



To:  
Marcus Tsai  
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Financial Supervisory Commission, R.O.C.  
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**RE: ASIFMA Response to Taiwan FSC Draft Consultation on Core Principles and Relevant Promotion Policies For The Use of Artificial Intelligence in The Financial Industry**

Dear Mr Tsai,

The Asia Securities Industry & Financial Markets Association (“[ASIFMA](#)<sup>1</sup>”), on behalf of our members, welcome the opportunity to respond to the Taiwan Financial Supervisory (“FSC”) [consultation](#) on the “The Use of Artificial Intelligence in the Financial Industry: The Core Principles and Relevant Promotional Policies” (“Consultation”). We are also grateful to the FSC for graciously extending the response timeline for us to 1 September 2023.

Please note that the feedback is based on our review of an unofficial English translation of the [Taiwan FSC Consultation on the Principles and Draft Policies For The Use of AI in The Financial Industry](#). As such, there might be issues caused by translation and might need clarification as set out in the feedback.

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<sup>1</sup> ASIFMA is an independent, regional trade association with over 170 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive, and efficient Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the Global Financial Markets Association (“GFMA”) alliance with the Securities Industry and Financial Markets Association (“SIFMA”) in the United States and the Association for Financial Markets in Europe (“AFME”), ASIFMA also provides insights on global best practices and standards to benefit the region.

We believe that AI can be used as a force for good in financial services when properly deployed as it can drive financial inclusion through innovation, lower the cost of financial services, tailor products to even better suit customer needs and profiles, reduce unlawful discrimination, increase efficiencies and improve risk management and financial crime and fraud prevention. Responsible and ethical use of AI and good AI governance is significant to the financial services industry. Fostering a balanced regulatory approach to Alternative Intelligence (“AI”) is a key focus area of our members, as reflected in our 2021 paper [“Enabling an Efficient Regulatory Environment for AI”](#). The specific regulatory principles recommended to regulators in this paper are:

- Principle 1: Support public-private collaboration
- Principle 2: Allow financial institutions to take a risk-based approach to AI, taking materiality of the use case and stakeholders into account
- Principle 3: Take a technology-agnostic approach to regulation
- Principle 4: Leverage existing regulatory frameworks
- Principle 5: Strive for regional and international harmonisation
- Principle 6: Promote and facilitate cross-border data flow
- Principle 7: Engage with the industry on areas that need further discussion

We are encouraged to see many of these principles and suggestions outlined in the Consultation reflected in the FSC’s Consultation and are generally supportive of many of the core principles outlined in the Consultation.

We note in various parts of the Consultation that the FSC plans to continue engaging in dialogues with financial institutions regarding the use of generative AI. Depending on industry developments and application scenarios, the FSC will assess and adjust relevant regulations as necessary to ensure compliance by financial institutions. The FSC will continuously review and adapt relevant regulations in a timely manner to establish a comprehensive regulatory environment for the financial industry’s application of AI systems. We are supportive of this approach and hope that the FSC will continue the consultative stance and close dialogue with the industry and we look forward to continue engaging on this important topic.

In what follows, we are pleased to outline the feedback from our members on the Consultation. We first provide some general comments, followed by specific feedback and suggestions on certain paragraphs in the Consultation.

***Guidelines should take account of existing laws and regulations and not create duplicative requirements***

- Financial services is a highly regulated sector and as the research in our 2021 AI Paper shows, existing regulations largely address and mitigate the key risks which might be caused or increased by the use of AI. These include rules in respect of outsourcing, technology risk management, conduct, cybersecurity, duty to clients, internal governance, and model risk management, in addition to sector-agnostic requirements around data privacy and data protection and established internal risk management and governance frameworks. Regulators should recognise this. Before considering new regulation, we suggest regulators – including the FSC - determine if these existing regulations already adequately address the identified risks, or if they need to be adapted to cover the risks AI presents or if greater clarity is needed on the applicability of existing requirements to AI – for example, through industry workshops, circulars, guidance notes and FAQs. We suggest

that regulators should not create additional requirements that may be duplicative or potentially contradicting and should instead focus on how AI/ML outcomes are incorporated within existing laws and regulations. (e.g., clarify how the potential use of AI/ML models for credit underwriting must comply with fair lending and MRM requirements)

