This article was published in the *Global Banking & Financial Policy Review 2015/2016*.

Final Piece of the Puzzle of Offshore Financing Regime – New OIUs in Taiwan

By Robin Chang, Lee and Li, Attorneys At Law

INTRODUCTION TO OIUS REGULATIONS IN TAIWAN

On June 26, 2015, the Financial Supervisory Commission (FSC), the Taiwan financial regulator, announced its permission for establishment of seven new Offshore Insurance Units (OIUs) by seven insurance companies in Taiwan, including Cathay Century Insurance, Fubon Insurance, Cathay Life Insurance, Fubon Life Insurance, TransGlobe Life Insurance, China Life Insurance and CTBC Life Insurance. Beside these seven OIUs, according to the FSC's press release, there are five OIUs of local insurance companies in the pipeline of the FSC's review process waiting for its approval.

After the introduction of Offshore Banking Units (OBUs) established by local banks in 1983 and Offshore Securities Units (OSUs) established by local securities firms in Taiwan in 2013, the President announced the amendments to the Offshore Financial Act (Act) on February 4, 2015 after three readings of the Legislative Yuan with the main purpose of permitting local insurance companies to establish their OIUs, which are similar to OBUs and OSUs, to promote their offshore insurance business. This new progress is a further step toward Taiwan government's goal to develop Taiwan as an "asset wealth management center" in Asia. The FSC's permission for establishment of above seven OIUs is the running signal for the OIU business in Taiwan.

QUALIFICATIONS TO SET UP OIUS AND PERMITTED BUSINESS OF OIUS

According to Article 18-1 of the Enforcement Rules of the Act, a local insurance company may apply with the FSC to set up its OIU if all of the following requirements are met:

1. For an insurance company in Taiwan, its ratio of equity capital to risk-weighted assets shall exceed 250%; and
2. The insurance company is in compliance with applicable laws, soundly managed and has not been subject to any sanction for material violation for a period of three years before filing its application or it was sanctioned but its violation has been remedied as has been confirmed by the FSC or the Central Bank of Republic of China (Taiwan).

An OIU shall allocate the minimum working capital of US$2 million for its operations. In addition, it shall set up a separate accounting system and prepare separate account statements from its head office of the local insurance company (usually called "DIU" (Domestic Insurance Unit) in local practice). The OIU is prohibited from mixing those of the head office or other branches of the same insurance company.

Furthermore, the permitted business of an OIU is as follows under Article 22-13 of the Act:

1. The following types of foreign currency denominated insurance business:
   (1) personal life insurance business where the applicant is a foreign natural person, juristic person, government agency, or financial institution and the insured is a foreign natural person; and
   (2) non-life insurance business where the applicant is a foreign natural person, juristic person,

government agency, or financial institution and the insured subject is not a real property located in Taiwan;
2. foreign currency denominated reinsurance business with foreign insurance company; and
3. other foreign currency denominated insurance-related businesses serving foreign natural persons, juristic persons, government agencies, or financial institutions approved by the FSC.

Also, since the OIUs are the "offshore booking centers" of local insurance companies targeting forging customers (including customers from China) but with limited or even no manpower, they may outsource the OIU operations to DIUs in accordance with Article 22-14 of the Act.

MAIN ADVANTAGES OF OIUS

There are two main advantages for local insurance companies to sell insurance policies to foreign customers through their OIUs: one is deregulation of the OIU business compared with DIUs which are subject to stricter regulations and the other is the tax benefits. Article 22-15 of the Act clearly exempts OIUs from compliance with the Taiwan Insurance Act and Foreign Exchange Act applicable to DIUs unless otherwise provided in the Act. Therefore, the OIUs have flexibility in offering a wider range of products to their customers. However, the OIUs are prohibited from offering any investment-linked insurance with underlying assets linked to exchange rate of New Taiwan Dollar (NTD), NTD interest rate index and any NTD denominated products.

Article 16 of the Act further provides the following tax benefits to OIUs, similar to those enjoyed by OBUs and OSUs:
1. Exemption of Income Tax: Income generated from the OIU business shall be exempt from any business income tax in Taiwan. However, the taxation on the income derived from use of the funds within Taiwan shall be governed by the Taiwan Income Tax Act.
2. Exemption of Business Tax: Sales revenue generated from the OIU business shall be exempt from any business tax in Taiwan. However, the taxation on the sales revenue generated from use of within Taiwan shall be governed by the Taiwan Value-Added and Non-Value-Added Business Tax Act.
3. Exemption of Stamp Duty: All types of certificates used in OIU business shall be exempt from stamp duty in Taiwan. However, the taxation on the certificates issued in connection with use of funds within Taiwan shall be governed by the Taiwan Stamp Duty Act.
4. Exemption of Withholding Tax on Payments under Insurance Policies, Interest Income from Investment Portfolio of Investment- Linked Insurance Policies and Income of Structured Products: (i) Payments under the insurance policies (ii) interest income generated from the invested portfolio linked to investment-linked insurance policies and (iii) income derived from structured products payable by OIUs to foreign natural persons, juristic persons, government agencies, or financial institutions shall be exempt from any withholding tax in Taiwan.

The effective period of the above tax exemptions is 10 years from February 4, 2015, the effective date of the amendments to the Act for OIU business. However, for an insurance policy underwritten during the aforementioned 10-year period, the end of the tax exemption period shall be the end date of the period of 30 years or the expiry date of the insurance policy, whichever is earlier.

CONCLUSION

Local securities firms just started their OSU business in 2013, although the OBU business of local banks has been in Taiwan for about 30 years. With local banks' efforts, OBU business is one of the highly profitable core businesses of local banks in Taiwan. The final piece of the puzzle of Taiwan offshore financial regime – OIU business – is in place now after the amendments to the Act came into effect in February this year. According to lead market players, the OIUs will target customers from China to meet their wealth management needs, especially since Taiwan enjoys the benefit of not having a language barrier and the close economic and trade ties between Taiwan and China. The foreign corporate customers controlled by Taiwanese individuals or entities will be another type of targeted customers for OIUs.

The consolidation of the OBU/OSU/OIU business is expected to be the driving force in offering better and comprehensive services to those foreign customers by local financial institutions. Some local financial holding companies with these three functional units are making their cross-selling plans. This new development is essential to make Taiwan financial market more attractive to foreign customers in Asia. The offshore financial regime in Taiwan will be even more dynamic and vibrant after the new OIU business comes into the regional market.

This article was written by **Robin Chang**, Partner and Head of Banking Practice Group, Lee and Li, Attorneys-At-Law,9F, No. 201, Tun-Hua N. Road, Taipei, Taiwan.

Tel: 886-2-21832208.
Fax: 886-2-25149841.
E-mail: robinchang@leeandli.com.
Web: www.leeandli.com.