

考試科目	英文 7111C 7112C 7113C	系所別	政研所	民法組 財經法組 公法甲乙組	考試時間	2月19日(日)第三節
第一題	7114C-7116C 7115C-7117C			刑法組 基礎法學組 勞社法組		
	國際金融反洗錢特別工作小組(FATF)提出 40 項建議，請逐字翻譯以下幾項建議(80%)：					
備註						一、作答於試題上者，不予計分。 二、試題請隨卷繳交。

第一題

國際金融反洗錢特別工作小組(FATF)提出 40 項建議，請逐字翻譯以下幾項建議(80%)：

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5.1 Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.

5.2 Financial institutions should undertake customer due diligence measures, including identifying and verifying the identity of their customers, when:

- establishing business relations;
- carrying out occasional transactions: (i) above the applicable designated threshold; or (ii) that are wire transfers in the circumstances covered by the Interpretative Note to Special Recommendation VII;
- there is a suspicion of money laundering or terrorist financing; or
- the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

5.3 The customer due diligence (CDD) measures to be taken are as follows:

a) Identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information.

b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer.

c) Obtaining information on the purpose and intended nature of the business relationship.

d) Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.

5.4 Financial institutions should apply each of the CDD measures under (a) to (d) above, but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction. The measures that are taken should be consistent with any guidelines issued by competent authorities. For higher risk categories, financial institutions should perform enhanced due diligence. In certain circumstances, where there are low risks, countries may decide that financial institutions can apply reduced or simplified measures.