- Many existing categories of regulation are largely technology-neutral, applying equally to manual processes and to sophisticated technology such as AI systems, or focusing on the deployment of technology generally (without necessarily differentiating between systems). Many of these requirements already drive the way that firms are developing and adopting AI. Our AI paper shows that AI governance should and can fit within many existing risk management frameworks and that those existing frameworks can be leveraged to address any specific risks identified in relation to AI.
- Banks have a strong history and culture of risk management and have decades of experience in designing processes to manage risks inherent to banking operations and consumer protections. Under existing frameworks (e.g., operational risk frameworks, MRM frameworks, etc.), banks implement controls to mitigate risks and can scale these controls based on the complexity, materiality and application of the AI/ML model or system.
- We also submit that any new specific AI regulations and guidelines should be applied consistently across bank and non-bank FIs to ensure that consumers remain protected wherever they choose to receive their financial services.
- In addition, many FIs are subject to requirements from multiple regulators in the same jurisdiction – we suggest regulators work together to ensure consistency across all specific AI regulations and guidelines in their jurisdictions.

#### ***A principles, risk-based approach is most appropriate***

- We recommend that regulators take a principles- and risk-based approach to AI, giving financial institutions flexibility in how best to operationalise the principles in relation to their AI adoption, depending on the financial institution's setup, framework, and the materiality of the AI use case.
- Consumers are best served by regulatory approaches that are not static or rigid, but are sufficiently flexible and adaptable to the emergence of new technologies and their associated risks. By taking a principles-based approach, regulators will be better positioned to protect consumers by focusing on outcomes with the greatest risk, while enabling businesses to realize potential benefits of AI in a responsible manner.
- We are supportive of the principles-based approach taken by various policymakers and international organizations. (e.g., [OECD principles](#), [White House AI Bill of Rights](#), [MAS FEAT](#), [IOSCO](#), etc.)

#### ***Global collaboration is critical***

- We encourage the FSC and regulators in general to support the global development of AI within capital markets and avoid fragmentation and overregulation, which could slow down its adoption and development. Fragmentation of approaches to AI between jurisdictions adds additional cost, complexity and risks for financial institutions, which limits the potential benefits for both financial institutions and their clients. It also creates risk as it prevents firms from operating their business consistently and requires firms to create multiple approaches to execute the same services.

- The overall level of consumer protection is weakened if regulatory arbitrage exists across borders. Divergent regulatory requirements and risk classifications result in increased complexity and compliance costs for global businesses, creating barriers to innovation and spill down effects to consumers. Regulators should consider how to collaborate with other jurisdictions on international standards, risk management frameworks and privacy. We are watching the [G7 Hiroshima AI process](#) –looking at governance harmonization – as well as ASEAN’s work on an “[AI Guide on Governance and Ethics](#)” with interest, for example.
- Globally recognized standards would help create consistency and certainty for consumers – International standards can help ensure that AI systems used globally are technically and ethically sound, robust and trustworthy.
- Globally recognized risk management frameworks would help create consistency for organizations implementing AI/ML – Risk management frameworks are useful tools in helping organizations manage the risks around designing, deploying or using AI systems. Jurisdictions should recognize and leverage existing risk management frameworks (e.g. NIST’s Risk Management Framework) to create more consistency globally around how to appropriately and safely implement AI.
- As AI technologies continue to evolve, policymakers must strike a balance between regulation and innovation, and should not prevent industries from realizing future benefits of AI in a responsible manner.

**Specific comments**

Legend

Suggested additional text to draft guidelines

~~Suggested text in draft guidelines to be deleted~~

Proposed Guidelines	Suggested Amendments	Rationale
<p>Press release Paragraph 3: “... The Financial Supervisory Commission pays attention to the development of generative AI, and refers to the draft of the National Council of Science and Technology's "Reference Guidelines for the Use of Generative AI by the Executive Yuan and its affiliated agencies (institutions)", and lists relevant precautions in this draft...”</p> <p>金管會關注生成式 AI 的發展情形，並參考國科會「行政院及所屬機關(構)使用生成式</p>	<p>We strongly recommend that the FSC align its sectoral guidelines with any national guidelines on AI.</p>	<p>We believe that the most effective regulatory setup for AI is a “hub-and-spoke” model, where there is a national policy framework that lays out key principles for AI governance, but then authorizes sectoral regulators to develop sectoral guidelines based on the national framework. This setup will ensure that there is consistent treatment across different sectors, while leveraging the subject matter expertise of the sectoral regulators. The latter is important for at least two reasons:</p>

