2019

AmCham Taipei

TAIWAN WHITE PAPER

AMERICAN CHAMBER OF COMMERCE IN TAIPEI

TABLE OF CONTENTS

The annual ***Taiwan White Paper*** is written and published by the American Chamber of Commerce in Taipei (AmCham). It includes an overall assessment of Taiwan's business climate, a review of the status of last year's priority issues, and statements of the current priority issues identified by AmCham's industry-specific committees. An additional section offers recommendations to the U.S. government.

The primary purposes of the ***Taiwan White Paper*** are information and advocacy. The document outlines AmCham's suggestions to the Taiwan government and public on legislative, regulatory, and enforcement issues that have a major impact on the quality of the business environment. It is also used to inform government officials, elected representatives, and other interested parties in the United States about Taiwan's business climate.

Although the ***Taiwan White Paper*** represents the immediate business interests of AmCham's approximately 1,000 members, its ultimate goal is to foster the upgrading of Taiwan's economic conditions to the benefit of both local and multinational businesses. It is also in the interest of the Taiwan public at large, as it encourages the growth of a broad spectrum of high-quality of goods and services to improve the quality of life for all Taiwan residents.

The ***Taiwan White Paper*** can also be found online, where PDF files may be downloaded from the Advocacy section of the AmCham website at www.amcham.com.tw .

AGRO-CHEMICAL

Our Goal

Helping to make new, international-standard pesticides offering improved safety and efficacy available in Taiwan for the benefit of farmers and consumers.

The launch of the Pesticide Registration Inquiry System has helped improve administrative efficiency by making all applications and submissions available online. We appreciate the efforts of the Council of Agriculture's Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) and its Taiwan Agricultural Chemicals and Toxic Substances Research Institute (TACTRI) in developing the Inquiry System.

The Committee also wishes to express its gratitude to the Ministry of Health and Welfare (MOHW) for gradually resuming the setting of maximum residue limits (MRLs) on pesticides from January this year, and for establishing a "Pesticide MRL Inquiry System" for easier access of related information. However, the Committee notes that MOHW has not yet provided a definite schedule for the MRL review process.

The Committee would also like to emphasize the importance of aligning domestic pesticide-related laws and policies with international standards, as well as encouraging the steady introduction of new pesticides offering improved safety and efficiency. It is also important to clearly define the residue limits for domestic pesticide so as to ensure compliance, promote crop exports, and enhance the value of Taiwan agriculture.

We offer the following suggestions as ways to help protect the environment, food safety, and the health of both consumers and agricultural workers.

Suggestion I: Divulge the methodology and schedule for setting pesticide MRLs.

Pesticide maximal residue levels need to be set in accordance with scientific methods. The Committee found that the limit defined by the Taiwan Food and Drug Administration (TFDA) in many cases is inconsistent with the accepted method used for application of the pesticide on the crop. We urge TFDA to clarify the methodology and theoretical basis for their calculation, such as a formula based on the acceptable daily intake (ADI) value or any deviations from the standard formula.

Suggestion 2: Rely on international best practice to establish product specification validations.

A. Internationally, suspensibility tests conducted as part of the testing for pesticide quality are based on specifications set by the Collaborative International Pesticides Analytical Council. However, the suspensibility test method used in Taiwan is based on the CIPAC MT15 standard announced in 2000, whereas the current international standard is CIPAC MT184, resulting in disqualification. The committee strongly recommends updating the Taiwan method to align it with the latest standard, CIPAC MT181.4.

B. While the current test method for dispersion stability references CIPAC MT180, the sample volume of 5 grams is not consistent with that of international practice. The Committee suggests adjusting the sampling volume based on CIPAC MT180 plus the volume of usage registered.

Suggestion 3: Amend the "Replacement Rules Concerning Pesticides Indication" for the Agro-pesticides Management Act.

Article 14 of the Act says: "Any use or modification of pesticides indication should be approved by the central administration. After an indication is revised, the original indication should be replaced within six months."

The Committee urges the authorities to interpret this requirement as referring to products as they are manufactured or imported, but not to demand the recall of products already in the marketplace, which would constitute a waste of resources and involve the risky exposure of workers during the repacking operation.

Further, there is no need to recall products already on the market and repackage them with a new label, since the descriptions and instructions on the originally approved label still provide accurate information for use by farmers. Therefore, the authorities need only require that new labels are incorporated on the packaging of products entering the market six months after the change in indication.

Suggestion 4: Give parallel approval for use on domestic crops to imported and domestic pesticides with the same registered active ingredients.

As the Committee has pointed out in the past several years' *White Papers*, the documents required for residue-tolerance import applications are identical to those required for domestic registration. We therefore recommend that when products are approved for import residue tolerance, domestic products with the same active ingredients should also receive

approval for use on domestic crops. The efficacy study could be considered as an optional requirement. Creating such a mechanism would ensure that Taiwanese farmers have the same opportunity as farmers from other countries.

Suggestion 5: Implement the new active-ingredient test data protection period of 10 years as soon as possible.

The Committee wishes to express it gratitude to BAPHIQ for extending the new active-ingredient data protection period in the Agro-pesticides Management Act from 8 to 10 years on May 23, 2018. However, the Executive Yuan has yet to determine the schedule for this revision to become effective. The Committee suggests that the Legislative Yuan consider removing the requirement, written into the amended law, that the extended period would go into effect only upon Taiwan's participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The extension would benefit the domestic agricultural industry with more incoming investments as well as the registration of new low-risk, high-efficiency products. Those benefits should not be made contingent on Taiwan's entry into a multilateral agreement – something that is beyond its control.

ASSET MANAGEMENT

Our Goal

Moving the industry from product-focused selling to advisory by ensuring product suitability, focusing on customer solutions, and improving financial advisors' skills to provide portfolio solutions to achieve long-term financial goals.

The Committee greatly appreciates the efforts and vision of the Financial Supervisory Commission (FSC) in 2018 in steering the calculation of sales incentives towards an assets under management (AUM)-based method effective from 2020. This change is a crucial breakthrough for the asset management industry. It will help reduce fund churning and assure a sounder investment environment for all industry participants and investors.

The Committee also notes with thanks the FSC's recent relaxation of restrictions applied to offshore funds and onshore funds. The ratio of an offshore fund's investment in China's securities market has been raised from 10% to 20%. Onshore and offshore bond funds' investment ratio in high-yield bonds was elevated to the same percentage as well. The Committee looks forward to continuing the collaboration with the FSC in creating a more flexible legal framework for both onshore and offshore products. Hopefully this cooperation will further improve the competitiveness of Taiwan' onshore funds and enable them to keep up with global trends in terms of investment strategy.

The FSC's initiative in introducing the member choice retirement investment pilot scheme demonstrates a strong resolve to help solve the difficulties faced by the Labor Pension Fund. The Committee welcomes the FSC's innovative approach and, as elaborated on in Suggestion 1 below, hopes that the design of the pension reform will be aligned with global practice such as the 401(k) plan of the United States and Hong Kong's and Australia's pension funds. Such an arrangement will allow more asset managers to take part and contribute to the diversification of investment solutions provided to employee-investors.

As always, the Committee is dedicated to working closely with the FSC to bring beneficial changes to the asset management industry and to maximize the best interests of investors in Taiwan.

Suggestion 1: Relax the restriction on opposite transactions when the investment decision of the onshore fund is delegated to a third party.

Laws and regulations regarding securities investment trust funds and discretionary investment mandates impose restrictions on making opposite transactions – that is, selling in one managed fund while buying the same holdings in another managed fund – (1) when a fund manager concurrently acts as the investment manager of the discretionary investment mandate or vice versa, (2) when the fund manager manages more than one fund, or (3) across various investment accounts managed by the same management company. Under such restrictions, unless specific requirements are met or otherwise approved in advance by the responsible supervisor within the management company, investment accounts are not permitted to engage in opposite transactions in the underlying investments.

However, it is not expedient to apply such restrictions when overseas investment management functions of a securities investment trust fund are delegated to a third-party institution. As the delegated institution and the management company in most cases are located in different time zones, the delegate frequently cannot execute an opposite investment trade until it obtains prior approval on the following business day from the responsible supervisor based in the management company. This delay affects the performance of the fund and prejudices the investors' rights and benefits, which is contrary to the objective of delegating a fund's foreign investment functions in the first place.

Furthermore, where overseas investment management functions have been delegated by a securities investment trust fund, the actual decision-maker of the investment is neither the management company nor the fund manager. Therefore, no conflict of interest is involved.

The Committee requests that the FSC relax the restrictions

on opposite transactions made by securities investment trust funds the overseas investment management functions of which have been delegated to a third-party institution so as to reduce the costs arising out of inter-institutional and cross-time-zone trading controls and allow for efficient management of the fund assets, seize investment opportunities in timely fashion, improve investment performance, and pursue the utmost interests of investors.

Suggestion 2: Continue to promote a "member choice" plan as the best option for pension reform.

Private school teachers have now been able to choose their own pension system for six years. This development has provided a good model for the future creation of a more flexible pension system for civil servants and labor. Also noteworthy is Fund Rich Securities' "National Pension Project," which allows participants to invest in a regular and disciplined way. The participants benefit from the hands-on investment experience that enhances their awareness of wealth management and the importance of pensions.

After the recent reform of the military and public servant annuity system, there has been increased discussion about labor pension reform. One important source of pension for workers in Taiwan is the New Pension system, the investment return on which is backed by the government. To moderate the potential future financial burden on the government and provide more choice for workers, the best option – and also the one most in line with international trends – is a "member choice pension scheme." It also provides a good opportunity to educate members of the public on the workings of a pension system. To test the advantages of a member-choice pension scheme, various securities-related institutions in Taiwan, including the Securities Investment Trust & Consulting Association (SITCA), are working together on the "National Pension Project." This Project will begin a two-year experimental period in the second half of 2019, aiming at 10,000 participants with products to be provided by three fund companies.

Our recommendations:

1. Instead of suspending labor pension reform while waiting for the results of the Project, continue to seek ideas for different approaches.
2. In carrying out the Project, avoid placing too many restrictions on investment objects (asset pools) and fund types (fund of funds only). Excessive restrictions will defeat the purpose of adopting a "member choice" system and reduce the willingness of workers to participate. Instead, focus on setting high-level principles and encouraging product diversity.
3. Build an open platform to allow more financial institutions and more workers to participate. The local industry has limited experience in building retirement products, so more participation from international players is important to help the market mature. Limiting the number of participants allowed to provide retirement products will also mean people have less choice and will therefore be less willing to invest. An open market with a diverse group of asset management participants will ensure a healthy market for investors. The rules should focus on creating robust criteria for suitable retirement products, not on limiting the number of participants.
4. Encourage all financial and educational institutions to get involved in providing the public with pension and wealth management education. People need to be armed with sufficient knowledge and information to properly prepare for retirement, and the more industry participants involved in the education process, the faster investors will become better educated.

BANKING

Our Goal

Furthering Taiwan's progress toward becoming one of Asia's financial hubs through the promotion of fintech, development of green finance, and the enhanced competitiveness of Taiwan's financial sector.

The banking market in Taiwan has been volatile over the past two years due to unexpected "black swan" incidents such as Brexit-related uncertainties and the U.S.-China trade war. Other economies in Europe and Asia are also showing signs of slowing.

To reduce the impact of the uncertain global conditions, the government has taken steps to liberalize Taiwan's financial sector. For example, it has encouraged the financing of windfarm projects as a new and very important business opportunity for the banking industry. The measure is enabling foreign banks with offshore wind experience to bring their expertise to Taiwan, where they can work together with local financial institutions.

We look forward to continued liberalization to attract more foreign institutions to participate in the market and bring more business opportunities to Taiwan from neighboring financial hubs.

The government has also been carrying out deregulation in a timely and concrete manner to improve the business environment for Taiwan's banking industry. The Financial Supervisory Commission (FSC) deserves credit for recent policies aimed at upgrading the competitiveness of Taiwan's financial sector, such as its efforts in promoting financial technology (fintech), developing green finance, and expanding the scale of the capital market. As responsible members of the

financial community in Taiwan, we aim to contribute to the sustainable development of the banking industry and to help make Taiwan one of Asia's financial hubs.

The Committee particularly wishes to thank the Taiwan financial authorities for paying extra attention to our recommendations in last year's *Taiwan White Paper* and taking meaningful follow-up actions.

In this year's paper, we have focused our attention on five main issues, the objectives of which are in line with the FSC's main policies. We believe that all of them could be resolved in the coming year. In view of the FSC's desire to expand Taiwan's financial market and increase employment opportunities, the first step in that effort should be to allow more products to be made available to additional types of customers in Taiwan. In this way, Taiwan's financial industry will become more competitive vis-á-vis neighboring financial markets such as Hong Kong and Singapore, and the ability to retain talent and develop the Taiwan industry will be enhanced.

Suggestion 1: Expand the product scope available under the "bond-agency" platform.

Despite the generally positive response from regulators to the industry's longstanding appeal for a relaxation of restrictions on cross-border financial products, the continuing restrictions on the product scope for bond agencies prevent professional Taiwanese institutional investors from obtaining a full scope of services through onshore financial institutions. As a result, professional institutional investors are required to directly engage offshore financial institutions for certain types of transactions, creating unnecessary obstacles for those investors' portfolio management and limiting growth in the onshore bond-agency business.

Although existing regulations have laid a foundation for onshore bond-agency platforms to provide cash-bond products, certain other products including People's Republic of China (PRC) linked bonds issued in the China market, bonds listed on the Hong Kong and Macau exchanges if the issuing enterprises are 30% directly or indirectly owned by the government or corporates of the PRC, as well as corporate-issued bonds that are weighted into the HS China Enterprise Index, are all of interest to institutional investors but are excluded from the scope of permitted bond agency business. Unless the permitted product scope of the bond agency is expanded to include these PRC-related bonds, institutional investors will continue to turn to offshore financial institutions in other markets (mainly Hong Kong and Singapore) to directly purchase the relevant products. This situation obviously contradicts Taiwan's policy objective of bringing financial product intermediation onshore.

In contrast to these bond agency restrictions, the "foreign securities brokerage" service available to professional individual investors for buying/selling PRC securities in the China financial market (including PRC bonds) has been deregulated since 2013.

To meet the demands of professional institutional investors and for product alignment within the financial industry, the Committee suggests expanding the allowable product scope to include the above-described PRC-related bonds under the bond-agency business platform. The result will be to make Taiwan's capital market more competitive and efficient.

Suggestion 2: Exempt the sales and trading activities of banks and securities firms from affiliate trading restrictions.

A bank engaged in trading of offshore securities is deemed to be concurrently engaged in a securities business, making such bank subject to Article 31-3 of the Regulations Governing Securities Firms. Under the restrictions set forth in that Article, banks and securities firms are prohibited from trading offshore securities with their offshore affiliates. The rationale for the restriction is to prevent securities firms from engaging in profit and loss manipulation through transactions with affiliates. However, this restriction has impeded banks and securities firms from engaging in a core business activity and from entering into arm's-length transactions with related parties.

The banking and securities industries are highly regulated and subject to strict scrutiny by the FSC as well as regulators in other countries. A well-established stringent regulatory framework as well as internal controls govern inter-affiliate transactions. Thus, it is unnecessary to prohibit banks and securities firms from entering into arm's-length transactions with their offshore affiliates. We recommend that the FSC loosen the restriction imposed under Article 31-3 of the Regulations Governing Securities Firms.

Suggestion 3: Relax the definition of recognized ECAs to encourage green financing.

According to Banking Bureau Ruling No.10600188770 issued on Sept. 1, 2017 and Article 33-3 of the Banking Act, only credit extensions backed by credit guarantee institutions "established or owned by a foreign central governments" are exempted from the limit on the aggregate amount of unsecured credit extended to a single juridical person.

Several cases have occurred where the credit extensions backed by Export Credit Agencies (ECAs) are not established or owned by a foreign central government, but the ultimate obligations under the export credit guarantee will still be assumed by the foreign central government. Examples are ECAs Atradius in the Netherlands and Euler Hermes in Germany.

To develop the overall green financing market in Taiwan and encourage local financial institutions to participate in green financing projects, the Committee urges the FSC to expand the scope of recognized ECAs to include agencies

whose export credit guarantee obligations will ultimately be assumed by a foreign central government(s), regardless of whether the ECA is itself established or owned by a foreign central government.

Suggestion 4: Ensure regulatory consistency with regard to client classification.

The "Regulations Governing Internal Operating Systems and Procedures for Banks Conducting Financial Derivatives Business," as last amended on February 1, 2018, included the Agriculture Bank of Taiwan and post offices that handle deposits and remittances within the definition of Professional Institutional Investors (PII). Earlier – on June 21, 2016 – the "Guidelines for Banks Providing Information and Advisory Services for Offshore Derivatives Products" was amended to adopt the PII definition as set out in the "Regulations Governing Internal Operating Systems and Procedures for Banks Conducting Financial Derivatives Business." Consequently, these two institutions are deemed to be PIIs when entering into financial derivatives products transactions with banks and investing in Offshore Structured Products via banks' provision of information and advisory services.

However, the definition of PIIs set out in the "Regulations Governing Offshore Structured Products" does not include these two institutions. Moreover, the "Rules Governing Securities Houses Acting as Agents for Sale of Foreign Bonds to Financial Institutions in Taiwan" and the "Regulations Governing Foreign Bank Branch Issuance of NT Dollar Bank Debentures" limit the target investors to PII and Professional Investors as defined in the "Regulations Governing Offshore Structured Products" and thus also exclude these two institutions.

This inconsistency confounds banks' client-classification process and prevents the Agriculture Bank of Taiwan and post offices that handle deposits and remittances from purchasing foreign bonds from domestic foreign bond agents. It also complicates these two institutions' investment process if they wish to invest in NT-dollar bank debentures issued by foreign bank branches, since they would have to submit written applications to the issuing banks to be recognized as a High Net Worth Entity or Professional Investor.

We suggest classifying the Agriculture Bank of Taiwan and post offices that handle deposits and remittances as PIIs in the "Regulations Governing Offshore Structured Products" in order to provide consistency across different regulations.

Suggestion 5: Promote digitalization in the banking sector.

5.1 Establish regulations for the digitalization of corporate banking services. Currently when corporates apply for banking services, the level of digitalization is significantly lower than for consumer banking. To continuously create a digitalized environment for the financial industry overall, we recommend that the government establish relevant regulations on digital banking services for corporate customers, including such services as online account opening, applications for corporate financing, the submission of credit documentation, etc.

5.2 Build up an open API and database to enhance customers' banking experience.

We recommend that the FSC liaise with other relevant government agencies to develop an open Application Programming Interface (API) and database to allow banks online access for verification of necessary documentation and information regarding corporations and individuals with which they have business dealings. This system would promote the application of fintech and a digitalized environment for the financial industry, as well as reduce operational human error and increase efficiency for customers and banks. In the case of corporate customers, such information might include articles of association, company registration amendment card, board minutes, financial reports, tax compliance audits, and signature cards. For individual customers, such could include tax information, personal data, income information, family status, contact information, and educational and employment information.