考試科目	英文	系所別	法律系 民法組·勞社法組 財經法組 民法甲、乙組	考試時間	2月19日(日)第三節
<p>5.5 Financial institutions should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. Countries may permit financial institutions to complete the verification as soon as reasonably practicable following the establishment of the relationship, where the money laundering risks are effectively managed and where this is essential not to interrupt the normal conduct of business. Where the financial institution is unable to comply with paragraphs (a) to (c) above, it should not open the account, commence business relations or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transactions report in relation to the customer.</p> <p>12.*</p> <p>12.1 The customer due diligence and record-keeping requirements set out in Recommendations 5, 6, and 8 to 11 apply to designated non-financial businesses and professions in the following situations:</p> <p>a) Casinos – when customers engage in financial transactions equal to or above the applicable designated threshold.</p> <p>b) Real estate agents - when they are involved in transactions for their client concerning the buying and selling of real estate.</p> <p>c) Dealers in precious metals and dealers in precious stones - when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.</p> <p>d) Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:</p> <ul style="list-style-type: none"> ● buying and selling of real estate; ● managing of client money, securities or other assets; ● management of bank, savings or securities accounts; ● organisation of contributions for the creation, operation or management of companies; ● creation, operation or management of legal persons or arrangements, and buying and selling of business entities. <p>e) Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary.</p> <p>33. Countries should take measures to prevent the unlawful use of legal persons by money launderers. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares should take appropriate measures to ensure that they are not misused for money laundering and be able to demonstrate the adequacy of those measures. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.</p>					
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考試科目	英文	系所別	民法組、勞社法組 法律系 財經法組 公法甲、乙組 刑法組、基礎法學組	考試時間	二月十九日(日)第三節
<p>第二題 請以中文摘要以下報導的重點，500字以內，畫線部分為必須摘要的內容。(20%)</p> <p style="text-align: center;">Investors Care: Capitalizing on ESG (Environmental, Social, Governance) Reporting</p> <p style="text-align: center;">by Jurgita Balaisyte jurgita.balaisyte@csr-asia.com 20/04/2016</p> <p style="text-align: center;">http://csr-asia.com/csr-asia-weekly-news-detail.php?id=12575</p> <p><u>The gap between ESG issues and market/regulator reaction is narrowing. The implications of the Paris agreement last year have been wide-reaching.</u> France, for example, has showed its commitment to transitioning to a low carbon economy by passing a green energy law. It asserts that asset owners, fund managers, and insurers must report on how they integrate ESG into their investment processes, outline greenhouse gas (GHG) emissions from their investments and actively contribute to the financing of a low carbon economy. Closer to home, new HKEx rules require that by March 2017, Hong Kong listed companies must report on ESG performance in conjunction with their annual report. As set out in Appendix 27 of the Main Board HKEx Listing Rules, ESG reporting will become a code provision and so the issuers will have to “comply or explain”.</p> <p>Investors care</p> <p>Since the Deepwater Horizon disaster and Volkswagen scandal, investors are increasingly incorporating ESG data as a tool when considering the long-term impact of their investments. Improved risk management has been a key driver for these asset owners. In light of this, ESG indices such as the MSCI ACWI ESG Index* outperformed their reference market cap weighted indices by 0.53% (through 1 March 2016) while the green bond market has been ignited by Apple issuing \$1.5 billion bonds dedicated to financing clean energy projects.</p> <p><u>This reflects a widening trend of traditional investors keen to incorporate ESG factors into their investment decisions.</u> For example, Newton, part of BNY Mellon, takes ESG considerations into account in everyday investment decisions. Goldman Sachs has filed with the Securities and Exchange Commission to start an ESG-focused exchange-traded fund. BlackRock, the world’s largest asset manager with US\$4.6 trillion in assets under management, announced in 2015 that it will regularly incorporate ESG analysis as they compose their portfolios. Sweden’s AP1 focuses on resource-efficiency in the companies it holds. Its ESG team uses “triangulation” to verify information, uses multiple partners and its own analysis.</p> <p>According to the Principles for Responsible Investment Initiative, funds that acknowledge the importance of ESG factors and their risk implications for investors has grown by \$55 trillion from 2006. As noted by one of the panelists at the Morgan Stanley’s Sustainable Investing Challenge (April, 2016), “as an investor, when you think about it, sustainable investment is not limiting your universe but expanding it”.</p>					
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A recent article by By D. Gelles (April 6, 2016) in The New York Times reflected on how investors integrate ESG into mainstream investment decisions. “Sustainability” and “Responsible Investment” are such broadly defined topics that many investors now create their own search tools to make decisions. This is partially reflected in the fact that many investors are still challenged by data consistency and its trustworthiness in understanding risk and returns. The article also highlighted that while firms like MSCI Inc., Sustainalytics (e.g. Channel NewsAsia Sustainability Ranking), Bloomberg and Thomson Reuters offer tools to measure elements of a company’s ESG status, these days many investors tend to go beyond sustainability rankings and conduct additional research before making investments.

How to maximize the value of ESG reporting?

In this context, there is a huge opportunity for business to attract investors by disclosing better ESG information. ESG provides great opportunities to show enhanced transparency, accountability and highlight business approaches to ESG issues. Companies can feed its current and potential investors with information on how it is proactively managing its risk and operational issues. There are a variety of tools and guides that companies can follow to achieve this such as: ESG, Global Reporting Initiative (GRI) guidelines, the new WWF Report or the International Integrated Reporting Council (IIRC).

Since investors are going beyond ESG reports, the key to success is to address ESG issues in as many sources of communication as possible. It can be included in parts of the Annual Report, as a separate Sustainability, CSR or ESG Report, on websites, in press releases and other company collateral. For example, Link Real Estate Investment Trust (Link REIT) adopted an integrated approach in order to satisfy the needs of their main stakeholders – investors. Link REIT provides their sustainability data by including information on how ESG factors add value to the company. This is something that investors can easily understand.

Many other sustainability leaders have created their own systems of ESG performance. For example, Unilever, M&S, and Virgin Mobile do not follow any of the guidelines and use their own system to report on key ESG relevant targets and performance.

A good ESG communication is something that can tell a story to investors, shareholders and stakeholders in simple language, cover material issues, and use relevant data and infographics.

Furthermore, as investors become more knowledgeable and adept at analyzing ESG performance, the next step for companies will be to become more strategic about their sustainability initiatives and their communications around it.

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