Proposed Guidelines	Suggested Amendments	Rationale
<p>AI 參考指引」草案，於本草案中列示相關應注意事項，</p>		<p>A. Many sectoral regulators have existing guidelines and regulations that can be applied to AI, so there is no need to reinvent the wheel.</p> <p>B. AI is just a technology. The risks associated with AI lie not in the technology itself, but how the technology is used. The expertise for assessing the risk of specific uses (eg, whether AI is used to support anti-money laundering or to review mammograms to detect breast cancer) typically lies with sectoral regulators.</p>
<p>General</p>	<p>Insert a paragraph to clearly state the FSC’s policy objective for these guidelines, in line with the statement in the FSC’s press release to “help financial institutions make good use of the advantages of AI technology, and effectively manage risks, ensure fairness, protect consumer rights, maintain system security and achieve sustainable development”.</p>	<p>As there are several different approaches to AI governance across the world, financial institutions may be cautious about adopting AI, unless there is clear direction from regulators that there is no objection to doing so, as long as it adheres to certain principles. Since the FSC’s objective is to enable the adoption of AI in a responsible manner, it will be helpful to state this explicitly in the guidelines to give financial institutions greater assurance.</p>
<p>Section 2(3)1. on Page 7: “The network effects and scalability of new technologies may lead financial institutions to rely on</p>	<p>Section 2(3)1. on Page 7: “The network effects and scalability of new technologies may lead financial institutions to rely on</p>	<p>There is sometimes a misperception that third-party service providers are not subject to regulatory requirements just because they</p>

Proposed Guidelines	Suggested Amendments	Rationale
<p>third-party entities, some of which may not be subject to regulatory constraints.”</p> <p>新技術的網路效應及規模擴張性可能導致金融機構對第三方機構的依賴，這些新的系統重要參與者可能不受監管範圍約束</p>	<p>third-party entities, some of which may not be <b>directly</b> subject to regulatory constraints, <b>while others could be indirectly subject to regulatory requirements, such as through outsourcing and third-party risk management regulations.</b>”</p>	<p>are not entities that are directly regulated by the regulator. This misperception may lead policymakers to draft new regulations to regulate these service providers.</p> <p>However, it is important to note that many of these third-party service providers provide services to highly regulated entities, including financial institutions, who in turn are subject to outsourcing and third-party risk management regulations. The requirements in these regulations are often imposed on the third-party service providers through contracts, hence subjecting these service providers to regulatory requirements indirectly. Policymakers can therefore enhance existing regulations to address any gaps.</p>
<p>Section 2(3)2. on Page 7: “The adoption of previously unused institutions or unrelated data sources may result in unexpected interconnections between financial markets and institutions.”</p> <p>因採用許多以往不會用過的機構或不相關的數據來源，因此金融市場與機構間可能出現過往未曾想到的相互聯繫。</p>	<p>For clarification</p>	<p>It is unclear what this sentence means, so it will be helpful if the FSC can clarify.</p>

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<p>Section 3(1) on Page 10: "... These measures include setting up firewalls to block internal network connections to ChatGPT websites and implementing internal protocols to prevent the leakage of customer personal data."</p> <p>包括設置防火牆以阻擋公司內網連結至 ChatGPT 網站、依機構內部規範控管以防止客戶個人資料外洩等。</p>	<p>Section 3(1) on Page 10: "... These measures include setting up firewalls to block internal network connections to ChatGPT websites and implementing internal protocols to prevent the leakage of customer personal data. <b>It is however important to note that these are generative AI applications for consumers. Several technology service providers have developed generative AI applications for enterprises with technical controls to protect the enterprise's data.</b>"</p>	<p>It will be helpful for the FSC to acknowledge the difference between generative AI applications for consumers and enterprises, as the current draft (which reflects primarily concerns with generative AI applications for consumers) may give the misperception that all generative AI applications are unable to prevent the leakage of customer personal data.</p> <p>As a general comment, so as to maintain a principle-based and technology-neutral approach, we respectfully advise against making explicit references to specific AI tools or applications such as for example ChatGPT.</p>
<p>Section 4(1)2. on Page 14: "Financial institutions should establish comprehensive and effective risk management mechanisms related to Artificial Intelligence. These mechanisms should be integrated into the overall risk management and internal control operations or processes and should undergo regular assessment and testing."</p> <p>金融機構應建立全面且有效的 AI 相關風險管理機制，整合至整體之風險管理及內部控制作業或流程中，並應進行定期的評估及測試。</p>	<p>Section 4(1)2. on Page 14: "Financial institutions should establish comprehensive and effective risk management mechanisms related to <b>responsible and ethical use of Artificial Intelligence</b>. These mechanisms <del>should</del> <b>can build on existing risk management mechanisms</b>, be integrated into the overall risk management and internal control operations or processes and should undergo regular assessment and testing."</p>	<p>The thrust of Principle One and the Consultation is on responsible and ethical use of AI/ML.</p> <p>Financial institutions should be encouraged to build on existing risk management mechanisms and processes as much as possible, instead of having to create new mechanisms, which could be duplicative.</p>