Singapore's MyInfo is an example. This Singapore database stores more than 3.3 million pieces of user data, including Personal ID information, and occupational, income, family, and marriage information. The user has data ownership and can determine which third party can access the data instantly through the MyInfo authentication method. The connection with the bank's system reduces the amount of time customers need to fill out forms and also saves back-end operator processing time. It also decreases paper-based operational risk and speeds up the bank's credit approval process. The customer is able to complete the financial service in a short time with great service experience.

Singapore's CorpPass is similar to MyInfo. After registration, corporations can use this platform to authenticate third parties and share corporate information with them.

CAPITAL MARKETS

Our Goal

Encouraging the adoption of international regulatory best practices to create greater market efficiencies.

The Committee would like to express its gratitude to the National Development Council (NDC) for its proactive efforts in coordinating among regulators to address our

suggestions from the 2018 *Taiwan White Paper*. We particularly appreciate the regulators' responsiveness to industry's concerns by lifting the chaperoning requirement for offshore analysts' visits to local investors, as well as cancelling Saturday trading. These positive responses send the encouraging message to the industry that the regulators recognize the importance of enhancing the international competitiveness of Taiwan's capital markets by aligning its practices with international standards.

In the same spirit, we offer our suggestions aimed at boosting the development of Taiwan's capital markets and financial industry. The Committee looks forward to working together with the Taiwan authorities to harmonize Taiwan's regulations on capital markets with common international practice.

Suggestion 1: Maintain competitiveness in inbound securities investment for foreign institutional investors (FINIs).

1.1 Simplify the format of FINI's monthly custody reports and eliminate the calculation of profit/loss figures to avoid redundant processes and allow timely submission by custodians. According to Article 22 of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals," the Taiwan custodian for a FINI investor is required to establish accounts in which information on the utilization of the funds and securities inventories of each offshore overseas Chinese or foreign national are to be recorded on a daily basis, with the previous day's inward and outward remittances reported to the Central Bank. Within 10 days of the end of each month, the custodian must also produce a statement of trades, inward and outward remittances of funds, and securities inventories for the previous month. This information is reported to the Central Bank and is also provided to the Taiwan Stock Exchange for its records. However, the current reporting format includes more reporting items than those mentioned in Article 22, which causes additional costs for the custodian banks and puts parties at risk of sanction due to late reporting, especially when holidays fall in the first 10 days of a particular month. In order to focus on key custody services through an efficient and streamlined process that encourages FINI investment in Taiwan, we suggest that the FINI monthly report requirements be simplified.

1.2 Implement the designated TDCC platform of trade pre-matching and affirmation between brokers and custodians. According to Article 17 of the Regulations, a custodian must confirm trades for FINIs. Recently, FINIs have accounted for approximately 30% of the total transaction volume on the Taiwan Stock Exchange, with large trades executed and settled daily. To improve settlement efficiency and data protection, the Taiwan Depository & Clearing Corp. (TDCC) has developed a Virtual Matching Utility (VMU) system to facilitate trade pre-matching and affirmation for FINIs' trade settlements between brokers and custodians (participants).

Most local TDCC participants already use VMU for pre-matching and affirmation on transactions by local investment trust funds. However, use of such system is not mandatory, and for transactions executed by FINIs, only a few parties are using the VMU system to transmit FINI trade data on a secure and private network. The majority are still using encrypted emails to transmit data, which is neither efficient nor secure, as no market consensus has been reached. Trade email communication between FINI custodian banks and execution brokers via the internet may trigger security concerns such as hacker interception risk. Given the large engagement by FINIs, this situation represents a huge potential risk for the securities market.

Thus, to develop a secure securities market with an efficient trade-settlement process for FINIs with reference to other major markets in the region, the Committee urgently recommends that the Taiwan authority issue a ruling designating TDCC's VMU system as the market standard for adoption by brokers and custodians in the settlement process for FINIs.

1.3 Allow FINIs to designate additional custodian banks for equities eligible as collateral. Given the growing trend towards non-cash collateralized transactions, this change would benefit the position of global financial market participants and ultimately benefit the Taiwan market by attracting more investment flows from FINIs. We therefore suggest expansion of Article 17 of the Regulations to allow FINIs to designate custodian banks or securities firms to separately keep custody of the equities that are eligible as collateral, aside from the existing custodian bank or securities firm designated for handling normal custodianship matters.

1.4 Allow FINIs to invest in Exchange Traded Notes (ETNs). The Committee commends the Taiwan Stock Exchange for actively launching new financial products in recent years, allowing investors to diversify instruments for asset allocation and investment strategies. ETNs, which are expected to be listed in the second quarter of 2019, are a prime example. They allow investors to accurately track specific underlying indexes and to access new markets and strategies. According to Article 4 of the Regulations, newly initiated securities must be approved by the Financial Supervisory Commission (FSC) to be applicable for FINIs; without FSC approval, FINIs are unable to conduct ETN investments. The Committee recommends allowing ETNs to be included as one of the applicable financial instruments for FINIs' domestic investment. The Committee believes that expanding the participation

would help increase ETN's liquidity and further enhance the momentum of the stock market.

Suggestion 2: Allow sales personnel with in-depth market knowledge to provide market commentary to professional investors.

Article 3 of "Operational Regulations Governing Securities Firms Recommending Trades in Securities to Customers" stipulates that securities firms may only make recommendations to clients regarding securities when those recommendations are based on research reports. But besides research reports issued by research departments, which analyze the long-term trend of a security, clients also expect to receive short-term trading strategies and market commentary from sales personnel based on the most up-to-date market information.

Sales personnel based in Taiwan are in a valuable position to provide their own insights on the local market, and can serve as a connecting bridge between international institutional investors and the Taiwan capital market. If sales personnel are not allowed to communicate the most updated market conditions to their professional investor clients, it could reduce the attractiveness of Taiwan's capital markets for international investors covering multiple countries or regions.

In light of those circumstances, we propose allowing sales personnel to provide short-term trading strategies and market commentary to professional investors so that investors can benefit from such informed decision-making and gain a different perspective than that of the research reports.

Suggestion 3: Expand ADR programs to assist Taiwan-listed companies enhance their visibility and liquidity.

Since 2014, the FSC has permitted Taiwan-listed companies to issue sponsored non-capital-raising depositary receipts (known as sponsored Level 1 ADRs) on over-the-counter markets in the U.S. Sponsored depositary receipts require the appointment of an exclusive depositary bank by a Taiwanese listed company and are issued pursuant to a formal agreement known as a deposit agreement. To further encourage Taiwan-listed companies to take advantage of the benefits of Level 1 ADRs, the FSC should consider allowing certain exemptions for the establishment of unsponsored ADRs. Unsponsored depositary receipts are a simpler method to access the U.S. market as companies do not need to register with the Securities and Exchange Commission (SEC), do not have a contractual obligation with a depositary bank, and are exempt from U.S. regulatory Sarbanes-Oxley requirements. Instead, the depositary banks are responsible for filing Form F-6 with the SEC to register shares represented by ADRs. Unsponsored ADRs have the same level of investor access as sponsored Level 1 ADRs as both forms trade in the over-the-counter U.S. market.

Considering the need of Taiwan-listed companies to reach a broader investor base, which would benefit the diversity and stability of the shareholder structure and permit better price discovery for fair stock-price valuations, the Committee recommends further amendment of the rules on overseas securities offerings and local securities transactions to offer further exemption for Level 1 ADRs and to allow the establishment of unsponsored ADRs. We believe this suggestion is further supported by the regulatory and policy rationale for the permission of unsponsored Taiwan depositary receipts (TDR) program in the Taiwan Stock Exchange under Article 36 of the "Regulations Governing the Offering and Issuance of Securities by Foreign Issuers."

Today, FINI investors play an important role in the Taiwan stock market, accounting for about 25% of the daily trading volume on average. However, additional overseas investors interested in the Taiwan market are currently restricted from doing so due to their lack of FINI-qualification status. Included are U.S. investment managers who have specific U.S. dollar mandates and can only hold and trade U.S. registered securities. Providing the necessary exemptions to permit unsponsored ADRs would provide another way for Taiwan-listed issuers to enhance their global visibility and access additional capital from overseas investors who lack FINI status.

For many years, the level of ADR issuances from Taiwan has been lower than other Asian countries such as Hong Kong, Japan and Singapore. The restrictions of ADR programs under Taiwanese regulations have limited the development of the local capital markets and established a barrier for the growth of Taiwan-listed companies.

Allowing the creation of unsponsored ADRs for Taiwan securities – based on stock bought in the secondary market and kept with a local custodian bank – would help boost the momentum of the Taiwanese stock market through the deployment of capital flows from additional foreign investors. Taiwan brokers would benefit from the increased commission earnings, given the increased liquidity and transaction volume. The Committee therefore strongly recommends amending the rules to allow the establishment of unsponsored ADRs.

Suggestion 4: Provide greater flexibility on trade amendment processes to enhance the efficiency of trade confirmations.

Certain types of authorized traders invest on behalf of multiple principals (for example, fund managers investing on behalf of multiple funds) by placing single combined omnibus orders for all investors and then, on a post-trade basis, allocate the trade among the various principals. When there is a change to the principals listed in the Omnibus Statement, securities firms may renew the investors' omnibus trading list based on the trade confirmation/pre-match process with investors' Taiwan custodian bank.

4.1 Revise the "Operational Guidelines for Omnibus Trading Accounts for Professional Institutional Investors."

Pursuant to the Guidelines and Article 3, paragraph 1(b) of the "Taipei Exchange Operational Directions for Omnibus Trading Accounts," when there is a change in the statement of the principals served by an authorized trader through an omnibus trading account, the statement of principals shall be delivered to the securities firm within five business days after the securities firm submits the post-allocation statement of detailed transactions. Alternatively, a list of changes in principals shall be transmitted to the securities firm within three business days after the securities firm submits the post-allocation transaction statement, using a form of notification (fax or electronic transmission) agreed upon between the securities firm and the authorized trader.

As the order-placing process implemented by authorized traders using custodian banks is rigorous and well-controlled, in practice it is ineffective and redundant to request amendment documentation from the traders. This is especially true when the transactions are confirmed and settled per the settlement instructions sent by the trader, which means the securities firm still needs to keep chasing for the new omnibus account update confirmation.

The manner in which brokers are permitted to give commission rate notices establishes a precedent for this proposed change. Under Article 94, paragraph 2 of the "Operating Rules of the Taiwan Stock Exchange Corporation," if the commission adopted by a securities firm exceeds 0.1425% of the transaction amount, the securities firm is required to notify the customer of this fact using an appropriate method before accepting the order and is also required to retain a record of that notification. However, Foreign Professional Institutional Investors may be notified of the commission amount charge just before the settlement. When such investors send the matched settlement instruction to their local custodian bank (to complete the T+1 pre-match process) one day prior to the settlement date, confirming the trades and the commission rate, that instruction constitutes proof of notification.

The Committee proposes that a simplified method for handling commission notifications similarly be adopted for the amendment of omnibus trading lists for foreign investors with local custodian banks, allowing securities firms to update the omnibus trading list by adding new accounts based on the confirmation of the settlement process with the local custodian bank on a T+1 pre-match basis. We believe the proposed process will operate more efficiently and enable the administrative processes to be streamlined substantially.

This streamlined process will not affect compliance with anti-money laundering requirements, as the investors will have already completed the Know Your Customer process when opening their accounts with the securities firms.

4.2 Relax the restrictions on amending block paired trade.

Block paired trades are trades in which the investor deals with a specific counterparty with agreed trading information, such as the stock, quantity, price, account ID, and source of the stock, prior to the execution. The agreed trading information is input by the broker and sent to the Taiwan Stock Exchange/Taipei Exchange for reporting.

Inevitably, however, the wrong trading information is sometimes input by traders since the process is 100% manual. Compared to normal trades, the restrictions on amendments to block trades are more stringent. Most of the time, the only way to correct the trade is to report it as an error trade and replace the order.

Since block paired trades are agreed upon between the seller and the buyer, and the change of the trading terms would not cause any impact to the market, we propose the following measures to relax the restrictions for executed block paired trades:

- As with normal trades, allow changes in the trade category to be made for executed block paired trades.
- As with normal trades, allow OTA-related account corrections to be reported for executed block paired trades.
- Relax the restrictions on amending trade information, such as price or quantity, for executed block paired trades.
- Relax the rules on withdrawal or cancellation of executed block paired trade orders.

Suggestion 5: Expand the product scope available under the bond agency platform.

To boost the growth of the Taiwan capital market and provide seamless derivatives products to meet market demand, the Capital Markets Committee wishes to register its support for the position outlined by the Banking Committee in urging expansion of the product scope available under the bond agency platform. This Committee shares the points made by the Banking Committee in this regard.

CHEMICAL MANUFACTURERS

Our Goal

Fostering a regulatory environment for chemicals that supports industrial development while safeguarding public safety and health.

The Chemical Manufacturers Committee highly appreciates the efforts of the Environmental Protection Administration (EPA) and Ministry of Labor (MOL)

to engage in two-way communication with industrial stakeholders, conduct effective inter-agency cooperation, and pursue efforts to improve Taiwan's chemical management in line with global standards and practices.

Following the promulgation of the Toxic and Chemical Substances of Concern Control Act in January this year, the scope of "chemical substances of concern" and details regarding chemical substance handling fees have yet to be specified. The Committee urges the EPA to further communicate with industrial stakeholders on these points as early as possible to enable them to engage in business planning with greater certainty.

Regarding the MOL's amendment to the Regulations for the Labeling and Hazard Communication of Hazardous Chemicals, the Committee is concerned that the application and review criteria for the withholding of confidential business information (CBI) has become more stringent. The Committee hopes that MOL will provide an exemption for products used for scientific research and development (R&D), and also refine the review criteria to better protect workers and downstream users without compromising industrial R&D capability.

Suggestion 1: Clarify requirements under the Toxic and Chemical Substances of Concern Control Act.

1.1 Industry stakeholders are awaiting the issuance of implementation regulations for the new Toxic and Chemical Substances of Concern Control Act. At this point, key conditions under the Act are still unclear, including the definition of "chemical substances of concern," the threshold in terms of degree of chemical concentration and handling volume, and the measures that companies dealing with these substances will be required to put in place. The Committee urges the EPA to communicate with the various stakeholders as early and fully as feasible to give them sufficient time to prepare for the new requirements.

1.2 Article 47 of the Act calls for the establishment of a chemical substance management fund to be financed through user fees. The fund would presumably be used for such purposes as chemical substance handling expenses and bolstering emergency response capability. Still undefined are the mechanism for calculating the fees and precisely how the fund will be utilized. The Committee notes that while the major chemical manufacturers in Taiwan already have a well-established mutual-aid alliance for emergency chemical response, the alliance members are also supportive of the government's efforts to expand the network of national chemical emergency response teams and technical centers, which presumably would be financed through the user fund. However, the industry stakeholders urge the EPA to clearly define the respective responsibilities of the private and public sectors for emergency response personnel training and competency-building to avoid any duplication of effort.

Furthermore, since related funds already exist under the existing air and water pollution and soil-contamination prevention laws, the Committee urges the EPA to thoroughly evaluate the requirements for any new fees to prevent any overlap with the charges currently being imposed. The operation of the chemical substance management fund should be totally transparent and the money used for the appropriate defined purposes only.

1.3 Article 71 of the Act stipulates that those who use toxic and chemical substances of concern shall submit a site-storage layout. However, both the National Fire Agency and the Ministry of Economic Affairs similarly require the public declaration of hazardous materials and the layout of the hazardous materials storage site at the factory's emergency response center. The Committee recommends that the various authorities agree on an integrated procedure regarding the chemical storage site layout. That arrangement would relieve companies of the burden of repeated demands for compliance, while still fulfilling the purpose of ensuring prompt emergency response.

Suggestion 2: Regulations for the Labeling and Hazard Communication of Hazardous Chemicals.

The amendment to the Regulations for the Labeling and Hazard Communication of Hazardous Chemicals that went into effect last November requires disclosure of the substance's Chemical Abstract Service (CAS) number unless an application to withhold the number has been approved. In addition, applications for Confidential Business Information (CBI) treatment are no longer permitted for hazardous substances listed in the Standards of Permissible Exposure Limits at Job Site. The Committee is concerned that the overall application and review criteria for CBI protection are becoming more and more stringent.

The Committee suggests that special treatment should be given to R&D samples, considering their generally low volume and very short life cycle. On the condition that product hazards are correctly classified and noted on the Safety Data Sheet (SDS) with appropriate volume control and validity, we propose that declared R&D samples be accorded the flexibility of using the generic name. This solution would be in line with European Chemical Agency (ECHA) provisions. Such flexibility for R&D samples, which would reflect Taiwan's R&D competence and unique position in the global semiconductor business, would in no way impair the protection of chemical industry workers and downstream users from exposure to hazards.

To prove that a substance does not fall into any of the nine hazardous-to-health classifications defined in Article 18-1, MOL requires applicants to provide toxicological data

regarding health hazards for all nine categories, along with a summary. However, toxicological data and reports do not exist for all chemical substances, posing a huge burden for industrial stakeholders when trying to defend and protect their CBI. The Committee urges MOL to refer to ECHA's practices regarding human health and environmental endpoints. Under certain well-defined principles, ECHA will accept the lack of data for a given classification, instead of constantly asking applicants to generate new data or testing.

COSMETICS

Our Goal

Creating a transparent regulatory system for Taiwanese consumers to enjoy high quality and safe cosmetic products.

The Cosmetics Hygiene and Safety Act, which passed three legislative readings in May 2018 but has not yet gone into effect, authorizes the central health authority to formulate at least 26 regulations to accommodate implementation of the new law. This Committee appreciates the transparency shown by the authorities, such as holding additional communication meetings with industry prior to the pre-announcement. In addition, all draft regulations followed the administrative procedure for a 60-day notice and comment period to facilitate alignment with international standards and promote open communication with stakeholders and the general public.

However, this Committee agrees with the Retail Committee that when the formal announcement of a new regulation takes place, there is rarely any mention of the opinions raised by members of society, or any explanation of whether those opinions were accepted or rejected. As a result, the value of the public comment process has been greatly diminished.

Suggestion 1: Harmonize the product safety standards applied to PIF review with international practice in order to avoid technical barriers to trade.

One of the important changes under the new Cosmetics Hygiene and Safety Act is the requirement that product safety dossiers be presented as part of the Product Information File (PIF). Assessment of product safety is complicated because it is based on a number of different elements, including the raw materials, level and frequency of use, formulation composition, type of product, age of the consumer, skin type, application area, and exposure areas. Because of that complexity, plus the wide variety of cosmetics products, it takes a high degree of professional knowledge and skill to be able to judge whether a product is safe. There is no simple rule that can be applied in all cases.

