

Taiwan: Bankers Association promulgated self-regulatory guidelines for the introduction of responsibility mapping system in the banking sector

Highlights

Starting from 1 January 2025, banks in Taiwan should establish a responsibility mapping system, which should include a corporate governance structure chart, a table of authority and responsibility, an internal reporting flowchart, and a statement of responsibility for senior management to clarify the allocation of responsibility and accountability to individuals in the event of a new appointment or a change in authority and responsibility. In the event of a material failure in the operation or management of a bank, the Accountability Committee or a designated committee should be responsible for accountability matters, and follow-up procedures should be conducted as appropriate.

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Background

To promote the shaping of a corporate culture of honesty and integrity in the banking industry, to establish a corporate governance structure based on responsibility, and to strengthen the accountability of senior managers so that banks can have the guidance to follow when they introduce the responsibility mapping system, the Bankers Associations of Taiwan (BA), with reference to the Senior Managers Regime of the United Kingdom, has promulgated the self-regulatory guidelines for the introduction of the responsibility mapping system in the banking industry. The guidelines provide that banks should develop a responsibility mapping system, subject to appropriate adjustments depending on the nature of their business and the size and structure of their organization. The guidelines were promulgated on 19 January 2024, and the Financial Supervisory Commission's Bureau of Banking has indicated that the Senior Management Accountability Regime will take effect on 1 January 2025.

Important contents

Applicable targets

1. Senior Management: Persons who are responsible for key duties assigned by the Bank and who have decision-making power with respect to relevant business or management activities, including but not limited to General Manager, Deputy General Manager, Heads of Head Office Departments, etc. (Article 3, paragraph 1).
2. Chairman of the Board of Directors (Article 3, item 2)

Four phases of the responsibility map

Article 6 of the Code stipulates that banks should follow the four stages of (i) allocation of responsibility, (ii) assumption of responsibility, (iii) accountability, and (iv) liability when introducing the responsibility mapping system.

Four phases of the SMAR

Article 6 of the SMR Guidelines stipulates that a bank should follow the four stages of (i) allocation of responsibility, (ii) assumption of responsibility, (iii) accountability, and (iv) liability when introducing the SMAR.

Allocation of Responsibility and Assumption of Responsibility

1. Definitions

- a. **Allocation of Responsibilities:** To assist senior management in clarifying their rights and responsibilities by identifying the senior management functions and overall responsibilities applicable to them in the context of the Bank's organizational and governance structure and business operations (Article 6).
 - **Senior Management Functions:** The functions of the Chairman of the Board of Directors, General Manager, Chief Internal Auditor, Head of Compliance, Head of Anti-Money Laundering and Counter-Terrorism, Chief Information Security Officer, Head of the Risk Management Unit, Head of Accounting/Finance, and Head of Business in the head office shall be included, except that the Bank may add other functions. Adjustments can be made about which senior management should take these functions depending on the laws and the nature of the business, size of the organization, and structure, but the Bank shall ensure that each of these senior management functions is assigned to at least one member of senior management.
 - **Overall Responsibility:** It refers to the main business and the corresponding responsibilities to be undertaken by the senior management who have the decision-making power over their responsibilities. A bank can adjust depending on the actual business and management activities. (Article 4, subparagraph 2)
- b. **Assumption of Responsibility:** The SMAR enables senior management to understand the scope of their authority and responsibility clearly and allows senior management to assess the adequacy of the resources available to them to fulfill that authority and responsibility. (Article 6)

2. Execution Methods

- a. **A bank should have a responsibility map** (Article 9): the responsibility map should include a corporate governance structure, a table of allocation of authority and responsibility, and an internal reporting flow chart.
 - i. **Corporate Governance Structure:** The organizational structure of the Board of Directors and its committees.
 - ii. **Table of Allocation of Authority and Responsibility:** Defining and setting forth the senior management that should be included in the responsibility map, and identify the scope of personal responsibility of each senior management, including senior management functions and overall responsibility.
 - iii. **Internal Reporting Flow Chart:** Based on the organization, management structure and business processes under the senior management, establishing the reporting procedures and the senior management responsible for reporting.
- b. **Statement of Responsibility (Article 10)**
 - i. **Timing of Issuance:** when a senior manager assumes a new position or when the content of authority and responsibility changes.
 - ii. **Contents of the Statement**
 - A. **Personal Information:** Personal information of the senior management, such as name and position title.
 - B. **Functions and Responsibilities:** The senior management's senior management functions and overall responsibilities. The overall responsibilities should include the scope of management and its effective date but should not include the responsibilities of temporary duty/acting.
 - C. **Statement of Consent:** Senior management's consent to the information set forth in the Statement of Responsibility.