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<p>Section 4(1)3. on [Page 14]: “Financial institutions should ensure that their personnel possess sufficient knowledge and capability regarding Artificial Intelligence to make appropriate decisions and supervisory actions. When utilizing generative Artificial Intelligence to assist decision-making, the information generated should not be the sole basis for judgment or decision-making.”</p> <p>金融機構應確保其人員對 AI 有足夠之知識及能力，以做出適當之決策及監督。金融機構如運用生成式 AI 協助進行決策，不宜將其所產生的資訊做為判斷或決策的唯一依據。</p>	<p>Section 4(1)3. on [Page 14]: “Financial institutions should ensure that their personnel possess sufficient knowledge and capability regarding <b>responsible and ethical use of</b> Artificial Intelligence to make appropriate decisions and supervisory actions. When utilizing generative Artificial Intelligence to assist decision-making, the information generated should not be the sole basis for judgment or decision-making.”</p>	<p>As above, the thrust of Principle One and this paper is on responsible and ethical use of AI/ML.</p>
<p>Section 4(2)1. on Page 16: “Financial institutions should avoid algorithmic biases and ensure that their services are fair to all individuals.”</p> <p>金融機構在使用 AI 系統之過程中，應避免演算法之偏見，並確保其服務對所有人都是公平的。</p>	<p>Section 4(2)1. on Page 16: “Financial institutions should <b>avoid minimize unintended</b> algorithmic biases <b>caused by AI systems</b> and ensure that <del>their services are fair to</del> all individuals <b>whose interests are subject to such AI systems are treated fairly, unless any form of unfairness can be justified.</b>”</p>	<p>It is important to make a distinction between algorithmic biases caused by the AI system and systemic biases that exist in society and reflected in the AI system. It may not be possible to completely eliminate all forms of biases, especially systemic biases, just as how it is not possible to do so in non-AI systems. The guidelines should therefore be realistic in expectations. This was also acknowledged by the Cyber Administration of China in their recent Interim Measures for the Management of Generative Artificial Intelligence Services.</p>



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		<p>In addition, there may be instances where some forms of biases may be justified. For example, certain insurance products could be priced differently based on actuarial science. But this may result in different individuals having to pay different premium for the same insurance, such as smokers having to pay more for health insurance.</p>
<p>Section 4(2)2. on [Page 16]: “The application of Artificial Intelligence systems should adhere to human-centric and human-controllable principles and respect the values of the rule of law and democracy.”</p> <p>AI 系統之運用應符合以人為本及人類可控之原則，並尊重法治及民主價值觀。</p>	<p>Section 4(2)2. on [Page 16]: “The application of Artificial Intelligence systems should adhere to human-<del>centric</del> <b>centricity</b> and human-<del>controllable</del> <b>autonomy</b> principles and respect the values of the rule of law and democracy.”</p>	<p>Drafting changes to align with or more closely with AI governance principles/frameworks in other countries - if this is intended by Principle Two.</p>
<p>Section 4(2)3. on Page 16: “Information generated by generative Artificial Intelligence should still be subject to objective and professional judgment by personnel within financial institutions regarding its risks.”</p> <p>生成式 AI 產出之資訊，仍需由金融機構人員就其風險進行客觀且專業的最終判斷。</p>	<p>Section 4(2)3. on Page 16: “Information generated by generative Artificial Intelligence <b>which are capable of causing higher risks of harm and/or greater severity of harm</b> should still be subject to objective and professional judgment by personnel within financial institutions regarding its risks.”</p>	<p>The guideline, as currently drafted, may prohibit many forms of generative AI that enable automation of routine low-risk tasks, such as chatbots or marketing communications. This guideline should therefore be risk-based and subject to a materiality threshold so that it applies to only tasks of a certain level of risk.</p>
<p>Section 4(3)2. on Page 18: “If financial institutions utilize Artificial Intelligence</p>	<p>Section 4(3)2. on Page 18: “If financial institutions utilize Artificial Intelligence</p>	<p>If financial institutions are required to put in place a human version of every AI service or</p>