The Committee urges the health authority to build up a professional safety-dossier review capability by adopting international best practices for conducting post-market audits. For the sake of Taiwan's international trade relations and reputation, it is important to avoid misinterpretations that could lead to accusations of technical barriers to trade. The Committee will be happy to assist by leveraging member companies' resources to help build professionalism through regulatory transparency and harmonization.

Suggestion 2: Avoid Taiwan-unique regulations governing cosmetics ingredients.

2.1 The latest version of the draft "List of Restricted Substances Used in Cosmetics Products" recently issued by the Taiwan Food and Drug Administration (TFDA) restricts the use of some ingredients because of their functions, but it allows others as long as the PIF contains proof of the claim. This is an unfair and unique-to-Taiwan regulation. The EU Cosmetics Directive Annex III, for example, is typical of the approach in major jurisdictions in that it regulates restricted substances only in terms of the level of use, type of product, and parts of the body affected. No function is restricted. The health authority's focus in setting restrictions on such substances should be safety consideration only.

Since the parameters of the restricted list are unclear to industry, confusion will be unavoidable when companies seek to evaluate whether their formulations comply with the requirements. The Committee therefore urges the TFDA to delete all mention of "function" in the "Restriction" column of the draft list and also ensure that all other requirements imposing limitations on ingredients are harmonized with global regulatory trends.

2.2 The TFDA's draft "Preservative List" allows a substance if it is used in the U.S., EU, and Japan. However, if there is any variance in the regulation among the three jurisdictions, the TFDA will accept only the most rigorous one – that is, the one calling for the lowest use level. This methodology will create Taiwan-unique regulations that may result in accusations of technical barriers to trade. The Committee therefore urges the TFDA to accept an ingredient or substance allowed in cosmetics products by any one of Taiwan's major trade partners (such as the U.S., EU, and Japan) and to adopt the highest use level or a flexible standard if regulatory variances exist among the U.S., EU, and Japan.

2.3 The Taiwan Environmental Protection Administration has notified the WTO of its intention to ban non-natural polymers, such as synthetic waxes, under Taiwan's 2017 law restricting the use of microbeads in rinse-off cosmetic products. This ban would be inconsistent with the practice in other countries, such as the U.S. Microbeads-

Free Waters Act of 2015. Rather than adopt another unique-to-Taiwan regulation, we urge the TEPA to delay a decision on expanding the scope of the regulation until it can engage more fully with industry and scientific experts on the particular properties of these polymers, the appropriate methods for detecting plastics used in cosmetics formulations, and the impact that proposed changes would have on industry and consumers.

Suggestion 3: Collaborate with industry in setting the qualifications for foreign safety assessors assigned to checking imported cosmetics products.

The framework created by the new Cosmetics Act requires each cosmetics product to have a PIF that includes product safety data signed by a Safety Assessor (SA). According to the recently published draft "Regulation for Governing the Management of Product Information Files of Cosmetics Products," an SA's qualifications must include a degree from a specified university department. In addition, the SA must complete a specialized training course that lasts a prescribed number of hours and go through annual retraining.

These regulations are unique to Taiwan. The EU Cosmetics Directive has no provisions requiring SAs to accept additional training courses or to be retrained within a certain period. Although an article in the draft exempts foreign SAs from these requirements on a reciprocal basis, the three countries that have entered into cooperation agreements with Taiwan related to SAs are not among this country's major trading partners. Thus, those agreements have no bearing on the foreign SA issue encountered by most cosmetics products imported into Taiwan. If training courses are deemed necessary, the Committee urges TFDA to simultaneously hold physical and on-line courses in both Mandarin and internationally commonly used languages so as to avoid creating a technical barrier to trade. The Committee will be more than willing to collaborate with TFDA in making arrangements with facilitating universities, organizations, platforms and/or facilitators to implement the training courses.

Suggestion 4: Include risk management in the Cosmetics Recall Guidance to balance consumer protection and industry feasibility.

The Cosmetics Recall Guidance is a newly established element of Taiwan's cosmetics regulatory reform. It is classified into two levels. Level 1 entails products with banned ingredients that raise concerns about product safety and hygiene. A one-month lead time, shortened to 14 days when necessary, is stipulated for the recall. Level 2 involves failure to engage in pre-market notification or to have a PIF in place, or non-compliance regarding product claims or labeling. The lead time is two months.

Cosmetics pose far less of a safety concern for consumers than do medications. However, the current Cosmetics Recall Guidance and allotted lead times are not based on objective risk-assessment levels – and in fact are more restrictive than the recall guidelines for pharmaceuticals. Although the country-wide distribution for cosmetics is much broader than for medicine, the lead time given for cosmetics recall is shorter, making it impractical for the cosmetics industry to carry out.

We urge the TFDA to refer to its own Drug Recall Management guidelines, which classify risk for pharmaceuticals according to three levels. Level 1 provides a one-month lead time for products where there is concern about serious impact to human health. Level 2 gives a two-month lead time for products with defects or quality concerns. And Level 3 allows six months for cases where there is no product safety or quality concern and no artwork or insert changes. In other words, even though pharmaceuticals is an industry with more limited distribution channels than cosmetics, the timeframe is not as tight.

The new Cosmetics Recall Guidance should be aligned with international best practice for cosmetics recall. It should also use the Taiwan Drug Recall Management guidelines as a reference point. The result would be to provide the cosmetics industry in Taiwan with a reasonable risk-based classification system and feasible lead time for implementation.

Suggestion 5: Exempt the packaging of imported cosmetics from GMP labeling requirements when there are no sanitation or safety concerns.

Article 8 of the Cosmetics Hygiene and Safety Act requires manufacturing facilities to follow GMP standards to "ensure consistent production and management of products to meet their expected purposes and the quality standards required by market approvals or product specifications." In addition, Article 4, Paragraph 1 of the draft "Enforcement Rules of the Cosmetics Hygiene and Safety Act" defines "cosmetics production premises" as the location "in which the production and packaging operations of cosmetics products are carried out." Paragraph 2 of the same article narrows that definition by excluding premises in which otherwise complete packaging and labeling for cosmetics products undergo further processing such as combining packaging elements or conducting additional labeling.

A majority of imported products need the addition of stickers or a secondary outer package with Chinese labeling in order to comply with local regulations. Since the Chinese labeling operation does not impact the packaging from the original manufacturer, it should not raise any concern that product quality or safety has been compromised. In addition, the facilities and processes used for Chinese labeling are not as complicated as those for other production and packaging operations (such as filling), which require comprehensive

quality control. It therefore makes sense to exclude such operations from the GMP standard since they do not undermine the quality or sanitation and safety levels of the cosmetics.

DIGITAL ECONOMY

Our Goal

Working with the authorities to ensure that current policies, laws, and regulations adequately reflect the needs of a modern digitalized economy.

A new world is taking shape at an astounding pace, being built by new ideas and skills contributed by innovators and entrepreneurs. This new world is inevitably accompanied by a great deal of uncertainty and disruption, but it also brings an abundance of opportunities. The ever-evolving power of innovation continues to shape lifestyles, redefine work, and create a new economic model for us and future generations.

At the same time, however, concern remains as to whether the government is sufficiently prepared to address the challenges posed by this transformation. The question is how to benefit from the gains that innovation can bring, while avoiding the risks of a polarized society, divided between those who embrace change and those who find it unsettling or threatening. The best course would be for the authorities to take a more proactive approach, as outlined below.

Suggestion: Establish a high-level authority under the Executive Yuan to provide planning and guidance for the transformation to the new economy.

Competition is a key driver of innovation. But as new and often disruptive business models arise, governmental authorities around the world are faced with difficult decisions about how to accommodate them within the existing competitive and regulatory framework. The current rules of the game may be wholly inappropriate to deal with these new situations, but revising laws and regulations to fit changing conditions is a time-consuming exercise. And doing so in a way that encourages new technologies and new businesses while being fair to existing stakeholders requires a breadth of knowledge and understanding of market trends.

In confronting this challenge, Taiwan would be well-advised to establish a high-level authority – perhaps a commission reporting directly to the Premier – to expedite Taiwan's transition to a digital economy. This unit, headed by a "digital czar," would focus on removing obstacles blocking development of an open and competitive market, thus enabling innovative multinational and domestic enterprises and investment to gain access in an effective manner.

By creating new types of work and redefining economic models, innovation inevitably challenges the status quo. One of the current problems in dealing with the new challenges is that the current ministries tend to operate in silos, restricting the breadth of perspectives brought to decision-making. The new authority would be at a high enough level to guide an inter-agency process to treat multi-faceted issues. To embrace innovation in a constructive manner, collaboration among multiple ministries and agencies is an absolute necessity.

Among the main ministries contributing to this process would be the Ministry of Science and Technology, Ministry of Economic Affairs, and Ministry of Communications and Transportation. Since the adoption of new technologies will raise national security concerns, and a new society will urgently need new approaches to education, the Ministries of National Defense and Education would play key roles. And as privacy and human rights issues will demand attention, other government departments such as the Ministry of Justice will necessarily also be involved.

Taiwan will be setting ourselves up for failure if we continue to apply rigid structures to dynamic issues, to narrowly define emerging businesses using existing and limited knowledge, and to treat developing technologies with a conservative mindset. What is needed is new approach to decision-making that will entail active coordination among the relevant ministries.

ENERGY

Our Goal

Assuring a sufficient, reliable (zero power dips), and cost-effective energy supply – based on an appropriate mix of energy sources – to support Taiwan's future industrial competitiveness.

Industry's basic expectations regarding power supply can be summarized as 1) no shortages (ideally with a reserve margin greater than 15% and an operating reserve of more than 10%), 2) stable voltage (highly sensitive industrial power users cannot tolerate any power dip whatsoever) and 3) competitive pricing.

To meet these expectations and ensure sustainable economic development, the government will need to adopt a holistic approach toward energy policy that takes national strategic objectives into account. The scope should include the impact on national security (including defense), public health, social welfare, economic growth, and the competitiveness of Taiwan's various industrial sectors. To achieve the goal, we strongly recommend establishment of a high-level dedicated agency or committee, at least at the Executive Yuan level, to oversee the planning, design, coordination, and implementation of energy policy with

support from advisors among renowned international energy experts. The agency or committee could also act as a window to collect the concerns, suggestions, or other feedback of all stakeholders.

The increased use of renewable energy is an international trend that Taiwan rightfully is supporting. But we would caution that the extent of reliance on renewable energy is something that requires thorough study, analyzing such factors as total energy demand and the production costs and efficiency of each type of available energy source. Before proceeding toward the longer-term goal of creating a "Nuclear-Free Homeland," the safest and most realistic approach would be to first ensure that the other top-priority, high-level objectives can be met.

The current energy policy involves a high degree of risk, as it is mainly based on evaluations from power specialists in advanced countries. Factors specific to Taiwan may not have been well considered. In case the highly ambitious current plans cannot be fulfilled in time, it would be advisable to have a backup contingency plan.

Some of the challenges facing the current energy policy include:

1. Energy-security concerns due to the targeted 50% share of the energy mix for liquefied natural gas (LNG). Construction of a new receiving terminal will take a long time to complete, and bad weather conditions or military blockade could interfere with the delivery of LNG supplies from abroad.
2. Environmental concerns because the 27% share for coal power could pose a threat to public health. In response to recent record-breaking air pollution levels, citizens have made their demands for clean air known to local governments.
3. Limits on the availability of renewable energy, which under current plans would eventually account for 20% of the electricity mix. Renewable energy sources such as wind and solar cannot be used as the base-load power supply because they are not constantly available. For them to be a reliable part of the system, they have to be aligned with large-scale power storage facilities and smart grid investments. But that is an expensive proposition and the technology is still immature. Further adding to the challenge are Taiwan's difficult weather conditions and frequency of natural disasters.
4. The high cost of LNG and renewable energy. Raising the price of electricity by 33% or more before 2025 would have a serious negative impact on the economy and therefore on the government's ability to provide social welfare programs. A substantial increase in operating costs resulting from higher electricity bills in a few years could force domestic manufacturers to shift production offshore, while discouraging multinational companies from setting up or expanding their operations in Taiwan.

We urge the government to continue investing to maintain a highly reliable power grid, while also paying close attention to the cost of energy for industrial users.

Suggestion 1: Prioritize improvements in the reliability of the power supply.

Taiwan continues to operate with dangerously low electricity reserve margins, especially in the south, where reserve margins may fall as low as 5% in the coming years. As Taiwan has been upgrading its industries toward the manufacture of highly sophisticated products, such as semiconductor chips and display glass substrates, a power dips of just a fraction of one second – not to mention a full-scale power outage – could cause severe economic damage. The Ministry of Economic Affairs and the Taiwan Power Co. should urgently develop and execute a plan to increase reserve generating capacity in the short term, returning Taiwan closer to a safe reserve margin of at least 15%.

Suggestion 2: Switch to market-based mechanisms like auctions to lower renewable energy costs.

Taiwan currently uses a bureaucratic method to administratively set feed-in tariff prices for renewable energy. These prices are often significantly greater than the underlying levelized cost of energy (LCOE), which calculates the cost over the lifetime of the facility. The gap places a substantial burden on Taiwanese consumers/taxpayers who must shoulder the cost for these above-market prices. Utilizing market-based mechanisms like auctions to allow the laws of supply and demand to determine the market price for renewable energy would lower costs. Ideally this approach would be paired with a quantity-based installation target for renewable energy. For example, setting a renewable portfolio standard (RPS) would require Taipower to include a certain quantity of renewable energy on its system by a certain date, without specifying how much should be paid for that energy.

The pairing with an auction mechanism would provide an economic incentive for renewables, while still allowing market forces to determine the ultimate pricing. Taiwan could thus meet its renewable energy growth objectives with assurance that they are being achieved in the most cost-effective manner possible.

HUMAN RESOURCES

Our Goal

Encouraging personnel policies and regulations conducive to a knowledge-based, innovation-driven economy.

In last year's *White Paper,* the HR committee had but a single issue. We urged revisions to the enforcement rules for

the Labor Standards Act to exempt defined professional and administrative personnel from certain restrictions on work time and overtime compensation. Taiwan's future prosperity will depend on its ability to be a leader in innovative, technology-intensive industries. The "knowledge workers" in those sectors demand a high degree of flexibility, and they are judged by their performance, not by the amount of time they put in.

Although the Ministry of Labor has not yet formally announced its decision, the National Development Council has assured AmCham Taipei that the kind of flexibility this Committee has been seeking will be incorporated in the Ministry's final draft of the rules. We thank the authorities for having taken positive action on an issue of vital importance for Taiwan's economic future.

Our new issues for 2019 are below:

Suggestion 1: Require a fixed notice period prior to a labor strike for specific industries.

The Committee urges the government to require a fixed notice period prior to labor strikes for certain categories of industries where a sudden disruption in service would have a serious negative impact on public convenience or the operation of the economy. Examples might be airlines and other public transportation, banking, and highly technical industries requiring uninterrupted operations. This measure would be an important step in modernizing the Labor Union Act.

One might argue that under the Act for the Settlement of Labor-Management Disputes, a labor union prior to a strike is required to file for labor mediation, effectively serving as an informal notice to the employer. However, having a fixed notice period before a strike is essential for certain industries where a strike may greatly affect the public's daily life. The main purpose of the strike is to pursue better working conditions, not to cause disruptions or damage to the rights of consumers. The notice period will increase the pressure on the employer's side to hold further discussions with the union to avert a strike.

Suggestion 2: Provide flexibility in the use of dispatched labor for the benefit of both employees and employers.

The government has sought to spur economic growth and the development of a skilled, technical workforce by encouraging innovation among technology companies and accelerating the incubation of startups. For technology companies, the use of dispatched labor is a quick and flexible means of adding (and in some cases training) a skilled, technical workforce to handle confidential projects, meet urgent client requests, and cope with other situations where standard hiring practices would prevent a company from pursuing business opportunities.

Regardless of whether the dispatch mechanism is regulated by the Labor Standards Law or a separate Act, an effective dispatch mechanism should aim to maximize the benefits of its usage for both employees and employers.

Dispatched employees should be entitled to equal pay for equal work compared to permanent employees in the service-receiving companies. Furthermore, to ensure job security for dispatched employees, the government could consider enacting a special insurance mechanism in addition to current unemployment subsidies for extra protection of dispatched employees. Last but not least, we recommend that a special license be required for dispatch agencies in order to ensure that dispatched employees are hired and managed by qualified agencies with proper governance and protection.

If a cap is imposed on the proportion of a company's workers that may be made up of dispatched labor, the level should be at least 20% in order to reflect business's operational realities. If the cap is set too low, it will effectively prevent early-stage startups (most of which have very limited manpower) from utilizing dispatched labor to pursue different opportunities and take chances to grow their business. At the same time, it would dampen large employers' willingness to increase hiring. Potential dispatched labor would have decreased opportunities to work and develop their technical skills, while business investment in Taiwan would also suffer.

An effective dispatch mechanism will also address the recent trend of offering more employment opportunities to senior citizens who wish to return to the workforce.

Suggestion 3: Adjust the approach toward encouraging employment opportunities for the disabled.

The "People with Disabilities Rights Protection Act" requires companies and organizations of a certain size to employ people with disabilities equal to a given percentage of the total number of employees. Those failing to meet the requirement are subject to penalties in the form of fines.

The Committee has several suggestions for the government on how this system might be improved:

1. Utilize the carrot as well as the stick by institutionalizing a program that gives public recognition or rewards to companies whose employment of the disabled significantly exceeds the required level.
2. Provide a grace period for compliance by companies whose growth has made them subject to the hiring requirements under the law for the first time, or have placed them in a new category with stricter conditions.
3. Closely work with industry and relevant NGOs to offer more government-sponsored training opportunities for people with disabilities, helping them build long-term meaningful careers by focusing on the skills in demand in the market. Some examples would be English-language ability and digital and technological skills.

INFRASTRUCTURE & ENGINEERING

Our Goal

Enabling Taiwan to achieve its public infrastructure program in a safe and efficient manner by encouraging participation from multilateral companies and welcoming innovative approaches, such as new technologies and alternative methodology.

The Committee would like to thank Minister Chen Mei-ling of the National Development Council (NDC) for her leadership and tireless efforts in being a champion for implementation of the three suggestions raised by the Committee in 2018. Minister Chen chaired numerous meetings – either with inter-agency government representatives or specifically with the Public Construction Commission (PCC) – which gave the Committee the opportunity to explain the merits of our suggestions and government stakeholders the chance to provide feedback. Without the support of the NDA and the PCC, the progress achieved to date in moving the three suggestions forward would not have been possible.

Rather than introducing more suggestions this year, our focus remains the full implementation of the suggestions already in place over the past two years. In finalizing these issues, we suggest that the government adopt a consultative approach, seeking input from third-party market professionals. Our member companies will be pleased to join in sharing their expertise if needed.

One of our suggestions – regarding use of the "Most Advantageous Bid" (also known as the Merit Bid) system in government tenders – appears close to resolution as a result of a recent legislative amendment. The Committee is gratified by that development and hopes that the enforcement rules for the amendment will be speedily put into effect and ensure its effective application.

