches (or subsidiaries) to provide customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. This should include information and analysis of transactions or activities which appear unusual. Similarly branches (or subsidiaries) should receive such information from these group-level functions when necessary for AML/CFT purposes; and

3. Adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

A financial leasing enterprise shall be required to ensure that its foreign branches (or subsidiaries) apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit. If the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, the financial leasing enterprise shall be required to apply appropriate additional measures to manage the ML/TF risks, and report to the FSC.

The board of directors of a financial leasing enterprise takes the ultimate responsibility of ensuring the establishment and maintenance of appropriate and effective AML/CFT internal controls. The board of directors and senior management of a financial leasing enterprise shall understand the company's ML/TF risks and the operation of its AML/CFT program, and adopt measures to create a culture of AML/CFT compliance.

**Article 5** A financial leasing enterprise shall be equipped with adequate AML/CFT resources appropriate to the size and risks of its business. The board of directors of the financial leasing enterprise shall appoint an AML/CFT compliance officer at the management level and vest the officer full authority in coordinating and supervising AML/CFT implementation and shall ensure that the officer do not hold concurrent positions that may have a conflict of interest with the AML/CFT responsibilities.

The AML/CFT compliance officer mentioned in the preceding paragraph shall be charged with the following duties:

1. Coordinating and supervising the planning and implementation of policies and procedures for identifying, assessing and understanding ML/TF risks, and monitoring and controlling ML/TF risks.
2. Developing an AML/CFT program and coordinating and supervising the implementation of the program.
3. Confirming compliance with AML/CFT regulations, including the relevant specimen or self-regulatory rules formulated by the related leasing association and accepted by the FSC for recordation.
4. Supervising the reporting on suspicious ML/TF transactions and on the properties or property interests and location of individuals or legal entities designated by the Counter-Terrorism Financing Act to the Investigation Bureau, Ministry of Justice.

5. Other matters related to AML/CFT.

The AML/CFT compliance officer mentioned in Paragraph 1 hereof shall report to the board of directors, and supervisors or the audit committee at least annually, or whenever a major AML regulatory violation is discovered.

**Article 6** A financial leasing enterprise shall establish screening procedures to ensure high standards when hiring employees, including examining whether the prospective employee has character integrity and the professional knowledge required to perform its duty.

The AML/CFT compliance officer of a financial leasing enterprise shall possess one of the following qualification requirements in three (3) months after appointment/assignment to the position and the enterprise shall set out relevant control mechanism to ensure compliance with the provisions hereof:

1. Having served as a legal compliance officer staffed under other laws and regulations, or an AML/CFT compliance officer on a full-time basis for at least three (3) years;
2. Having attended at least 24 hours of courses offered by institutions recognized by the FSC, passed the exams, and received completion certificates therefor; or
3. Having received an AML/CFT professional certificate issued by an international or a domestic institution recognized by the FSC.

The AML/CFT compliance officer mentioned in the preceding paragraph shall annually attend at least 12 hours of training on AML/CFT. The training shall cover at least newly amended laws and regulations, trends and typologies of ML/TF risks. If the person has obtained an AML/CFT professional certificate issued by an international or a domestic institution recognized by the FSC in a year, the certificate may be used to substitute the training hours for the year.

A financial leasing enterprise shall annually arrange appropriate hours and contents of orientation and on-the-job training on AML/CFT for its directors, supervisors, president, legal compliance personnel, internal auditors, and business personnel in view of the nature of its business, to familiarize them with their AML/CFT duties and equip them with the professional knowhow to perform their duties.

**Article 7** A financial leasing enterprise shall conduct an independent audit on the following matters and submit audit opinions:

1. Whether the ML/TF risk assessment and the AML/CFT program meet the regulatory requirements and are implemented; and
2. The effectiveness of the AML/CFT program.

If the financial leasing enterprise has an internal audit unit

established under other laws and regulations, the independent audit mentioned in the preceding paragraph shall be conducted by the internal audit unit.

- Article 8** For the implementation of internal audit and internal control system of AML/CFT of a financial leasing enterprise, the FSC may, at any time, appoint a designee to conduct an inspection using risk-based approach. The inspection includes on-site and off-site inspections. In addition, the enterprise may be required to entrust the professionals and technologists to conduct an inspection for the aforementioned implementation and submit a report to the FSC.
- When the FSC conducts the inspection in the preceding paragraph, the financial leasing enterprise shall provide the AML related books, documents, electronic data files or other relevant materials. The aforementioned materials, whether stored in hard copy, electronic file, e-mail or any other form, shall be provided, and the financial leasing enterprise shall not circumvent, reject or obstruct the inspection for any reason.

- Article 9** These Regulations shall be effective from the date of promulgation.

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