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<p>systems to provide financial services to customers, they should provide customers with the option to opt out of Artificial Intelligence services or offer suitable human alternatives.”</p> <p>金融機構如運用 AI 系統向客戶提供金融服務，應提供客戶退出 AI 服務之選項，或提供相應之人工替代方案。</p>	<p>systems to provide financial services to customers, they <b>should disclose to customers the use of AI systems including explaining the role and extent that AI plays (in any decision-making process), and <del>should</del> may wish to provide customers with the option to opt out of Artificial Intelligence services or offer suitable human alternatives, if it is feasible to do so.</b>”</p>	<p>system, this will likely discourage many financial institutions from adopting AI, as the cost of establishing and maintaining two equivalent systems can be prohibitive, which will defeat the purpose of adopting AI. In some cases, it is simply not possible to have a human alternative, which will mean that customers who opt out of AI services may be deprived of those services.</p> <p>The FIs should not have to maintain parallel (non-AI) systems/infrastructure for customers who wish to opt out of AI – it would be high-cost, inefficient and increase the operational risk to the FI. We instead suggest the focus should be on transparency and recourse.</p> <p>We also submit that the scope of “AI services” is broad and unclear. We suggest to align with international standards such as those on transparency, explainability and the ability to opt out with regard auto-decision making or other specific actions with regard AI, rather than AI generally.</p>
<p>Principle 3: “For instance, when using Gen AI to process customer data, the FIs should get the customer consent.”</p> <p>例如無適當管控機制下，不得向生成式 AI 提供未經客戶同意公開之資訊或運用生成</p>	<p>Align with existing privacy laws</p>	<p>This statement appears to widen privacy laws on consent and we suggest alignment.</p>

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<p>式 AI 蒐集或處理客戶個人資料。</p>		
<p>Principle 4: “If financial institutions utilize third-party providers to develop or operate Artificial Intelligence systems for financial services, they should appropriately manage and supervise these third-party providers for risks.”</p> <p>They must also thoroughly understand and evaluate the operation and potential risks of the third-party's Artificial Intelligence systems (including data privacy handling, operational risks, cybersecurity, and concentration risks).</p> <p>The responsibilities of the third-party should be clearly defined, and plans should be in place to address potential problems or adverse events.</p> <p>若金融機構運用第三方業者開發或營運之 AI 系統提供金融服務，應對第三方業者進行適當之風險管理及監督。</p> <p>金融機構在委託第三方處理前，必須對該第三方業者進行盡職調查，評估其是否具備相關知識、專業及經驗，並充分了解與評估其 AI 系統的運作方式及潛在風險(包</p>	<p>Assess existing outsourcing regulations, bank technology risk management guidelines and focus on the gaps (if any).</p>	<p>As mentioned in our general comments, we flag that financial institutions are already subject to outsourcing regulations, so any new specific AI regulations/guidelines should take into account existing regulations first and only add where required.</p> <p>On monitoring concentration risks, we submit that an individual financial institution can only monitor their own firm’s exposure/concentration to a particular third party. A financial institution cannot monitor sector-wide exposure/concentration to a particular third party provider as one firm does not know which other providers the other firms are using. FIs cannot identify industry-wide concentration risks as this is information they are not privy to.</p> <p>We agree that the responsibilities of the third party must be clearly defined. However, we think clear guidance is needed on this, e.g. shared responsibility across the AI value/supply chain, per EU AI Act, where different regulatory expectations apply across</p>

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<p>含資料隱私權之處理、營運風險、資安及集中度風險) 並根據評估結果實施適當的監督策略、管理作為，以防止可能的風險或問題，同時亦須針對第三方之責任範疇予以明定，及預先對於可能引發問題或有不良事件發生時規劃解決方式。</p>		<p>the developers, distributors and users (for example). Further, any shared responsibility model will need a strong regulatory framework behind it, in order for it to have effect.</p>
<p>Section 4(5) on Page 20: “Principle Five: Implement Transparency and Explainability (Corresponding to the Supervisory Concept of Information Disclosure)”</p> <p>原則五：落實透明性與可解釋性(對應之監理理念：資訊揭露)</p>	<p>Insert a disclaimer that this principle will not apply to certain exceptions, such as in the case of fraud detection, so that fraudsters cannot gain information about the AI system and abuse it.</p>	<p>It is widely recognized that transparency and explainability requirements should have certain exceptions as there are instances where transparency and explainability could undermine the AI system. The most obvious example is when AI is used for fraud detection. If fraudsters can exploit transparency and explainability requirements to understand exactly how the AI system works, they will then be able to use that knowledge to circumvent the AI system.</p>

We are grateful to the FSC for providing ASIFMA and its members with the opportunity to provide comments on the Consultation. We hope you find our recommendations useful and encourage the FSC to reflect them in the final language. We stand ready to provide any additional information or answer any questions you might have, and we look forward to continued engagement on this important topic.

Yours sincerely,

**Laurence Van der Loo**  
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**Asia Securities Industry and Financial Markets Association (ASIFMA)**