We have been informed that the other two suggestions are still under review. The Committee hopes that all three suggestions can be fully implemented by the end of the second quarter of this year. We request that the government keep the Committee informed of the state of progress, allowing time for our members to provide feedback before the government finalizes its approach.

The purpose of all three suggestions is to bring innovative ideas to Taiwan's construction market and supporting the government's ambitious forward-looking infrastructure development plans by increasing the opportunity for international companies to participate in government procurement projects. For example, introducing alternative and/or innovative approaches often result in shorter, safer and more reliable and cost-efficient project completion schedules. Participation by more international companies will also help enhance the capabilities of the local supply chain.

President Tsai Ing-wen has stated that "Globalization forces faster innovation, which needs to be adopted as the core driving force for continuous growth." Increased participation by international contracting companies can provide the impetus that drives positive change in Taiwan's construction and engineering market. Implementation of our three suggestions will reduce commercial barriers and enhance the tendering and selection process to attract a wider participation of international tenderers.

Suggestion 1: Encourage the use of alternative methodology in public infrastructure projects through a systematic approach.

We understand that the government is developing a template to facilitate implementation of this suggestion, following feedback from the procurement entities that they are unsure how to implement such an approach – despite consensus that it is a good idea. That is a reasonable approach, but since the "alternative tendering" is a highly nuanced process, the template and guidelines need to be carefully drafted if they are to genuinely attract additional international contractors to the Taiwan market.

Judging from feedback from various government entities and stakeholders over the past year, the Committee believes that misunderstandings exist as to how the government procurement entities and the international contracting and engineering market view the "alternative tendering" process. A common example is the notion that applying one or both of the following is enough to constitute "alternative tendering":

1. The draft tender package (RFP) is issued for peer review prior to the issuance of the formal package; and,
2. The successful tenderer can submit post-award changes and alternatives for consideration.

Although the two procedures are good working practice for large and complex projects, they are not part of what is generally considered "alternative tendering" in the international market. In general practice, "alternative tendering" gives the tenderer an opportunity to submit alternatives in addition to its base-conforming tender at the formal tender submission stage – not at the pre-tender submission stage or post-award stage. There are several deficiencies associated with each of the examples above.

Regarding Example 1, peer review comments on the draft tender package lack the necessary data for the procurement entity to determine the value of the proposed alternative against the original requirement. There is no baseline cost or schedule to gauge the alternative against, or any way to gauge the value of the alternative suggested by one company against another. Typically review comments are not shared among the firms submitting such review comments.

Example 1 therefore does not encourage tenderers to devote significant time to developing alternatives or provide the government with data robust enough to properly evaluate the merit or value (e.g., quality, price, safety, schedule) of the alternatives suggested.

Example 2 limits the innovation to only one party, the successful tenderer. As a result, the government loses the opportunity to obtain alternatives and innovative ideas from all the tenderers. In addition, a winning tenderer typically is not motivated to offer alternatives once it has been awarded the work.

Finally, alternatives are not limited to technical issues, but rather can cover a wide-ranging set of recommended improvements regarding cost, schedule, safety, operations and maintenance. One non-technical example might be a change in the delivery approach, such as requesting additional lay-down space within the customer's project site, which could significantly improve schedule and lower project cost. Another example would be savings achieved by structuring the project payment terms to lessen the amount of borrowed funds needed to deliver the project.

Improving payment terms can have a big impact on both cost and execution, as the main tenderer will generally give its subcontractors and suppliers, who are less able to finance their own activities, the same terms that it receives from the government procurement entity. The new power projects planned by the government have construction budgets greater than US$1 billion. The typical payment terms on these projects result in the contractor having to finance a significant part of the work. Part of the cost of borrowed funds are added to the tendered price, which increases the delivery cost to the government, and part of the cost is absorbed by the main contractor and its Taiwanese subcontractors to keep the tendered price competitive.

Having a neutral or slightly positive cash flow (matching cash in-flows with out-flows) can make a big difference to the financial status of the local subcontractors and suppliers, as well as to their ability to perform successfully. Also, the main contractor and its Taiwanese subcontractors are better able to staff its projects with suitable amounts and type of resources when the project provides a neutral cash flow. Therefore, improved payment terms often result in quality, safety and schedule improvements - in addition to a lower tendered price, which provides economic benefits to the government.

To gain the full benefit of alternative tendering, it should be conducted as part of the actual tendering process – not as a pre-tender peer review activity to solicit comments, or as a post-award activity with the sole successful tenderer. This is the norm in the international market, and it fosters enhanced innovation and allows international contractors to apply lessons learned from their global experience in the local market.

The steps below summarize the alternative-tendering process from the perspective of the procurement entity:

1. Decide to include alternative tendering as part of the Information to Bid (ITB) package.
2. Develop an internal evaluation process and criteria to be used to select the recommended tenderer.
3. Include instructions and guidelines in the ITB as to how the alternative tendering will be conducted.
4. In the most common approach when using alternative tendering, require all tenderers to submit a fully conforming tender that is priced to meet all requirements as set out in the ITB.
5. Following submission of a fully conforming tender, allow each tenderer to submit proposed alternatives specifying the cost and schedule impact associated with each alternative.
6. To facilitate evaluation of the alternative proposals, include a standard template within the ITB for tenderers to complete when submitting alternatives.
7. Based on evaluation of the cost and schedule impact, as well as the differences from the original requirements, decide which alternatives to accept.
8. Issue the accepted alternatives to all tenderers in the form of an ITB Addendum.
9. Require all tenderers to resubmit their proposal with revised pricing based upon the alternatives.
10. Apply the pre-established internal evaluation process and criteria and select the recommended tenderer.

Given Taiwan's limited experience in this area, the Committee would be pleased to assist the government in developing alternative tendering implementation guidelines. We also stress the need for the government to share its current implementation plan (template and guidelines) so that the Committee can provide feedback before final procedures are put in place.

Suggestion 2: Amend the Model Contract Terms & Conditions to allow contractors to submit change notifications.

As explained at length in previous *White Papers*, the government's current model contracts for both technical service agreements and construction fail to include a provision enabling the contractor to request an adjustment in the contract due to changed conditions. The government procurement entity, however, can call for such an adjustment from the contractor. This unilateral approach is both unfair and contrary to international practice, and risks deterring international companies from participating in public projects in Taiwan.

Detailed discussions have been held with the PCC on this issue, and the Committee is hopeful that our recommendation is close to being accepted.

Suggestion 3: Adopt the "Most Advantageous Tender" approach rather than "Lowest Price" as the preferred selection process for public projects.

The Committee is gratified to note that on April 30, 2019, the Legislative Yuan passed an amendment to the GPA lifting the restriction in Article 52 on use of the "Most Advantageous Bid" (Merit Bid) system in government tenders. Government procurement entities are now free to choose any of the four approaches set out in Article 52 for the solicitation and evaluation of tenders. This amendment creates a much more conducive environment for participation by multinational firms in government tenders and is much appreciated. The Committee now looks ahead to the implementation of this change, and requests the opportunity to work with the government in shaping the enforcement rules to complement the new amendment, helping to ensure its effectiveness in promoting the "Most Advantageous Tender" approach for all critical public infrastructure such as the upcoming combined-cycle gas turbine power projects.

The same principle should apply to all government-procurement tenders, including those for medical technology.

INSURANCE

Our Goal

Providing innovative solutions for everything from simplifying the purchasing process to providing new, more affordable options for protection to finding ways to expand coverage.

In an uncertain world, the insurance industry exists to enable better outcomes for society. Many individuals are simply unable to weather severe financial challenges on their own, and even the strongest and most financially capable families can benefit from the protection of insurance. So that society can be stronger as a whole, insurance companies doing business in Taiwan must stand ready to assume risks that individuals cannot.

We are thankful for the continuing commitment of the government – especially the Insurance Bureau (IB) and the National Development Council (NDC) – to work directly with us through quarterly Engagement Sessions. These sessions provide a valuable opportunity to hear the voices of global companies in an industry dominated by local companies.

Although progress was achieved in 2018, in 2019 the need for further improvement to enable the industry to better meet societal needs is clear and compelling. Below the Committee proposes specific, actionable suggestions for Taiwan policymakers and regulators in several key areas of focus. We look forward to addressing these 2019 *White Paper* objectives through our ongoing quarterly dialogue. Our objective is to provide consumers with more choice and increased security, as well as to assist the Financial Supervisory Commission (FSC) in its efforts to promote innovation.

Suggestion 1. Provide simple, innovative solutions to protect the Taiwanese people.

Consumer expectations are rising steadily, as is the need for financial innovation to support consumer demands. To meet these expectations, we seek to dramatically change Taiwan's global position with respect to industry innovation. By taking action now on the objectives below, Taiwanese regulators and legislators can create an environment that increases the range of valuable product options available and makes possible a vastly improved experience for customers. Taiwan can become known as a leader in thoughtful innovation.

1.1 Allow Taiwanese consumers to pay Taiwan Dollars to purchase all types of insurance policies.

Current regulations do not permit Taiwanese consumers to use Taiwan dollars to purchase insurance policies that provide a guarantee in a foreign currency. Allowing such payment in Taiwan dollars would bring greater convenience since foreign currency exchange could be an integral part of the product design. It would also remove a barrier to competition for global companies without an affiliated bank.

1.2 Provide Taiwanese consumers with access to more affordable term insurance and longevity protection.

Taiwanese consumers are unable to purchase the most affordable term insurance or longevity insurance, since domestic regulation requires a forced savings component (represented as a Cash Surrender Value which insurers must reserve and price for). This is not the practice in most advanced countries. For example, Japan, Korea, and the U.S. allow term insurance with no cash surrender value if certain criteria are met. The U.S. also allows certain types of annuity products with no cash surrender value prior to the commencement of the annuity payment.

Revising the Insurance Law to enable pure term and longevity insurance options would be the most sensible first step to increase insurance protection for Taiwan's consumers. It will also help the industry meet the goal set out by the FSC of increasing the amount of protection in Taiwan without exacerbating the investment risks that insurers assume to provide such protection.

Specifically we propose the following:

- Amend Article 119 of the Insurance Act to allow insurance companies to develop more affordable, pure term life insurance (that is, without required cash surrender value).

- Amend Article 135-1 of the Insurance Act to add a new annuity product type – exempt from Article 119 – called Deferred Income Annuity, to provide pure longevity insurance (that is, without required cash surrender value) to Taiwanese customers.

These changes will encourage consumer-oriented product innovation and strengthen Taiwan's social safety net.

1.3 Relax the scope and limit of corporate tax deductions for group insurance defined in Article 83 of the "Regulations Governing Assessment of Profit-Seeking Enterprises."

Current corporate tax rules limit the scope of tax deductions for group insurance to NT$2,000 per person per month. This limit is one of key factors in corporate decisions regarding the level of insurance offered to employees. Due to the low protection coverage in Taiwan, relaxing restrictions on the scope of tax deductions for group insurance would encourage enterprises to purchase appropriate levels of protection for employees. Expansion of the allowable limit would make Taiwan's corporate tax treatment comparable to that of other countries, such as Japan and the U.S.

1.4 Ensure that risk control for reimbursement insurance coverage does not impact customer choices and needs.

To prevent the public from abusing reimbursement insurance products and gaining improper proceeds, the IB has asked insurance companies to study the feasibility of setting up risk controls for reimbursement products. In our view, as the total lifetime out-of-pocket expenses for medical treatment cannot be predetermined, customers tend to purchase more than one reimbursement insurance policy to cover their potential out-of-pocket medical expenses. If risk control for reimbursement products is set disproportionate to the prevention of claims abuse, customers are likely to be left insufficiently covered. We therefore recommend that customers be entitled to make their own determination of the extent of their policy coverage for reimbursement products.

1.5 Increase product types for online health insurance and relax online claims requirements.

Under current e-commerce regulations for health products, only one-year reimbursement products can be sold online, and an end-to-end online claims process is available only for death benefits. To meet customers' diverse insurance needs and at the same time prevent moral hazard, health products with no death benefits – such as short-term surgical insurance and cancer insurance with fixed or low sums assured – should be available online. In addition, to facilitate the claims process, we recommend that the end-to-end online claims process should also be applicable to low-sum assured applications when insurance companies have appropriate risk controls in place.

1.6 Maintain current customer due-diligence procedures, refraining from adding a requirement for keeping copies of customer IDs.

To strengthen Anti-Money Laundering/Countering Terrorism Financing (AML/CTF) controls, the IB has asked the Life Insurance Association to study the process and timing for a requirement that insurers keep a copy of all customers' IDs for Customer Due Diligence (CDD) purposes. This proposal would greatly impact current sales practices and cause inconvenience to customers. The current Insurance Act and AML/CTF-related laws and regulations do not require insurance companies to keep copies of customers' IDs, and nothing in the law spells out the legal consequences of not keeping copies of customers' IDs. In addition, the "40 Recommendations" and "Guidance for a Risk-Based Approach for the Life Insurance Sector" from the Financial Action Task Force (FATF) require insurance companies to identify and verify a customer's identity but do not require the insurers to keep copies of the customers' IDs. The existing witness-signature procedure and keeping ID copies of high-risk customers should suffice to meet the FATF 40 Recommendations. In our opinion, adding this new requirement would be unnecessary.

1.7 Allow variable and convenient payment methods, including digital (electronic and third-party) mechanisms.

With Denmark, Sweden, and the U.K. well on their way to becoming cashless societies, the advantages of digital payment are clear: flexibility, efficiency, and security, plus cost savings for the government in not having to issue and manage paper money and coins. The FSC's May 12, *2016 White Paper on Fintech Development Strategies* already emphasized the goal of popularizing electronic payments nationwide. Now the need for digital payment for insurance in Taiwan can no longer be ignored. We therefore urge the government to open up digital (including electronic and third-party) payment mechanisms for the insurance industry. Let consumers have the flexibility to choose from any electronic or third-party payment vendors to pay their insurance premiums without a ceiling.

Suggestion 2. Promote sound, globally oriented investment and risk-management practices.

Promoting proper asset/liability and investment and risk-management practices is crucial to ensuring the soundness of the insurance industry as a whole. Taiwan's regulation of insurance company investment includes numerous provisions that make it more difficult to access appropriate investments to support insurance liabilities. The unintended consequence is to incentivize insurers to invest in risk assets that are less appropriate for insurance asset/liability management, but are permitted under current regulations (for example, foreign currency assets supporting TWD guarantees).

Taiwan should expand the investable universe and relieve administrative burdens by lifting or modifying constraints that need not apply to sophisticated institutional investors. Our 2019 objectives seek more progress toward this end.

2.1 Adopt a risk-based approach to risk management and audit requirements similar to that governing banks.

The "three lines of defense" model in the COSO internal-control framework is designed to encourage enterprises to place a high value on the importance of risk management. It mandates that three lines of defense within the company should each take its own responsibility in managing various types of risks. Thanks to FSC's foresight, the Taiwan financial industry for years has been regulated to implement this model to ensure that a comprehensive internal-control mechanism is in place. For companies that have deployed a formal, structured, routine, and competent risk-management framework within the first and second lines of defense, internal audit should represent the third line, with the function of evaluating how well the first and second lines of defense execute their responsibilities.

Unlike the sweeping "full-aspects auditing" stipulated in Article 18 of the "Regulations Governing Implementation of Internal Controls and Auditing Systems of Insurance Enterprises," a focused "risk-based audit" can help sharpen and enhance the internal-control mechanism. This approach has become increasingly popular across the world since 1999 and leads to an effective diagnosis in cases where 1) double handling takes place; 2) unnecessary steps are included; 3) critical steps are missed; 4) equipment and machinery are not operating as they should; 5) operators have not been fully inducted, briefed, or trained; 6) work instructions are inadequate, and 7) vital inspection and test activities have been missed out, or are failing to do what is required of them. Today, a "risk-based audit" is already a part of ISO 31000.

FSC introduced the concept in 2016 as Article 15-1 of the "Implementation Rules of Internal Audits and Internal Control Systems of Financial Holding Companies and Banking Industries." Banks are allowed to opt for a "risk-based audit" rather than the traditional full-aspects auditing. To provide inducements for insurance companies to enhance the efficiency and effectiveness of the internal-audit function, the Committee recommends incorporating the "risk-based audit" concept into insurance regulations.

2.2 Remove the local rating requirement for private placements when a credible rating is available and recognized in the insurance group's home country.

Foreign private debt can be an efficient and diversifying tool in an insurer's general account. The private placement market in the U.S. and Europe offers:

- Protection through debt covenants providing credit enhancement relative to unsecured public debt,
- Lower realized loss experience due to additional structural protection for lenders, and
- Additional credit spread relative to public bonds to compensate lenders for lower liquidity compared with public markets.

Most private placements in the U.S. do not have NRSRO (nationally recognized statistical rating organization) ratings. The insurance regulator in the U.S., the National Association of Insurance Commissioners (NAIC), allows insurers to use ratings from NAIC's securities valuation office (SVO).

Insurance companies should be given the ability to invest in private placements using the SVO rating. We urge modification of the "Regulations Governing Foreign Investments by Insurance Companies" to eliminate the requirement for NRSRO ratings.

2.3 Apply the 10% limit on investment in any single fund to each distinct investment strategy within a well-diversified fund of funds, rather than the well-diversified fund itself.

Current Taiwan insurance regulations prohibit investment in any single fund equal to 10% or more of the fund's total assets. We believe the purpose of the limit is to ensure sufficient portfolio diversification and avoid the risk of over-concentration in asset managers' funds. We fully support the objective of this regulation. However, we see a need for flexibility related to investments in funds of funds (FoFs).

Specifically, we believe the 10% limit should apply only to single manager funds. FoFs should be exempt because:

- They are vehicles created for institutional investors to build a well-diversified portfolio of assets in a very efficient manner, which by design fulfills the regulation's objective.
- Given the limited number of FoF providers, the current regulation may have the unintended consequence of causing insurers to move into less optimal investment opportunities when sufficient diversification already exists within the FoF itself.

We propose to apply the 10% ownership limit to the underlying funds within the FoF and not to the FoF itself.

Suggestion 3. Cover the non-life-insurance risks that Taiwanese companies and individuals face.

Ensuring that citizens have appropriate protection for their possessions and obligations throughout their lifetime is an important part of a holistic financial plan. We believe Taiwan should increase the level of required protection in such areas as professional and third-party liability insurance, moving toward developed-country averages.

3.1 Allow insurance brokers to limit their liability when dealing with professional corporate customers.

Article 6 of the Financial Consumer Protection Act

(FCPA) states that a financial service provider's liabilities to the financial consumer shall not be capped or relinquished by prior agreement. Although the FCPA intends to exclude professional corporate customers who have a required level of financial capability or professional expertise, the exclusion is conditional. It may take effect when 1) the criteria of professional corporate customers are prescribed in the regulations governing the respective financial product /service/ business, and (2) such regulations are explicitly specified in the FCPA ruling on the exclusion criteria (for example, the regulations governing offshore structure notes or the regulations governing banks' conducting derivatives business).

