Global Financial Services Regulatory Guide - Taiwan

3. What types of activities require a license in your jurisdiction?

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# What types of activities require a license in your jurisdiction?

The types of activity that may qualify as banking and financial activity requiring a license in Taiwan include the following:

Deposit taking – As defined in the Banking Act, "deposit taking" refers to the act of accepting deposits or other funds from the general public and agreeing to return the principal or to pay an amount equal to or greater than the principal.

Providing mortgage loans – Under the Banking Act, "mortgage loan" refers to a kind of “secured credit,” which implies that the following types of collateral have been furnished to secure such credit

Mortgage for immovables or movable

Pledge for movables or right

Bills/notes receivable from business transactions of a borrower

Guarantees extended by a government agency in charge of the public treasury, a bank or a government-authorized credit agency

Consumer lending – This is defined as the extension of credit by a bank to a person to accommodate the financing needs of such person for the acquisition of a property, an investment, consumption or other expenditures, as defined in the Guidelines Governing the Credit Extensions by Member Banks of the ROC Bankers Association. A bank will usually expect the borrower’s salary, interest revenue, leasing revenue, investments, and the like, as repayment sources. The Fair Trade Commission and various consumer protection institutions closely monitor the consumer lending terms and conditions.

Issuing credit and charge cards – "Credit card" pertains to the card used by a card holder to obtain in advance, by virtue of the card-issuing institution’s credit, money, goods, services or other benefits from certain specially arranged parties, and to repay the relevant indebtedness thereafter or in accordance with other arrangements.

Taiwan and other countries are keen to develop its fintech by introducing a sandbox regulation where fintech solution providers may be exempted from certain regulatory requirements if they are approved to enter into an experiment.

Providing foreign exchange and money remittance services – "Money remittance services" refer to the purchase or sale of foreign currency and money transfers to and from Taiwan. Under the amended EPI Act, an entity other than banks or electronic payment institutions (EPI) will be allowed to engage in limited foreign exchange and inward/outward remittance services provided to foreign workers subject to further approval by the FSC. Such relaxation aims to satisfy more migrant workers’ needs, who used to suffer from relatively expensive transaction costs for migrant remittances.

The definition and scope of “foreign exchange business” include the following:

Foreign exchange business related to export

Foreign exchange business related to import

Inward and outward remittances

Foreign currency deposits

Foreign currency loans

Foreign currency payment guarantees

Foreign exchange derivatives business

Other foreign exchange businesses

Conducting trust business – This covers the following activities:

Trust of money

Trust of loans and related security interests

Trust of securities

Trust of movable property

Trust of real estate

Trust of leases

Trust of superficies

Trust of patents

Trust of copyrights

Trust of other property rights

Trust products or services in Taiwan are standardized because they are highly regulated by the FSC.

Providing securities investment trust and securities investment consulting services – "Securities investment trust services" refers to offering securities investment trust funds and issuing beneficial interest certificates to unspecified persons, or privately placing securities investment trust funds and delivering beneficial interest certificates to specified persons, and investing in or trading securities, securities-related products, or other items approved by the competent authority. "Securities investment consulting services" refers to providing analysis, opinions or recommendations on matters relating to an investment in or trading of securities, securities-related products or other items approved by the competent authority, in return for compensation obtained directly or indirectly from a principal or third party.

Carrying on insurance business, insurance agency business and insurance broker business – "Insurance agent" refers to a person who, on the basis of a contract of agency or a letter of authorization, collects remuneration from an insurer and acts as a business agent on the insurer’s behalf. "Insurance broker" refers to a person who, on the basis of the interest of the insured, negotiates an insurable contract or provides related services and collects a commission or remuneration.

Providing securities custody, book-entry transfer and registration of book-entry securities.

Carrying on business of securities underwriting, proprietary trading and securities brokerage – Only a licensed securities firm is allowed to carry on securities business.

Providing electronic payment services – "Electronic payment institution" means a company approved by the competent authority to engage in the following businesses in the capacity of an intermediary between payers and recipients:

Collecting and making payments for real transactions as an agent, excluding an institution that engages only in this business and where the total balance of funds collected/paid and kept by them as an agent does not exceed TWD 1 billion

Accepting deposits of funds as stored value funds (top-up service)

Domestic or international small-amount remittances – Transferring limited amount of funds between e-payment accounts or electronically stored value cards

Trading foreign currencies to operate the aforementioned three businesses

Other related businesses approved by the competent authority, such as: (1) providing custody of payments for product (service) gift certificates or tickets and assisting in services related to their issuance, sales, and settlement; and (2) providing reward points integration and redemption for payments collected or made for actual transactions as an agent.

Securitization of real estate and financial assets – Securitization of real estate covers a trustee establishing a real estate investment trust (REIT) or real estate asset trust (REAT) and acquiring funds from issuing beneficiary securities to specific persons through private placement. Securitization of financial assets covers the act that the originator entrusts the assets to a trustee or transfer the assets to a specific purpose company (SPC), whereby the trustee or SPC issues beneficial securities or asset-backed securities. However, the REIT or REAT markets are no longer active in Taiwan because the regulations are not flexible, and there are better alternatives in the market. Specifically, the current model governed by the Real Estate Securitization Act, which allows trust structure REIT alone, fails to provide sufficient flexibility to satisfy the Taiwan REIT market appetite. On 14 March 2024, following the FSCs proposal in 2021, the Executive Yuan adopted a resolution to amend the Securities Investment Trust and Consulting Act and rename it as the Securities and Real Estate Investment Trust and Securities Consulting Act permitting REIT to be issued in fund structure in parallel with the existing trust structure. If the bill is further passed by the Legislative Yuan, business operators may choose to issue REIT through either fund or trust structure and will be subject to the supervision of the Securities and Futures Bureau or Banking Bureau, respectively.

Financial information service business – This refers to an inter-bank financial information network operator that provides a value-added network for real-time settlement of interbank transactions between financial institutions. The term "settlement" refers to the procedures of crediting and debiting the designated accounts of participants according to the payment instructions of financial institutions and the netting of receivables and payables between financial institutions to discharge the payment obligations of the paying bank.

Service enterprise engaged in inter-bank credit information processing and exchange – This is an enterprise that either gathers credit information from financial institutions and/or enterprises related to financial institutions, or having been authorized by the competent authority, gathers and processes various kinds of credit information with the object of duly providing such information for access and use by financial institutions, interested parties or other parties authorized by the competent authority.

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