3. Maintenance of the system

- a. **Principles for the implementation of the handover process (Article 11)**
 - i. A bank shall establish rules and procedures for the transition of (i) senior management personnel who will become senior management personnel, (ii) senior management personnel who will take on new functions or responsibilities, and (iii) senior management personnel whose functions or responsibilities will be adjusted plus such senior management's supervisor.

- ii. A bank shall keep records of the relevant handover procedures, or paper or electronic records of this bank's internal meetings, for at least five years to prove the implementation of the handover procedures. This bank should also review the handover procedures on an annual basis to ensure that these procedures are implemented.
 - iii. A bank should review the management procedures related to the handover process on an annual basis to ensure that the procedures are well implemented.
- b. **Maintenance, Updating, and Record Keeping of Responsibility Maps and Statements of Responsibility (Article 12)**
- i. A bank shall annually maintain and adequately retain the documents and records related to the current version of the responsibility map and statement of responsibilities and retain the documents and records associated with the successive Responsibility Maps and Statements of Responsibilities for at least five years from the date of the change.
 - ii. If the content of the responsibility map is changed, or if the responsibility statement needs to be signed or re-signed, a bank should complete the update within a reasonable period of time; if not, this bank should state the reasons for not completing the update, go through a specific process of reviewing and confirming, and then complete the relevant matters as soon as possible.

Accountability

1. In the event of a material failure in the bank's operation or management, the accountability process should be initiated, and a complete analysis of the root cause of the event should be conducted to understand the possible deficiencies in the event, to determine whether it is due to a failure to comply with the regulations in the operations or a failure in the design of the internal control system, and to understand the parties to be held accountable for the relevant failures by means of an accountability map. (Article 6)
 - **Material Failure:** When penalties imposed by competent authorities discover a significant violation of laws and regulations, a letter from a competent authority requesting an investigation, a report from the whistle-blower mechanism, or a failure of internal audit, a bank can establish its own qualitative and quantitative indicators for determining a "material failure," depending on the nature of its business, size of the organization, and structure. For example, the severity of the violation, the amount of fine, the number of customers affected, and the extent of damage to property or rights.
2. **Executive Method:** Accountability Committee or designated committee responsible for accountability (Article 8).
 - a. A bank shall establish an Accountability Committee under the Board of Directors or designate an existing committee to be responsible for accountability matters. The Board of Directors shall approve the terms of reference of this committee.
 - b. Matters that this committee should follow:
 - i. If a member in attendance has a conflict of interest in a case involving an accountable manager, the member shall recuse himself/herself from the discussion and voting, and shall not exercise his/her voting rights on behalf of other members.
 - ii. If the accountable manager is the Chairman of the board of directors or a director, the opinion of the independent directors shall be considered.
 - iii. The committee's resolution shall be submitted to the Board of Directors for approval or record.

Liability

3. After implementing the accountability process and identifying the accountable party, it is assessed whether the accountable party has fulfilled his/her supervisory or managerial responsibilities. The circumstances of the breach shall be weighed and followed up with the accountability process.
 - The criteria for determining whether an accountable party has fulfilled his/her supervisory or managerial responsibilities: Reference can be made to the Code of Conduct for Senior Management set by the Financial Conduct Authority (FCA) of the United Kingdom, which describes that senior management is required to adopt reasonable mechanisms to ensure the effectiveness of internal control mechanisms over the business under their control, the compliance of the business under their control with relevant internal and external regulations, and the authorization of authority and responsibility to the appropriate party under their supervision, but does not specify specific requirements, and therefore, a comprehensive judgment is still required. Overall, the Banking Bureau suggests a comprehensive measurement,

including whether there has been a material failure in the design or implementation of the internal control mechanism and the significance of the failure, based on the external regulations corresponding to the supervisory or managerial responsibilities of the accountable party; whether there has been a breach of the duty of care based on the contractual relationship between the bank and senior management; or whether it can be proved that the party has fulfilled its supervisory or managerial responsibilities.

Powers and duties of the Board of Directors (Article 7)

1. The Board of Directors shall be responsible for supervising the implementation of the responsibility mapping system, recognizing the responsibilities of the responsible senior management through the system to ensure the effectiveness of the responsibility map system.
2. The Board of Directors may delegate to its committees the responsibility to supervise and manage the operation and decision-making of the bank's related business categories to improve the decision-making function and strengthen the management mechanism.

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