As long as the regulations governing their product/ service/business do not fulfill the above two conditions, the financial services providers will not be able to cap or relinquish their liabilities to corporate customers by prior agreement even if the customers have more than adequate financial capability or professional expertise.

In the case of insurance brokers in particular, some additional factors need to be taken into consideration:

- In many cases, the corporate customers of insurance brokers are stronger financially than the brokers or have professional knowledge and experience in insurance.
- In practice, an insurer's liabilities are limited in that it pays out benefits only in accordance with the insured amount under the insurance policy. Insurance brokers, who are intermediaries, are not able to limit their liabilities in the same way.
- The concern that financial consumers are in a disadvantaged position in negotiating contract terms and conditions does not exist for the corporate customers who are financially stronger and have professional expertise. Hence, it is unnecessary to prohibit insurance brokers from entering into agreement with any corporate clients to limit or waive the liability.

In summary, the FCPA and related rulings should be amended to (1) exclude corporate customers who have high levels of financial capability or professional expertise, and (2) remove the restriction on limiting or waiving the liability by prior agreement.

INTELLECTUAL PROPERTY & LICENSING

Our Goal

Assisting to establish Taiwan as the model for effective intellectual property rights protection in the Asia Pacific region.

Taiwan continues to make advances in intellectual property protection, an area of pressing concern globally. Recently Taiwan marked the 10th anniversary of the establishment of its IP Court, which has provided rights-owners and other stakeholders with a high degree of certainty regarding the protection of IP rights in Taiwan. While much progress has been made, all stakeholders in Taiwan could benefit greatly from further steps to provide adequate IP protection, particularly in the areas of copyright law and trade-secrets protection. With that in mind, the Committee presents the following suggestions with the aim of providing clear, desirable, and readily attainable solutions to outstanding problems. Progress on these issues would send a strong signal that Taiwan is serious about enhancing its intellectual property regime.

Suggestion 1: Adopt a multi-pronged approach to combating online piracy

A multi-pronged approach is required to address online piracy, which is a problem that can take many forms. For example, OTT ("over-the-top") piracy platforms have become a significant source for the dissemination of illegal content in Taiwan. Piracy websites and OTT devices – for example, media boxes, set-top boxes, and their corresponding software applications – are increasingly used to facilitate various forms of piracy. Pirate OTT devices make it easier for unsophisticated users to connect to foreign piracy sites, gaining access to unauthorized copyrighted content. This presents a major concern for rights-holders doing business in Taiwan. Another common form of digital piracy is stream-ripping, which involves websites or services taking audio or video from legitimate streaming platforms like Spotify or YouTube and converting it into MP3 or MP4 files for download without any payment to rights-holders.

Much of the infringing material made available via pirate OTT devices and online stream-ripping services is hosted overseas. While injunctive relief is available for domestically hosted infringement, no remedy is available to address the problem of foreign websites. This situation has caused a great deal of harm in the Taiwanese marketplace for many years now.

In its current state, the law cannot adequately address these issues. For example, since it first passed in 2007, Article 87.1(7) of the Copyright Act has been interpreted by

law enforcement and the judiciary as applying exclusively to copyright infringement involving reproduction and transmission via peer-to-peer (P2P) technology. However, last October the Taiwan Intellectual Property Office (TIPO) clarified that Article 87.1(7) of the Copyright Act is not restricted to P2P infringement. The Committee welcomes the TIPO's position on Article 87.1(7), but notes that there is still no way to apply Article 87.1(7) to stream-ripping services. An effective solution to block infringement of this kind is urgently needed.

In a commendable attempt to address the ongoing problem of OTT piracy, lawmakers have proposed Article 87.1(8) – dubbed the "OTT Bill"– as an amendment to the Copyright Act. This amendment was passed by the Legislative Yuan on April 16, 2019, and was promulgated on May 1, 2019. The OTT Bill would allow criminal charges to be brought against offenders who knowingly broadcast or transmit infringing content with the intent of making it accessible by the general public, and who further receive a benefit by way of the following: (a) intentionally providing users with software or applications by aggregating IP addresses stored with the infringing content, (b) helping users to exploit such software or applications, or (c) manufacturing, importing, or selling equipment or devices containing infringing software or applications of the kind mentioned in (a).

The Committee thanks TIPO for its role in supporting the OTT Bill. In addition, the Committee calls for strict enforcement of the OTT Bill, but also strongly suggests removing the "receiving benefit" requirement currently found in Articles 87.1(7) and 87.1(8), as it imposes an unduly heavy burden of proof on rights-holders.

Suggestion 2: Amend the Copyright Act to keep Taiwan from falling further behind international standards.

Recent draft amendments to the Copyright Act, as submitted by the Executive Yuan and currently under consideration by the Legislative Yuan, do not adequately address the issue of online piracy. The Committee suggests further amendments to specifically address this issue, as well as an amendment to bring Taiwan's term of copyright protection in line with the evolving global norm of at least 70 years of protection for creators.

Further draft amendments have been submitted to the Legislative Yuan to prepare for Taiwan's application for membership in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). However, these further draft amendments share many of the same issues as the Copyright Act amendments proposed by the Executive Yuan. Both sets of amendments would result in an inadequate term of copyright protection, a weakened enforcement framework for pirated optical discs, and a lack of any effective remedy against foreign-hosted infringements.

The Committee welcomes the CPTPP bill's expansion of the scope of internet piracy to make it a criminal offense. However, the bill imposes an unacceptable requirement that the "whole" work must be exploited "for consideration," and that the damage caused thereby must exceed NT$1 million. This threshold is far too high, and is unfair to certain sectors whose goods have a low market price (e.g. the book publishing and music industries). The Committee recommends further amendments to address the shortcomings of the CPTPP Bill.

Suggestion 3: Strengthen enforcement to block counterfeit and infringing goods from entering Taiwan.

Taiwan continues to struggle with the problem of the importation of counterfeit and infringing goods. Attempts to address this problem have had limited success due to the lack of adequate inspections by Customs. When shipping counterfeit products from overseas, infringers have increasingly relied on express courier services for which no significant amount of inspection is conducted by Customs, and for which no genuine sender information is required. This creates a major loophole in the investigation and enforcement process. We ask that Customs increase the rate of inspections it conducts, particularly when dealing with the courier companies known to be most frequently used by websites offering counterfeit and infringing goods.

TIPO's "Statistics Report on IP Enforcement Cases Conducted by Various Agencies" lists enforcement cases carried out by the National Police Agency (NPA), Intellectual Property Rights Police (IPR Police), and Ministry of Justice Investigation Bureau (MJIB). Across all agencies, the number of intellectual property and counterfeit enforcement cases decreased from 2016 to 2017 – by 32% in the case of the MJIB.

Last year the Committee suggested that more resources be allocated to the IPR Police. The Committee is pleased that progress has occurred, with the IPR Police receiving more funding and personnel. However, the Committee is still concerned that the number of intellectual property enforcement cases has dropped overall, especially as there is no evidence of a corresponding decrease in the amount of online infringement, which remains rampant. In addition to increasing the frequency of Customs inspections, the Committee suggests that the NPA, IPR Police, and MJIB be given enough resources to effectively combat this issue.

Suggestion 4: Include major violations of the Trade Secrets Act in prosecutors' and judges' guidelines for serious criminal cases, and motivate the courts and prosecutors to speed up the adjudication of trade secrets cases.

Trade secrets are recognized as extremely valuable assets that are vulnerable to theft, especially in tech-related

industries. Frequent incidents of trade-secret theft pose a serious threat to Taiwan's economic competitiveness in technology and other key sectors. Effective and timely law enforcement is crucial to addressing this concern.

The MJIB has listed major violations of the Trade Secrets Act (namely Articles 13-1 and 13-2) in its "Guidelines for Determining Serious Economic Criminal Cases." While the Committee appreciates MJIB's efforts to prioritize investigations into trade secrets theft, it also urges prosecutors and judges to take the same approach. Coverage of major trade-secrets violations should also be explicitly included in the "Guidelines for Handling Serious Economic Criminal Cases by the Prosecution Authority" and the "Guidelines for Speedy Trial and Decisions in Serious Criminal Cases in Court."

In addition, Taiwan's courts and prosecutors have accrued a significant backlog of trade-secrets cases, possibly because the technical nature of these cases tends to increase the amount of time required for adjudication or investigation. Moreover, courts and prosecutors have little incentive to resolve such cases quickly. It would be helpful if Taiwan's judicial system could provide courts and prosecutors with a clear incentive to deal with the backlog by expediting trade-secrets cases and resolving them in a timely manner, perhaps by offering a reduction in assigned cases.

The Committee believes that the adoption of uniform practices during the investigation, prosecution, and trial stages would motivate courts and prosecutors to speed up the adjudication of trade secrets cases, and would go a long way towards improving trade secrets protection in Taiwan.

MEDICAL DEVICES

Our Goal

Bringing innovative medical technologies and new medical devices to the Taiwan market in a timely way to meet the healthcare needs of the Taiwanese public.

A medical device is any apparatus, appliance, software, material, or other article – whether used alone or in combination for human beings – which serves the purpose of diagnosis, prevention, monitoring, treatment, or alleviation of disease. Medical devices play a critical role in healthcare. Since multiple scientific disciplines (biomaterials research, cell biology, information technologies, etc.) each make advances and complement one another in medical device design, the medical device lifecycle has continued to shorten. As a result, the harmonization of global regulation and the speedy launch of new devices are imperative for improving patients' quality of life.

With the rapid aging of the population, the demands on our healthcare system are increasing drastically. The member companies of the Medical Device Committee view our mission as making new and innovative technologies available in Taiwan to help meet that healthcare challenge. To achieve our mission, we consider it crucial to collaborate closely with Taiwan's government authorities to streamline the registration process to help Taiwanese patients benefit earlier from cutting-edge technologies and products. It is also vital to implement a more predictable and sustainable pricing and reimbursement process to encourage the faster introduction of new technologies, despite the existence of financial constraints. We hope that all key stakeholders in Taiwan will work closely together toward that goal. Following are our specific recommendations:

Suggestion 1: Establish diversified communication for a more predictable and sustainable environment.

1.1 Minimize the impact of implementing the new Medical Device Act through strengthened communication and cooperation with industry, plus adoption of a grace period.

Taiwan previously regulated medical devices under the Pharmaceuticals Affairs Act, which was not an appropriate approach. This Committee welcomes the advent of a new regulatory structure in the form of the Medical Device Act now being deliberated by the Legislative Yuan. We believe its passage will encourage more innovation in the Taiwan market and greater efficiency in regulating an industry known for its complexity, wide range of products, and frequent advances in technology.

But introduction of the new law will also create disruption in the market if not handled skillfully. In connection with the new legislation, a number of sub-regulations will also come into effect, dealing with such areas as Good Distribution Practice (GDP), medical device technician management, Unique Device Identifiers (UDIs), traceability management, etc. Industry will need time to understand and bring itself into compliance with each new requirement.

We strongly urge the Ministry of Health and Welfare (MOHW) to provide a sufficient grace period before new regulations are enforced, and to use that period for extensive communication with industry to enable companies to smoothly adapt to the new Medical Device Act and its implementation rules. Also needed will be strengthened cross-functional communication and collaboration between different government authorities in order to establish a consistent policy. For example, establishing the review principle and rule of good manufacturing practice and product registration of the legal manufacturer will need coordination between the TFDA's Medical Devices & Cosmetics Division and the Risk Management Division. Consistency of the country of origin and manufacturer location will need discussion

between the Medical Devices & Cosmetics division and the Customs Administration of the Ministry of Finance.

1.2 Maintain positive interaction with industry and enhance the predictability of medical policies.

The Committee thanks the Taiwan Food and Drug Administration (TFDA) for regularly holding meetings with industry representatives for communication concerning medical device regulatory issues. For its part, the National Health Insurance Administration (NHIA) has addressed our *White Paper* recommendations seeking steady improvements in the transparency of the review process for new medical devices and in the Price Volume Survey (PVS) mechanism.

We urge the health authorities to continue this positive interaction with industry by holding periodic policy-communication meetings in the interest of building the best quality healthcare system for the Taiwanese people. Regular exchanges of view are necessary to assure the predictability of medical policy.

Suggestion 2: Accelerate the pre-market approval process.

2.1 Discontinue the document authentication process for Free Sales Certificates used in medical device registration. For the sake of a consistent approach to document requirements for drugs and medical devices, we suggest that TFDA's Division of Medical Devices & Cosmetics refer to the practice of the Division of Medicinal Products in exempting Free Sales Certificates from document authentication. Currently such authentication is required under Article 7 of the "Regulations for Medical Device Registration." Ending that requirement would shorten the preparation lead-time for applications for registration, enabling patents in Taiwan to benefit earlier from treatment with new devices.

2.2 Expedite the launch process for medical devices by expanding the items eligible for the Declaration of Pre-clinical Testing Conformity. As some Class 2 devices with lower risk have been developed to a very mature stage, the U.S. Food and Drug Administration in 2017 exempted some Class 2 devices from 510(k) review as part of the application process for Premarket Notification. Along similar lines, on July 1, 2016, TFDA announced a "Declaration of Pre-clinical Testing Conformity for Medical Devices" for four items, including infrared ear thermometers. We suggest that TFDA expand the applicable Class 2 devices eligible for this registration pathway so as to expedite the launch process for medical device and adhere to international standards in regulatory management. The Committee will provide the suggested items for Declaration of Pre-clinical Testing Conformity eligibility at a later date.

2.3 Accept the Medical Device Single Audit Program (MDSAP) audit report as a substitute for the current FDA EIR module under the QSD-simplification approach. Submission of an Establishment Inspection Report (EIR) from the U.S. FDA is one of the essential requirements under Taiwan's simplified Quality System Documentation (QSD) approach for auditing manufacturing sites located in the United States. Since 2016, the U.S. FDA has recognized MDSAP audit reports as a substitute for EIRs. We urge TFDA to also accept MDSAP audit reports as a substitute for the FDA's EIR report in applications for treatment under the simplified QSD approach.

Suggestion 3: Share the policy direction for new medical technology and the NHI budget, and apply sound policy and pricing mechanisms for new medical-device reimbursement.

The government's policy direction, the priorities assigned to medical-resource allocation, and the budgeting of new medical technology under the Global Budget System are all key factors influencing the application and development of medical technology. Forward-looking policy directions and a sound NHI pricing mechanism would encourage manufacturers to introduce their new medical devices and technologies to create a better medical environment for Taiwan's patients and doctors.

3.1 Exempt newly reimbursed, new-function special materials with annual expenditures under NT$60 million over three years from HTAs and PVAs. At present, reimbursement applications for new-function special materials are required to go through a Health Technology Assessment (HTA) process and complete a Price-Volume-Agreement (PVA) if the estimated NHI financial impact exceeds NT$30 million. However, the financial assessment is based on the total estimated sales volume of all special materials in the same functional category, regardless of differences in brand value and specifications. The low threshold of NT$30 million prolongs the review process while pushing down pricing to an even more unfavorable level, discouraging the manufacturers from applying for reimbursement for the special materials.

Considering that the budget-impact assessment combines all devices within the same category, we recommend extending HTA and PVA exemption to items causing NHI expenditures of less than NT$60 million annually in the three years after listing. Cases where HTA reports are proactively submitted should receive an incentive in the form of a premium reimbursement price.

We also recommend that new-function special materials undergo a Price Volume Survey every four years like existing-category special materials, rather than every two years as now.

3.2 Optimize the pricing of innovative medical devices and reimburse by fee-for-service to ensure patients' clinical

benefits. Innovative-function special materials are those that have shown breakthrough improvement in clinical function or efficacy compared with the current best similar-function special materials as proven by clinical-trial literature. In Taiwan, after clinical experts review the medical benefits, they may recommend listing under NHI and set reimbursement criteria to limit over-use.

However, if innovative-function special materials are treated within the scope of a TW-DRG (Taiwan-Diagnosis Related Group), they will tend to consume too much of the total fixed expenditure allocated for the TW-DRG, with the result that doctors will be reluctant to use them. For special materials with innovative functions, we suggest that reimbursement be handled on a fee-for-service basis, and not as part of a TW-DRG.

Besides, considering the wide variety but limited sales volume of medical devices, as well as the relatively small size of the Taiwan market, we recommend – so as to encourage the introduction of innovative medical devices into Taiwan and the NHI system – giving optimum pricing to special materials that have innovative functions or for which there is no substitution device.

3.3 Systematically plan NHI review processes and budgets for new medical technologies and special materials. Use balance billing to accelerate the introduction of new medical technology. The introduction of emerging medical technologies has driven the development of many new medical procedures and changes in healthcare systems. For example, the development of minimally invasive surgical devices and technology reduces surgical risks and mortality. The application of remote monitoring systems for post-acute care, chronic diseases, and home care will further change the medical care model for an aging society.

At present, the reimbursement assessment of novel medical technology and innovative medical devices come under different divisions in NHIA. For medical devices that also involve a new medical technology, the process of sequential review by the two divisions can take years to complete. In the meantime, Taiwan's patients and medical community are deprived of the benefits of these technologies and devices.

To streamline the process, especially when an HTA is required, we suggest that the reviews of the new medical technology and innovative medical devices be carried out in parallel. This approach would also enable NHIA to plan for new-technology reimbursement and NHI resource allocation in a more integrated manner.

In addition, sufficient NHI budget should be allocated for new medical technology and innovative medical devices that have a big budget impact to avoid squeezing out other expenses. Utilizing the balance billing mechanism in the reimbursement of new medical technology and innovative medical devices would also improve patient access to new treatments. For innovative medical devices for which it is difficult to obtain appropriate reference items, the insurer could set a maximum reimbursement amount based on the medical efficacy and NHI budget.

OTHERS

CHIROPRACTIC

Suggestion: Develop an effective plan to legalize the profession of chiropractic.

Taiwan generally seeks to be a faithful member of the international community and rightfully complains when not given a proper opportunity to do so. Yet for many years Taiwan has been one of very few countries in the world that has made no arrangement to provide a legal status for the profession of chiropractic, even though it is recognized in nearly all jurisdictions as a valuable contributor to the healthcare system. The World Health Organization, whose World Health Assembly Taiwan aspires to join as an observer, has long recognized and supported chiropractic as a form of alternative medicine.

Following Indonesia's recent establishment of a mechanism to legalize chiropractic, Taiwan is in even narrower company in keeping the profession in limbo. After years of study abroad and receiving licenses from the United States and other developed countries, the chiropractic doctors who have returned to Taiwan are obliged to accept strict constraints on their professional activity. If no longer harassed by the authorities as happened in the past, they are still unable to advertise, maintain websites, or otherwise publicize their services – and as recent events have shown, they must live with the constant risk that their right to practice will be challenged by the health authorities on questionable grounds.

Despite a previous understanding with the authorities that foreign-licensed chiropractors would be accepted as "backbone-soothers" as long as they did not make any therapeutic claims, in recent weeks two chiropractors have been charged by health inspectors with practicing medicine without a license.

In Indonesia, in contrast, chiropractic is now acknowledged by regulation as part of the Allied Health/Complementary Health System, despite longstanding opposition from the local medical associations. Indonesia citizens who have graduated from accredited foreign chiropractic colleges and passed an Indonesian qualifying exam are allowed to practice legally under the title of doctor of chiropractic. They are allowed to make diagnoses, claim therapeutic effects for the treatment, and advertise their practice.

In Taiwan, in contrast, scant progress has been made in finding a way to legitimize the chiropractic profession. In fact, the topic is the longest unresolved *White Paper* issue,

having appeared in every edition since 2006. Although the National Development Council has made a concerted effort in recent years to find a solution, after numerous meetings the same obstacle has remained: insistence by the Ministry of Health and Welfare that chiropractic cannot be considered as a healthcare discipline if it is not taught at any domestic medical colleges or universities.

The catch is that no educational institution is willing to offer such courses if there is no guarantee that their students can become licensed professionals after graduation. In Indonesia, where that assurance now exists, a chiropractic school has been established and its students are now in their second semester.

The barriers to chiropractic in Taiwan are especially unfortunate considering the rapid aging of the Taiwan population and the tremendous financial strains that is bound to impose on the National Health Insurance system in the coming years. Chiropractic has been proven in numerous studies to be safe and effective in treating many of the aches and pains that affect the elderly, including low-back pain, neck pain, headaches, and other neuromusculoskeletal ailments. Since chiropractic treatment involves neither surgery nor medication, it is a highly cost-effective approach that could bring substantial savings to Taiwan's National Health Insurance program.

For the benefit of Taiwan's patients and healthcare system, the chiropractic doctor members of AmCham Taipei urge the government to continue to seek a breakthrough to enable chiropractic to operate as a normal profession. Indonesia's example is evidence that with sufficient will, a way can be found.

TOBACCO

Suggestion 1: Formulate excise tax and health surtax policies for tobacco products based on the principles of transparency, moderation, predictability.

The tobacco industry has always supported excise tax and health surtax (HST) policies for tobacco products based on the principles of transparency, moderation, and predictability. However, in the past several years the Taiwan government's policies and policy-making process have departed from these principles, seriously impacting the industry's future prospects in Taiwan. It is hoped that the Taiwan government will carefully consider its formulation of future tobacco excise tax and HST policies and take appropriate measures to address the related questions.

According to past experience, the demand for low-priced illicit cigarettes increases considerably after the tobacco excise tax and HST are raised. Ministry of Finance data shows that the volume of illicit cigarettes seized by Customs and local governments rose markedly after the tobacco excise tax was raised in the past.

The "Advanced Enforcement Plan on the Illicit Trade of Tobacco Products" which the government has implemented calls for enhanced border inspections, stronger law enforcement, improved inspection efficiency, and better coordination among government agencies. Nevertheless, the illicit trade in tobacco products has continued to be a problem. Instead of smuggling in finished products, the latest trend is to use smuggled tobacco leaves to manufacture illicit cigarettes in production facilities in Taiwan, sometimes with technical support from experts from China.

According to the Coast Guard Administration, for example, the raid in January this year of a large-scale factory manufacturing illicit cigarettes led to the seizure of approximately 5,472 kilograms of tobacco leaves. If these has been turned into finished products, they would have represented approximately 390,000 packs of cigarettes with a retail value as high as NT$39 million.

While the heightened law enforcement efforts have been encouraging, they were unable to prevent a considerable amount of illegal products from entering the market before this factory was uncovered. Large amounts of illicit cigarettes are still making their way into the market.

Since HST is a special revenue stream for the government, the funds collected should be used only for the dedicated purposes stipulated by law. One percent of the HST funds is earmarked for cracking down on smuggling and counterfeit tobacco products and for preventing evasion of tobacco-related taxation. However, there have been frequent instances of misuse of HST revenue that should have been allocated for this purpose. A 2018 Control Yuan report, for instance, found misuse of such funds by some city and county governments. Due to this violation of the "dedicated use" principle, the competent authority – the Ministry of Finance – was censured by the Control Yuan for mismanagement of HST. Official letters were sent to the local governments instructing them to comply with the principle, but no personnel were ever dispatched to check on compliance.

Due to the failure to comply with the "dedicated amount for dedicated use" principle, plus the increase in the excise tax on tobacco products to serve as a source of revenue for long-term care insurance, the Taiwan market continues to be plagued by the illicit trade in tobacco products and its many negative side effects. To date, they have proved impossible to root out.

As reiterated in past *White Papers*, a transparent, reasonable, and predictable policy not only protects lawful tobacco businesses from harm caused by the illicit trade in uninspected and untaxed products, but it can also help achieve the government's public health and fiscal revenue goals.

Recommendations:

1. Re-examine the tobacco product excise tax and HST policies.

2. Enhance penalties for illicit traders.
3. Increase the use of relevant information platforms to pinpoint high-risk hotspots and targets for law enforcement.
4. Propose inspection measures targeting new forms of production of illicit products, such as large-scale factories
5. Produce awareness-campaign video clips urging citizens not to engage in the illicit trade of tobacco products and avoid purchasing illicit cigarettes.
6. Conduct research to understand the social, health, and financial ramifications of the widespread sale of illicit cigarettes.

Suggestion 2: Adopt effective and proportionate tobacco control measures.

The industry has consistently supported effective and proportionate tobacco control policies. However, several recent legislative proposals have been excessive.

The proposals include the Tobacco Hazards Prevention and Control Act (THPCA) amendment bill, which was proposed by the Executive Yuan and passed the first reading in the Legislative Yuan in December 2017. In addition, 26 other amendment proposals submitted by legislators have also passed a first reading.

These amendments have proposed several extreme measures, including requiring the area allotted for Graphic Health Warning (GHW) on cigarette packages to be increased to as large as 85%. Other proposals call for totally banning flavors and other tobacco additives, as well as terminating a business's import and manufacturing permit should it violate relevant regulations three times within five years.

The industry opposes these proposals because they infringe upon the intellectual property rights of lawful businesses. They can also be deemed unconstitutional and risk seriously impacting legal investments in Taiwan. In the current unsettled international trade environment, these proposals need to be considered carefully before being decided on.

Taking the proposed enlargement of the GHW area as an example, the amendment would expand the current size from 35% to 85% of the total packaging – much larger than what is recommended by the World Health Organization's Framework Convention on Tobacco Control. It would also force lawful manufacturers to reduce the area reserved for their trademarks to the remaining 15%, thereby restricting the use of registered trademark by lawful businesses.

Another example of an excessive proposal currently under consideration is the amendment to Article 7 of the THPCA. According to the draft amendment, "cigarette additives use techniques to add in floral, fruit, chocolate, mint and other flavors to reduce the harshness of cigarettes for those who smoke cigarettes for the first time. This will cause children and teenagers to become addicted more easily and reduce the addiction time from one year to half a year or just a several months."

No empirical evidence is provided to support this claim. If enacted, the proposal would ban lawful businesses from using flavors and additives, blocking them from developing and innovating new products.

These two measures would prevent legitimate products from distinguishing themselves in the marketplace through distinctive packaging and product formulas. In addition, they may constitute a trade barrier and obstruct fair market competition, prompting consumers to turn to buying illicit cigarettes.

With respect to the proposed amendment seeking the "revocation of import and manufacturing license from businesses that have violated the regulations three times within five years," the determination of these violations depends solely upon the individual discretion of the enforcement personnel in each county and city government, as the local governments have not passed any related penalty standards and definitions.

If this proposal is passed into law, serious problems will arise as a result of the subjective interpretations by law enforcement personnel. Ultimately, this lack of objective standards and definitions could result in lawful importers and manufacturers facing a complete suspension of their business. In fact, it could cause the entire lawful supply chain to be suspended, leading to unjustified job losses. The market would also be flooded with illicit cigarettes, causing serious harm to Taiwan's regulatory regime, investment climate, and social environment.

The negative impact of these proposals would amount to a lose-lose situation for all parties concerned – the government, consumers, and lawful businesses. Taiwan's international reputation as a sound place to do business would also be badly damaged – potentially discouraging other international companies from investing in Taiwan.

Recommendations:

1. Regulate tobacco products in the same and consistent manner as other lawful products.
2. Conduct a comprehensive evaluation of the proposed THPCA amendments, assessing whether these policies would be effective in achieving the stated public health objective, including reducing the incidence of smoking. The government should carefully consider the proposals' comprehensive impact on the lawful supply chain versus the development of illicit trade.
3. Convene public hearings before any of the THPCA amendment proposals are considered. All the related stakeholders affected by these policies should be allowed to express their views in a transparent manner.

PHARMACEUTICAL

Our Goal

Enabling Taiwanese patients to have access to innovative new drugs soon after their international launch, and supporting Taiwan's efforts to become a hub in Asia for innovation and patent protection.

Reward for innovation is the key enabler for Taiwan to achieve a leadership position in the biopharmaceutical industry in the Asia Pacific region and fulfill the government's ambition outlined in its "5+2 Industrial Innovation Plan." The Pharmaceutical Committee recognizes the government's effort in the last few years in building the foundation for reward for innovations. Major achievements were the enshrining of Patent Linkage provisions into the Pharmaceutical Affairs Act and agreement by the National Health Insurance Administration (NHIA) to introduce Managed Entry Agreements.

This year, the Committee highlights the following regulatory issues and suggested solutions:

- Full implementation of Patent Linkage to protect both biologics and chemical compounds by June 30, 2019;
- Improved access of life-saving, life-changing innovative drugs to patients through improving transparency, predictability, and sustainability of the reimbursement system; and
- Accelerated reforms in pricing and participation in the current reimbursement system.

The Committee is convinced that by accelerating these reforms, the government will be providing the right incentives to fuel the growth in Taiwan's biopharmaceutical ecosystem and provide sustainability to Taiwan's healthcare system.

Suggestion 1: Implement Patent Linkage for both small and large molecule drugs by June 30, 2019.

The Committee two years ago applauded the milestone passage of provisions in the Pharmaceutical Affairs Act to establish a Patent Linkage (PL) system. Since then, both the R&D and generics segments of the industry have worked closely with the Ministry of Health and Welfare (MOHW) and its Taiwan Food and Drug Administration (TFDA) to ensure that the PL enforcement rules are aligned with international standards. We were pleased to see the government's recent adoption of advanced standards that include both large and small molecule drugs within PL, the same as in Canada, Korea, and Singapore. Unquestionably, including big molecule products within PL will accelerate Taiwan's drive to become the biomedical R&D hub in the Asia-Pacific region.

Based on the "Items Requiring Attention for the Legal Operation of Central Government Administrative Agencies," the implementation rules should be set within six months of the promulgation of the law – in other words, by June 30, 2019. Without a clear timeline for implementation of the law, companies from both the innovation and generics segments of the industry may have difficulty preparing for the launch of the PL system. We urge the Executive Yuan to announce the implementation date as soon as possible to help ensure that President Tsai Ing-wen's "5+2 Innovative Industries Plan" remains on the right track.

Suggestion 2: Expedite patient access to innovative medicines.

2.1 Allocate sufficient new drug/new indication budget to meet the need to reimburse life-saving, life changing drugs.

The Committee appreciated NHIA's doubling of the new drug/new indication budget for 2018. However, the new drug/new indication budget for 2019 is less than the 2018 allocation. Both the pharmaceutical industry and patients are concerned that this year-to-year budgetary fluctuation and insufficient budgetary allocation will result in delayed or denied reimbursement approvals for new drugs. The insufficient budget also makes it difficult for both the industry and patients to predict when reimbursement for life-saving or life-changing drugs can become available to patients in need.

Horizon scanning is an established practice in advanced countries for reimbursement agencies to look ahead for products that will be launched in the next few years in order to secure multi-year budgets. The Committee recommends that NHIA adopt long-range budgetary planning based on a review of what life-saving and life-changing drugs will be launched in the coming years. For example, NHIA could prospectively allocate adequate new drug/new indication budget based on the projected financial impact of each pharmaceutical company's new drug/new indication launches over the following five years. This practice could help improve predictability and sustainability beyond the current year-to-year budgetary practice.

For the short-term, the Committee urges NHIA to commit to doubling the current new drug/new indication budget for 2020. Longer range, we recommend that NHIA improve the predictability of life-saving and life-changing drugs' reimbursement approvals by allocating sufficient funding for new drugs in a forward-looking manner.

2.2 Establish a co-payment mechanism for innovative medicines and proactively build consensus among stakeholders.

Co-payment, when properly considered and designed, can help alleviate financial pressure on the NHI and facilitate patient access to life-saving and life-changing drugs. Balancing the patient access with the NHI sustainability requires reform in the NHI financial structure. There

is evidence that various stakeholders have begun to see the value of co-payment. The Committee therefore urges the NHIA to build consensus among stakeholders in designing an adequate co-payment mechanism for Taiwan.

In neighboring countries such as Japan and Korea, patients co-pay between 10% and 30% of the cost of the drugs. The government provides a subsidy if the total cost exceeds a predefined ceiling.

In Taiwan, a consensus is forming among stakeholders that co-payment should be made an option for high-priced new drugs. Many patient groups have been calling on the government to accelerate co-payment reform, and a poll by a cancer-related NGO in Taiwan indicated that almost 80% of the general public supports co-payment for new drugs to allow for better access. The majority of respondents say they would be willing to pay between 10% and 20% of the drug cost.

In February 2019, a meeting of the Pharmaceutical Benefits and Reimbursement Schedule Joint Committee (PBRS) concluded that NHIA should amend its rules to allow patients to co-pay for certain high-cost new drugs. As stakeholders have gradually become aligned in their support for co-payment, the Committee believes it is time for NHIA to move decisively in that direction while providing a safety net for disadvantaged groups.

2.3 Improve the transparency and efficiency of the new-drug review process.

The Committee commends MOHW and NHIA's adoption of the international practice of Managed Entry Agreements (MEA) as an additional tool in the new drug reimbursement and negotiation process. We urge the government to make its next effort the improvement of patient access by increasing transparency and efficiency in the new-drug approval process.

There are two difficulties with the current reimbursement approval timeframe. First, there is no set time limit between key milestones in the reimbursement process. Second, the scientific information a pharmaceutical company submits for the registration and reimbursement processes is reviewed sequentially, creating delays.

The scientific data submitted to TFDA and NHIA for their respective independent reviews clearly overlap. An aligned, concurrent, information-sharing review could save significant time in getting a drug to market for the benefit of patients.

Canada's experience in dealing with this problem provides a good model. To streamline the review process, Canada in June 2018 adopted a formalized sharing of information between agencies, with industry consent.

Recommendations:

1. Increase transparency and predictability by setting a clear timeline between key milestones in the reimbursement process.
2. Learning from the Canadian experience, establish a consent-based, information-sharing platform between the TFDA and NHIA for parallel registration and reimbursement approval for innovative medicines.

Suggestion 3: Provide critical investment incentives for the biopharma industry to promote sustainable growth in the "5+2" plan.

With the aim of positioning Taiwan to be an Asia-Pacific Biomedical R&D hub, Taiwan's biomedical industry was one of the first to be included in the Executive Yuan's "5+2 Innovative Industries Plan." Eyeing the international market, the 5+2 policy aims at strengthening industry competitiveness by upgrading domestic technology and attracting a more talented workforce. To realize this vision, Taiwan needs to embrace concrete enabling policies to create a more favorable environment and ensure the sustainable growth of the industry.

Member companies of the Pharmaceutical Committee are the key providers of innovative medicines and medical technology in Taiwan. Over the years, the member companies have introduced and transferred the most up-to-date technology and invested in talent cultivation to improve the overall capacity of the pharmaceutical industry in Taiwan.

Recognizing the benefits to their economies and healthcare systems, some OECD countries have adopted policies to encourage the development and introduction of new medicines in their markets. These policies include a commitment to providing sufficient budget for innovative new drugs, including the reinvestment of drug-price reductions to support that budget.

To realize its vision of Taiwan as the Asia-Pacific Biomedical R&D hub, the Taiwanese government can learn from the key enabling conditions that other advanced countries have used to attract investment to spur innovation. The Committee urges MOHW and NHIA to accelerate the following reforms:

Recommendations:

1. **Reward value for innovation through new innovative drug reimbursement prices.**

   According to the latest NHIA report on "Comparisons of New-drug Approved Prices and International Drug Prices in Recent Years," current new-drug approval practices have resulted in prices far below the spirit of the rules intended to reward innovation. Reimbursement prices for new drugs in Taiwan from 2013 to 2017 were much lower than A10 median prices. The same was true for Category 1 breakthrough innovative medicines, even though in 2014 they had once reached the level of A10 median

prices. The situation was even worse for Category 2A new drugs, whose reimbursement prices in 2016 and 2017 were even lower than the lowest A10 prices.

Moreover, under the current NHI reimbursement mechanism, the lowest price among new drugs in the same therapeutic field is used as the benchmark price for reimbursement. This mechanism not only fails to reflect the clinical differences among individual new drugs, but also cannot reasonably reflect the new drugs' value.

According to the NHI Reimbursement and Payment Standards, "reference prices for Category 2A new drugs are based on drugs with similar efficacy that have been reimbursed in the past five years." The original intention was to encourage new-drug launches. However, that potential effect is completely undermined by the current reimbursement mechanism.

Low reimbursement prices may decrease industry's willingness to bring innovative medicines into Taiwan and to further invest in Taiwan. The Committee urges NHIA to review its current new-drug pricing practices and adhere to the spirit of reward for innovation to reflect the value of new medicines.

2. **Improve the current DET system and reform the system of hospital discounts.**

a. Recalibrate each year's Drug Expenditure Target (DET) baseline. The DET baseline should be revised from the current practice to one that benchmarks the previous year's actual expenditure, multiplied by the annual growth rate in the Global Budget. In addition, newly reimbursed technology that was not included in the previous year's Global Budget should be reflected in the DET target growth rate.

b. Adopt a broader definition of patents for price calculation. Since breakthrough technologies and treatments might not be covered by compound patents (which is the only type of patent recognized by the NHIA in the pricing scheme), the Committee urges the NHIA to broaden the recognition of patent types to provide reward for innovation.

c. Establish a sound R-zone mechanism. Single-source products require a 15% reasonable-zone (R-zone) in setting the reimbursement price. In these cases, the major compound has been off-patent or never had a registered patent in Taiwan, and the product is the only source available in this market, with no generic substitute. In the absence of price protection, the drug may have to be withdrawn from the Taiwan market, to the detriment of patients' access to treatment.

d. Ensure predictability in the drug-price adjustment mechanism for special-budget accounts. NHIA should establish a transparent, predictable drug-price adjustment mechanism for drug expenditures categorized in special-budget accounts (for example, HIV/HCV, rare diseases, and hemophilia). Lowering drug prices should not be the first and only solution when funds are insufficient, as currently appears to be the case for HIV drug reimbursement. The primary factor should always be the scientific evidence regarding the efficacy of the medication. The Committee urges the Taiwanese government to take a more comprehensive view regarding HIV treatment, including the allocation of adequate budget by the Centers for Disease Control (CDC) to ensure sufficient patient access to treatment, as well as the establishment of a sustainable and predictable HIV pharmaceutical pricing mechanism.

e. Reconsider the hospital discounting process. After new medicines receive reimbursement prices from NHIA, hospitals will request further discounts as part of the procurement process. The growing demand for discounts on medicines in the hospital listing procedure has placed additional pressure on the pharmaceutical manufacturers. The Committee strongly recommends that MOHW and NHIA reconsider the hospital discounting process to prevent profit-driven procurement decisions from becoming another obstacle hindering patient access to innovative medicines in Taiwan.

f. Multi-stakeholders involvement in reimbursement decision-making.

Currently, the participants in PBRS meetings consist of medical representatives, scholars and experts, and representatives of payers. The Committee appreciates NHIA's efforts that have led to patient representatives now being invited to attend PBRS meetings as observers, so that patients' voices can be heard directly at the meeting. Unfortunately, however, the manufacturers of medicines are still unable to express opinions at the PBRS. The Committee urges NHIA to set up a formalized avenue for industry representation in the PBRS meetings to ensure multi-stakeholder involvement in reimbursement decision-making.

PRIVATE EQUITY

The Committee appreciates the government's openness to dialogue with industry stakeholders and acknowledges recent reforms aimed at addressing issues that had been discouraging PE investment in Taiwan. These reforms include amendments to the Company Act and Mergers & Acquisitions Act, as well as Financial Supervisory Commission regulations permitting securities companies to invest in PE and venture capital funds through subsidiaries.

The treatment of two major acquisition cases in the

past year also represented important progress. KKR & Co. received approval to acquire a majority stake in LCY Chemical Co. via a "'take-private" transaction, and Morgan Stanley Private Equity Asia was permitted to acquire a controlling interest in Microlife Corp. These deals injected needed capital into the acquired firms, which occupy important roles in Taiwan's petrochemical and medical device industries respectively.

Further action to advance PE in Taiwan would significantly benefit the economy. According to McKinsey's 2018 *Global Private Markets Review*, the more than 7,700 PE firms in the world held a record amount of uncommitted capital of approximately US$1.8 trillion as of 2017, including about US$130 billion in Asia. Taiwan has much to gain if more PE investment capital flows into its economy. While Taiwan is not short of capital, international PE investment brings additional advantages not otherwise easily gained. PE provides enhanced and focused global management best practices to build the capacity of Taiwanese enterprises, and it brings regional and global linkages that can help Taiwanese firms expand beyond the local economy.

Like the Taiwanese society at large, Taiwanese companies are aging, with many founders now nearing retirement. PE offers a pathway to build institutions and provide succession planning for enterprises where succession remains an open question. By solving the succession question, PE can help ensure that many great enterprises built in recent decades will continue to prosper and contribute to Taiwan's economy long into the future. Ensuring that Taiwan remains open to international PE also raises standards and increases the competitiveness of domestic PE firms, improving their own prospects to expand into adjacent markets.

The Committee offers the following recommendations as ways to continue the positive trends evident over the past year.

Suggestion 1: Provide more clarity on remaining issues that may be potential obstacles to PE investment.

The Committee would like to continue its dialogue with Taiwan's investment and financial authorities with the aim of identifying obstacles and seeking solutions to enhance opportunities for domestic and international PE funds to contribute to Taiwan. The key issues needing greater clarity include:

- Rules and procedures governing "take-private" transactions that involve de-listing from the stock exchange. The process needs clearer standards and greater transparency. De-listing should not be considered as a negative reflection on the Taiwan equity market. Rather, it is a frequently necessary step to facilitate the restructuring of an enterprise and refreshing of its management under the guidance of the PE investor. Re-listing often occurs after completion of that stage.
- Also with regard to potential de-listing privatizations, whether the government maintains any official or de-facto restrictions based on the size of a transaction, market cap of the enterprise involved, or industry sector. If so, the government should provide information on the reasons for these restrictions.
- Whether the government maintains official or de-facto ownership limitations or related qualifications or approval processes for international PE firms seeking to invest in specific sectors. In the past, some sectors have been deemed (or seemed) sensitive, including the financial services, telecommunications, and media sectors.
- Whether the government has established or seeks to impose performance requirements or limitations as part of the M&A approval process. Examples might include those related to labor or employment guarantees or specific types of financial structures.

The PE Committee looks forward to the government's views on these matters and will be pleased to be a resource for the government in what the Committee sees as our shared objective of fostering investment to build a more prosperous Taiwan.

Suggestion 2: Make a greater effort to attract projects from large-cap international PE firms.

Until recently, large-cap international PE firms, which typically focus on bigger deals and more mature companies that may already be publicly traded, have at times faced challenges obtaining necessary regulatory approvals in a timely manner, such as for equity market de-listings. This situation has impeded the inflow of large-cap investor funds that could otherwise assist with restructuring and re-energizing mature Taiwanese companies to position them for renewed long-term success.

Failure to attract large-cap international PE funds has placed the Taiwan economy and its companies at a disadvantage compared to its competitors. Data from the Asian Venture Capital Journal show that for the three-year period of 2015-2017, Taiwan attracted a total of only about US$1.4 billion in international PE funds. This figure compares to around $18 billion for Hong Kong, $29 billion for Singapore, and $36.8 billion for South Korea. Even many less-developed countries are faring better than Taiwan, including Malaysia with around $3 billion, the Philippines at $2.2 billion, and Vietnam at $1.8 billion.

Suggestion 3: Encourage the opening of Family Investment Offices as an important part of the PE ecosystem.

The creation of offices dedicated to managing the investments of a single wealthy family or group of families is

an increasingly common trend – complementary to PE – both globally and in Asia. Many traditional hedge fund operators have closed their funds in order to open family-office types of investment vehicles. Given Asia's ability to attract capital from around the world, some of these family offices are moving into the region, most often to Singapore and Hong Kong. Taiwan, with its large number of family-owned enterprises, is also seeing a similar trend domestically as well-to-do families open offices to manage their wealth and make investments.

The Committee looks forward to working with Taiwan's regulators to develop an environment that will both attract international family office funds to invest in Taiwan and assist Taiwanese family offices to better understand important trends and operate more effectively.

PUBLIC HEALTH

Our Goal

Furthering Taiwan's public health by supporting initiatives such as the promotion of liver health, sufficient funding for vaccination policy, and sustainable long-term care focusing on osteoporosis management.

Taiwan has had great success with public health, and the Public Health Committee stands ready to continue working with the government to achieve its goals, such as joining the World Health Organization (WHO).

The Committee's members will also continue to promote Taiwan's achievements, hosting visits by senior executives, sharing news of positive developments with our corporate headquarters and advocating for Taiwan during AmCham's annual CEO trip to Washington.

Taiwan's history with managing liver health is especially impressive. The Committee believes that the country is well positioned to become the "Liver Health Center of Excellence in Asia." Our members look forward to exploring new ways to work with the government to strengthen Taiwan's position in this vital area.

The Committee applauds the Ministry of Health and Welfare (MOHW) for its impressive achievements with hepatitis C (HCV) treatment. Last year, MOHW set a goal to eliminate the disease by 2025. To achieve this ambitious goal, the government increased funding and removed the restriction to accelerate treatment starting from 2019.

The Committee commends the National Health Insurance Administration (NHIA) for including hepatic carcinoma cancer (HCC) into the immuno-oncology drugs' reimbursement. Providing innovative and effective HCC treatment is an important step toward becoming the Liver Health Center of Excellence in Asia. More importantly, it will bolster Taiwan's position to join the WHO.

In addition to liver health management, the Committee also would like to partner with MOHW in improving its vaccination policy. We applaud the government's intent to keep abreast of international trends and scientific assessments. We understand that a phasing strategy helps address the difficulty brought about by insufficient vaccine funding over the short term. However, it's important to note that only steady, long-term vaccination programs with sustainable funding can be successful.

Long-term care, especially osteoporosis management, is another major issue the Committee would like to work on with MOHW. Improving the health and mobility of senior citizens is critical for successful long-term care. The Committee would like to partner with MOHW to develop a policy and programs to prevent bone fractures – an extremely commonly problem for the elderly in Taiwan – through screening and health intervention.

Suggestion 1: Build Taiwan into a Liver Health Center of Excellence in Asia.

Liver health has long been one of the primary healthcare issues in Taiwan. About 13,000 people died in 2017 due to chronic liver disease, cirrhosis, and liver cancer, also known as hepatocellular carcinoma (HCC), according to the MOHW.

Cirrhosis/chronic liver disease ranks as the 10th leading cause of death in Taiwan. Liver cancer is the second leading cancer in terms of mortality. The Hepatitis B virus (HBV) and Hepatitis C virus (HCV) are the key risk factors for chronic liver disease, cirrhosis, and liver cancer.

Hepatitis B vaccination program was implemented in Taiwan for newborn babies as early as 1986. It not only substantially decreased the prevalence of hepatitis B virus (HBV) infection but was also an extraordinary achievement that has received worldwide recognition. The next goal will rely on the government's continuous efforts in chronic hepatitis B (CHB) management to stop disease progression and improve long-term clinical outcomes, such as those leading to fibrosis, cirrhosis, liver cancer and mortality. Treatment continuity will be one of the key factors to achieve this goal.

Eliminating HCV by 2025 is Taiwan's goal – a more ambitious target than the WHO's goal that aims for 2030. HCV reimbursement in 2017 and the reimbursement guideline relaxation in January 2019 were critical milestones for achieving the 2025 goal. The Committee is keen to work with the government to come up with an executable plan of screening and linkage to care, which will be critical in the next few years.

There is a sense of urgency for introducing innovative treatment options to all HCC patients (currently NHIA reimburses immuno-oncology drugs for only a very limited

number of HCC patients). Factors that will be essential to success include accelerating the entry of new drugs by encouraging clinical trials invested in Taiwan. Also crucial is increasing the new drug budget.

The Taiwan government rightly considers the biotechnology industry to be one of Taiwan's strategic economic growth drivers. Based on the experience of advanced countries, the key success factors for the development of a bio-pharma industry are people, intellectual property rights, regulations, and markets. The Committee sincerely hopes to partner with the government to enhance international cooperation and increase liver disease-related new drug development and clinical trials. It also wants to help maximize and accelerate patients' access to innovative medicine. This will improve Taiwan's disease management and treatment of chronic liver disease, liver cirrhosis, and liver cancer.

Our recommendations:

1. Continue the great work on liver health management. The government has established an integrated office and has announced the national Hepatitis C policy guidelines aiming to eliminate HCV by 2025. The Committee suggests that the government have screening to support therapy and a comprehensive link to care systems, which are critical factors to accomplish the HCV goal.

   Since Taiwan has had tremendous success with HBV vaccination, we suggest that the government achieve alignment with international guidelines in HBV to continue to lower the HBV infection rate and disease progression. For HCC treatment, the Committee recommends that the government accelerate reimbursement with a sensible guideline.
2. Share the best practices of liver health management with countries included in the New Southbound Policy. The Committee's member companies are willing to explore ways to support the government's New Southbound Policy, which seeks to strengthen economic and cultural ties with 18 countries in South and Southeast Asia. One of the most impactful ways to promote the policy would be to share Taiwan's success with liver health. The Committee would like to discuss how it can collaborate with the government in this area in which the industry can play a key role.

Suggestion 2: Provide sufficient vaccine funding to restore Taiwan's position as a regional vaccination policy leader.

Taiwan has been a pioneer in vaccination, eradicating or managing several diseases – such as smallpox and measles – through immunization. With sufficient health education, it is also possible to protect Taiwanese children against the threat of pertussis, also known as whooping cough, through immunization. Vaccination continues to be one of the important issues in the field of public health. The government's announcement to introduce the human papillomavirus (HPV) vaccine for girls in 2018 is part of ongoing efforts to enhance the standards of national immunization programs. This aligns with the WHO's call to action on cervical cancer elimination through vaccination, early diagnostics, and treatment. Based on the MOHW's "Phase III Project to Enrich National Vaccination Fund and to Boost National Immunity," several new vaccines will be introduced into Taiwan's national program in 2019. This is a positive development to strengthen vaccination policy in Taiwan.

To follow WHO recommendations, the MOHW plans to introduce new vaccines for different age cohorts and risk levels through public funding. We applaud the government's intent to keep abreast of international trends and scientific assessments. We understand that a phasing strategy helps address the difficulty brought about by insufficient vaccine funding over the short term. However, from the perspective of continuity in public health policies, only steady and long-term vaccination programs can be successful.

Our recommendations:

1. Establish a solid vaccine funding plan that will support vaccination policies on a sustainable basis. In the 2018 *White Paper*, the Committee acknowledged that MOHW had a positive and proactive attitude about solving this issue. We would like to see the government further develop effective strategies and new funding sources to support the long-term vaccine policy.
2. We encourage the Taiwan government to more actively educate the public on the value and benefits of vaccination. It is also important for the authorities to consider how to compete with other nations for an appropriate share of the limited supply of vaccine in the global market. These steps will enable the people of Taiwan to benefit from a well-planned immunization program that enhances their health.

   Introducing new vaccination programs requires robust scientific evidence and applying best practices from other countries. The Committee will be happy to provide further information and support, as immunization is one of the most powerful and cost-effective investments that can be made in health and productivity. Expediting the introduction of new vaccines will provide the people of Taiwan with health protection comparable to the international level.

Suggestion 3. Work together to raise awareness of osteoporosis. Initiate primary and secondary osteoporosis prevention policies for an aging society.

Due to extremely low birth rates, Taiwan's population is

aging rapidly. The country officially became an aging society in 2018 with people over 65 years old accounting for 14% of the population. In 2025, it is projected to become a super-aged society, with at least 20% of the population 65 or older.

The most serious health-care problems for the elderly include disability and death from fragility fractures – often caused by osteoporosis. The fractures consume a great deal of health-care and long-term care resources. The injuries also create a huge burden for caregivers in families.

Fragility fractures indirectly affect social productivity, resulting in a great impact on the social economy, and thus pose a great challenge for an aging society. Because of the significant aging trend in Taiwan, the country's rate of hip fractures is relatively high compared to other nations in the Asia-Pacific region.

Osteoporosis is often called the silent killer of the elderly. Without leaving any obvious signs, the disease gradually hollows out the bones so that a mild bump or fall can result in a fracture. Domestic studies have shown that one in three women, and one in five men, over the age of 50 suffer from osteoporosis.

Fractures due to osteoporosis result in severe pain, difficulty in movement, and even long-term disability. Of all the bone breaks, hip fractures are the most serious, leaving patients heavily reliant on the care of others. The injuries often result in serious complications or even death due to infection.

Taiwan has the highest incidence of hip fractures in Asia, with nearly 20,000 people diagnosed with the injury every year, according to the National Health Insurance Administration. Up to 80% of patients with hip fractures become disabled, and 20% of the patients will die within one year. Hip fractures not only increase overall medical expenditure, but also impose heavy burdens on the public health care system. The impact on the overall social economy is hard to even estimate.

Our recommendations:

1. Leverage the power of civil society and industry to raise public awareness about osteoporosis detection and prevention. Fragility fractures can be effectively prevented through screening and health intervention. Early detection and prevention are the key. It is imperative that the government combines the power of civil society and industry to initiate large-scale health education promotion and jointly raise public awareness of bone health and osteoporosis prevention. This will help people detect osteoporosis early and then seek health advice and take necessary preventative intervention to effectively reduce disability and death caused by osteoporosis.
2. Initiate primary and secondary prevention of osteoporosis. This will promote public bone health, while greatly reducing osteoporosis-induced fractures, enabling Taiwan's health care system and social economy to enjoy long-term sustainability.

The Committee supports President Tsai's policy of promoting "cooperation between the government and the civil society for a better nation." The Committee will continue to work with the government to raise public awareness of osteoporosis and promote a healthy society.

REAL ESTATE

For the past decade or so, the most active property-investment zones in the world have been top-tier cities in the United States and Europe. They have appealed to investors because of both the decent returns and their open and transparent market characteristics. Over 50% of the total real-estate investments in major EU cities came from cross-border capital inflows. Although Taiwan is a major financial center in the Asia Pacific, the average influx of foreign funds into its real-estate market over the past 20 years has been below 7%. Clearly considerable room exists for growth if the market conditions are right.

Real estate is often the main component of individual and family assets and investment. To protect citizens' rights and interests, it is therefore crucial for the government to ensure a fair and justified transaction process and market. We recognize the efforts the Taiwan government has made in recent years to stabilize property values and improve market transparency. However, the Taiwan real estate market is still relatively less transparent and accessible to foreign investors than many developed countries worldwide. Hardly any foreign funds have invested in real estate in Taiwan in the past four years. Further government efforts are required to improve the fairness and transparency of the market.

Below, the Committee presents two suggestions in hopes of stimulating discussions with the relevant governmental agencies in order to further improve market conditions and help promote Taiwan as a thriving real estate investment destination.

Suggestion 1: Revise the Real Estate Appraiser Act to allow legal entities to provide valuation services.

In Taiwan, the real estate valuation business must be conducted either by accredited individuals or licensed partners without incorporation. The Committee urges the government to accelerate proposed amendments to the Real Estate Appraiser Act that would allow the incorporation of valuation service providers as legal entities. The suggestion is raised here for the third consecutive year, and is still under discussion with the Ministry of the Interior. The Committee urges the government to speed up the process and move this matter forward to benefit the overall real estate industry and help

protect clients' rights.

The proposed change in the rules would relieve the financial pressure on professionals, since valuers hired by an appraisal firm would have limited liability instead of carrying unlimited liability as a partner. Moreover, as valuation companies would be required to hold professional indemnity insurance, clients utilizing their services could feel confident that their interests are being protected.

Legal entities usually have a clearer business structure and adhere to a comprehensive code of conduct, which helps to ensure that a company meets its financial obligations. In addition, they are able to run the business more sustainably and are not affected by changes in senior management or partnership. Overall, the major benefits of allowing the incorporation of business entities in the valuation industry include:

a. Companies are covered by insurance, which will help relieve the burden of risk on valuers and therefore improve the recruitment of talent.
b. Companies have better audit and compliance procedures, which will strengthen the credibility of valuation reports.
c. Companies are of larger scale, capable of conducting extensive market research and establishing databases.

Suggestion 2: Require banks to charter professional valuation professionals for transactions involving mortgage loans.

At present, domestic banks mainly rely on in-house valuation teams when reviewing mortgage applications, while foreign banks in Taiwan appoint a licensed appraiser to provide an independent opinion on the property value. The practice adopted by foreign banks ensures that they receive professional and objective advice on property conditions in line with global standards. On the other hand, undertaking valuation work internally may lead local banks to encounter problems such as conflicts of interest and bad debt.

The Committee continues urging the Financial Supervisory Commission to require banks, when extending credit on collateral, to hire an independent licensed valuer to produce an appraisal report that determines a current fair market value in order to prevent overestimation of property value and over-lending. In addition, banks should be instructed to draw up guidelines to evaluate appraisers' performance and their accuracy. This step would help protect the interests of both banks and depositors.

RETAIL

Our Goal

Creating optimal market and regulatory conditions for the benefit of consumers, retailers, and suppliers.

The Committee thanks the Executive Yuan for instructing the various government agencies to provide a public notice and comment period of at least 60 days for draft laws and regulations so as to align them with international standards and achieve transparent government operations. This change in the Administrative Procedure Act (APA) is a praiseworthy progressive measure aimed at addressing the past issue of overly short consultation periods.

The purpose of the 60-day consultation period is to solicit opinions from the various stakeholders. To achieve sincere and meaningful consultation, government agencies need to be open to considering stakeholders' views and opinions, taking them into account in preparing the final version of the proposed regulations. The agencies should be impartial regarding the views expressed and consider objectively whether to incorporate them in the final regulation. If some elements of the proposed regulation cannot be changed, this should be clearly communicated so that participants can provide meaningful input by focusing their efforts on other aspects.

The Retail Committee has welcomed the willingness of the Taiwan Food and Drug Administration (TFDA) to consult with industry on proposed new regulations. Other government agencies have sometimes also invited industry representatives to express their opinions on draft laws and regulations. In the majority of cases in the past year, however, the Committee has found that industry's opinions have been largely ignored, with no explanation given as to why those opinions were rejected. The process appears to be one-way communication conducted merely to fulfill the formality of the APA requirement.

The Committee urges the government to enhance the transparency of the overall regulatory consultation process, including public disclosure of the rationale behind the decisions reached and explanations of how stakeholder input is being used in formulating the final rules. Open-minded, transparent governance is the key for Taiwan to advance to the next level of development.

Suggestion 1: Ensure that legislation on technical standards is based on sound science and harmonized with trade partners.

1. Twice during the consultation period, the Committee submitted comments on the draft "Regulations Governing the Management of the Review, Registration and Issuance of Permit Documents for Food and Related Products." In particular, we expressed concern regarding

the proposed testing requirements for foods for special medical purposes, such as the demand that clinical trials be conducted in Taiwan to test the ethnic/racial compatibility of the formula food products. Besides Taiwan, few jurisdictions have ever demanded such a racial compatibility assessment for food.

Local clinical testing is hardly the only way to assess nutritional suitability. We urge the government to accept clinical tests conducted overseas to assess the suitability of such products in meeting the nutritional requirements of the intended users. As to the argument that the testing needs to be done in Taiwan because of presumed disparities in the nutritional benefits of the products for different ethnic/racial groups, there is no scientific evidence to support that assumption, which is not accepted by any of Taiwan's major trading partners.

2. The "Guidelines for Determining Food Labeling, Promotions and Advertisements Involving False, Exaggerative or Misleading Elements or Medicinal Efficacy" includes a list of allowed product claims for foods. Such a positive list of product claims easily gives the trade and public the impression that only these exact words and phrases are permitted. If that were the case, it would constitute a restriction on freedom of speech. The Committee urges the government to allow the functions of food products and ingredients to be communicated to consumers without restriction if based on scientific evidence. We request that the authorities clarify that the claim wording listed in this regulation is not meant to be exhaustive and is provided for reference only.

Suggestion 2: Establish a dedicated regulatory category for dietary supplements and allow more latitude for health-function claims and advertising.

The current regulatory regime does not treat dietary supplements as a separate category from general foods. Instead, some are regulated as belonging to the category of "food in tablet or capsule form." Current food regulations fail to recognize the functions of dietary supplements, which have additional health benefits beyond those of general food. Even when those claims of health benefits are supported by sound scientific evidence, the health authorities prohibit such claims and advertising involving the effects on physiological functions or health conditions. Under the current Act Governing Food Safety and Sanitation, any such health claims can be penalized for being exaggerative or misleading.

The Retail Committee has long been urging the government to create an independent and comprehensive food category for "dietary supplements" and allow health-function claims based on scientific evidence. If health benefits can be proven, suppressing that information is unfair to consumers. Moreover, with Taiwan soon to rank as an aged society, dietary supplements can play an important role in preserving the health and well-being of the elderly.

The Committee also notes that the existence of a licensing process for Health Foods does not minimize the need for a dedicated category for dietary supplement. Since Health Food licensing began in 1999, applications for Health Food licenses have been limited to only 13 health functions and as of mid-May only 437 products have been approved, compared to more than 6,000 in Japan. Clearly, there are many more than 13 kinds of health benefits from dietary supplements. But the inappropriate Health Food option has kept Taiwan's dietary supplement market from developing to the level of our trade partners. The Retail Committee strongly urges the government to establish a dedicated food category for dietary supplements and allow functional claims based on scientific evidence.

Suggestion 3: Eliminate inconsistent interpretations between agencies or within the same agency.

For Taiwan to be regarded in the world market as a reputable trade partner, its laws and regulations must be interpreted and enforced consistently to foster a stable and predictable business environment. Unfortunately, Retail Committee members have frequently encountered examples of inconsistent regulatory interpretations and enforcement.

One example is the inconsistent interpretation of the applicable commodity tax rate on juices containing natural flavors. While Customs had ruled that a certain juice was not "diluted" and applied an 8% commodity tax, the Ministry of Finance (MOF) later ruled the same juice to be "diluted" and therefore should have been taxed at 15%. Suddenly importers had to pay a heavy sum to cover the tax difference for the quantity imported over the previous five years. This inconsistency in interpretation and enforcement of tax law threw the importers' operations into chaos. The incident caused considerable financial damage to industry, whose costs could not be calculated accurately, as well as reputational damage to the Taiwan government. We urge MOF and Customs to review the commodity tax collection practices to avoid different rulings and to ensure regulatory consistency.

Another example is the day-to-day ruling on Chinese-language labels by the TFDA at the border. While Chinese food labeling is required under Article 22 of the Act Governing Food Safety and Sanitation, and the accuracy of the Chinese wording is required under Article 28 of the same law, there is a discrepancy in the standards used by TFDA inspectors. Some demand that the content of the Chinese nutrition tables should be identical to that of the original language; others demand that the Chinese nutrition table should be based on test reports. More often than not, there will be numeric differences, depending on which practice is used. This discrepancy not only leaves importers confused, but also results in long delays at the border spent explaining the differences, revising labels and/or relabeling products. It

also causes an increase in storage costs, shorter shelf lives, and even dissimilar Chinese labels at the point of retail, thereby confusing consumers. The Retail Committee urges Taiwan FDA to have consistent interpretation of regulations across all levels and announce a clear guideline to the industry to follow.

Suggestion 4: Prohibit the sale of imported alcoholic beverages for which the original manufacturing lot code has been changed or removed.

The Committee is grateful to the National Development Council for facilitating the working sessions held between the industry and the National Treasury Agency (NTA) under the Ministry of Finance (MOF) to seek possible solutions to this longstanding issue after it was raised in previous years' *White Papers*.

Food hygiene and safety management is a key issue attracting attention worldwide, including in Taiwan. Most governments require prepackaged food, drugs, and other consumer goods to be labeled with a manufacturing lot code in order to maintain traceability. The Taiwanese government generally follows the same principle, but the scope of regulation does not extend to alcoholic beverages. There have been numerous incidents where the original lot code was removed or altered by importers. In the event of a product defect, suppliers will be unable to recall products and respond quickly. The practice is contrary to the protection of consumer rights and may threaten the integrity of a brand and its products.

In an effort to better safeguard consumers' well-being, the MOF in July 2016 started asking importers to voluntarily register original lot codes that were removed from or altered on alcoholic beverages. However, the lack of penalties has made the provision ineffective, creating a loophole in food safety regulation. According to the website of the NTA website, as of the end of 2018, approximately 4% of the whisky on the market lacked a lot code, which is equivalent to nearly 1 million bottles of whisky.

Allowing importers to remove or alter original lot codes and instead use their own serial number is a clear violation of three WTO agreements: the national treatment principle of the General Agreement on Tariffs and Trade (GATT), the national treatment provisions of the Agreement on Technical Barriers to Trade (TBT), and the trademark protection, geographical indications, and national treatment provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

The Committee calls for strict enforcement of Article 32, Paragraph 1, Subparagraph 6 of the Tobacco and Alcohol Administration Act, which requires all alcoholic beverages be labeled with the original lot code in order to identify manufacturing information and develop a relationship of trust in the supply chain. When the original lot code has been removed or is not clearly legible, the products should not be imported or sold in the market, as product traceability is then impossible.

SUSTAINABLE DEVELOPMENT

Our Goal

Working to ensure that Taiwan's continued economic growth is compatible with the long-term health and safety of the environment for the benefit of all residents on Taiwan.

We wish to thank the Taiwanese government for its continued engagement with our Committee over issues of concern. We look forward to seeing these efforts bear fruit soon.

Given the scale and the importance of Taiwan's electronics industry, the Committee would especially like to focus on addressing the industry's recycling needs. For example, recycling electronic waste for building materials would help the Taiwanese electronics industry lower costs, while also being environmentally friendly. It would boost the government's Circular Economy plan, part of the "5+2 Innovative Industries" program, aimed at encouraging the re-use – rather than mere disposal – of waste materials.

We also encourage Taiwanese government to implement carbon reduction strategies and enforce other carbon-tax-related regulations to make Taiwan's greenhouse-gas reduction efforts clear to the world.

Suggestion 1: Provide more incentives for private sector use of high-quality recycled building materials.

Since 2017 when the Committee first raised this issue in the *White Paper,* we have appreciated the Taiwanese government's efforts to promote the use of recycled building materials in the public sector. While we applaud the progress made, we believe more can be done by providing additional incentives to the private sector. For example, a higher building capacity ratio could be allowed for developers who use high-quality recycled building materials. By "high quality" we mean building materials made not from the likes of furnace slag, but from better-quality materials recycled from products such as solar panels, printed circuit boards, and filters used in semiconductor manufacturing. The goal is to recycle materials used by green energy and electronic industries that are key to the future of the Taiwanese economy, while also contributing to the government's circular-economy initiatives.

Suggestion 2. Implement carbon reduction strategies and enforce carbon tax and other related regulations.

We recommend that the Taiwanese government put a price/value on carbon emissions to incentivize businesses and consumers to adopt more energy-efficient practices and reduce their carbon emissions. Some Asian countries have already taken actions in this regard, including South Korea, Japan, and Singapore. Imposition of a carbon tax can be a critical tool to accelerate the deployment of low-carbon technologies, products, services, and infrastructure, as well as to promote the green energy market. We strongly urge the government to implement carbon reduction strategies and enforce other carbon-tax-related regulations.

TAX

Our Goal

Promoting a taxation system that boosts foreign direct investment by adhering to accepted international practices.

During a period of economic challenge, the Taiwan government has continued its commitment to upgrade the country's infrastructure and industries by attracting more foreign investment and cutting-edge technology. However, several gray areas regarding tax treatment have remained unresolved, presenting an obstacle to progress. For example, tax issues related to turnkey contracts frequently have a major impact on infrastructure projects. Another example is the uncertainty as to whether income derived from activities carried out in a free trade zone can qualify for tax exemption.

We urge the government to continue its efforts to create a friendly and transparent tax environment by considering the proposals below.

Suggestion 1: Revisit the tax treatment on turnkey contract arrangements from both local law and international tax practice perspectives.

The "Special Act for Forward-Looking Infrastructure" was passed in 2017 to enhance Taiwan's infrastructure and boost its competitiveness by increasing public investment in green energy, the digital infrastructure, water resources, railway systems, and urban and rural development. A prime example is the proactive role the government has assumed in expanding the use of renewable energy, aiming to phase out nuclear power and decrease dependency on imported fuel. Foreign developers will inevitably play a key role in the renewable energy sectors, especially for offshore wind power projects, including the building of associated industries. It is therefore important to review the relevant tax policies and regulations to ensure that they are consistent with the government's development plans.

Ministry of Finance (MOF) Ruling No. 770526922 states that when a foreign enterprise having its head office outside of Taiwan carries out construction or installation projects in Taiwan, the entire contract price – including the amount attributable to the supply of offshore materials and/or equipment – shall be subject to Taiwan income tax. That is the case even if the amount of remuneration for services performed onshore, such as construction and installation, can be identified separately from the sourcing of materials and/or equipment offshore.

However, according to the "Guidelines for Determining Taiwan-sourced Income," the direct supply of goods by a foreign enterprise to a Taiwanese individual, enterprise, or organization shall be treated as international trade, which is exempt from income tax assessment. As a result, to minimize income-tax liability in Taiwan, foreign EPC (engineering, procurement, and construction) contractors tend to adopt a split contract approach, creating separate onshore and offshore contracts. In general, the onshore contract covers construction work and installation of equipment, which are subject to Taiwan income-tax assessment. The offshore contract covers the supply of offshore materials and/or equipment, which is treated as international trade.

While the two contracts are typically entered into by two different affiliates, the arrangement may still be challenged by the tax office from a substance-over-form perspective, deeming the two contracts as in effect a single EPC contract due to the foreign contractor's obligation to perform both functions. If that is the case, the entire contract value would be subject to income tax, including the goods portion which was originally treated as international trade and therefore income-tax free. Should that interpretation prevail, foreign developers will be subject to a very heavy tax burden for projects carried out in Taiwan. That burden may discourage their participation in Taiwan's renewable energy projects.

In addition, when determining the taxable income of an EPC project, foreign entities may calculate income based either on actual profits or the deemed-profit method provided for under Article 25 of the Income Tax Act, where 15% of the total contract price is deemed as taxable income. When foreign entities choose the actual-profit method, the level of documentation and evidence required to substantiate the actual profit is often extremely time-consuming and costly, as it may require (as stated in MOF Ruling No. 861924459) a foreign certified public accountant to issue a report covering the offshore costs and expenses associated with the Taiwan-sourced construction revenues. The Committee hopes that the tax authority will relax the documentation requirement to create a friendlier tax environment in Taiwan.

Furthermore, since some activities under the EPC contract will be carried out on the ground, the tax authority may determine that the foreign contractor has a permanent establishment (PE) in Taiwan. In practice, how to determine the existence of a PE and the profits attributable to the PE is often debatable. From a tax treaty perspective, according

to Article 7 of Taiwan's existing tax treaties, the profits of a foreign enterprise shall be taxable only in the country where it is a tax resident, unless profits are attributable to a PE situated in Taiwan. The determination of profits attributable to the PE is based on similar profits that would be attributable to a "separate and independent enterprise," with direct application of OECD transfer pricing guidelines, taking into consideration functions performed, assets used, and risks assumed.

Therefore, even if the foreign enterprise is deemed to have a PE in Taiwan by virtue of Article 5 of applicable tax treaties – for example, by carrying out a construction or installation project lasting more than a specified period – the profits associated with the supply of offshore materials and/or equipment which are designed, engineered, manufactured, and procured offshore by the foreign enterprise should not be deemed attributable to the Taiwan PE. Nevertheless, the local tax office tends to tax the entire construction profit, including both the onshore service and offshore supplies components, which is not in line with international tax practice and may result in double taxation. Though the mutual agreement procedure (MAP) provided by existing tax treaties may be initiated by the taxpayer to resolve the double taxation issue, the MAP process is often extremely time-consuming.

In view of the above, on the precondition that such attribution of profit is consistent with transfer pricing principles, we urge the MOF to revisit the abovementioned rulings and relevant tax laws and to consider excluding profits attributable to the supply of offshore materials and/or equipment in its assessment of income tax liability and also tax-treaty applications.

Suggestion 2: Include "flash title" transactions within the scope of tax exemption under the tax incentives for Free Trade Zones.

An amendment to the Act for the Establishment and Management of Free Trade Zones was passed on January 16, 2019. The amendment was intended to offer tax incentives for qualified activities in a Free Trade Zone (FTZ) such as import, storage, and delivery. It is not clear, however, whether the amendment includes "flash title" transactions within the scope of the tax exemption.

"Flash title" transactions are commonly seen in practice. For example, a foreign company may take title from another foreign company of goods that were imported from overseas and then stored in the FTZ. The goods will be subsequently delivered outside the FTZ for further processing. In this case, the foreign company with title to the goods is only involved in the storage and delivery aspects and does not carry out any value-added activities in the FTZ.

It is uncertain whether the income the foreign company earned in the foregoing scenario can be eligible for the preferential tax regime under Article 29 of the Act and its relevant regulations. Although the goods were originally from overseas, they may be viewed as having been procured/sourced onshore and not imported directly from overseas. We urge the tax authorities to reexamine this situation to determine whether it qualifies for income tax exemption under the new amendment. If so, it would be aligned with the government's goal to develop Taiwan as a regional logistics hub.

If the tax authority is unable to conclude that the above scenario qualifies for income tax exemption in the FTZ, we would urge the authorities to extend the application of MOF Ruling No. 10600664060 – which is related to the taxation of import, storage, processing, and delivery activities in Taiwan – by including "flash title" transactions within its scope. Mitigating the tax impact could help attract more such economic activity to Taiwan.

Suggestion 3: Develop an English user interface for Country by County Reports in the online tax filing system.

Starting from financial year 2017, Taiwan for the first time is implementing three-tier transfer-pricing documentation requirements, including a Master File, Country by Country Reports (CBCR), and a Local File. If the consolidated revenue of the multinational enterprise group (MNE) exceeds a threshold of NT$27 billion, the Taiwan affiliate is obliged to file a CBCR report with the Taiwan tax authority – except when the country where its ultimate parent entity (UPE) or surrogate parent entity (SPE) is filing the CBCR is under an information exchange agreement with the Taiwan tax authority.

As of now, only New Zealand and Japan have concluded such a competent authority agreement (CAA) with Taiwan for the exchange of CBCRs. Hence, CBCRs filed with the U.S. Internal Revenue Service by any American UPE or SPE cannot be exchanged with the Taiwan tax authority. Instead, the Taiwan affiliate has to file the CBCR of its U.S. group to the Taiwan tax authority. Furthermore, at present the accepted CBCR filing methods are hardcopy submission, a compact disc with files in XML format, or online submission via the tax-filing system (only available during the tax-return filing period).

As the CBCR discloses the MNE's confidential global information – such as tax payment status, number of employees, revenue derived from transactions with affiliated or non-affiliated companies, and each entity's functions – most UPEs of MNEs prefer to file the CBCR on their own rather than through their Taiwan affiliates. However, the fact that the user interface of the tax filing system is only in Chinese characters makes it difficult for foreign UPEs to file their CBCR directly.

Furthermore, most MNEs prohibit transmission of these

confidential documents electronically by using CDs or an online filing system due to concerns about the leakage of confidential information. As a result, many chose to submit the CBCR in the form of a hard copy.

We urge the Taiwan tax authority to study this issue carefully to find an optimum solution for MNEs. In addition, as most UPEs are located in non-Chinese-speaking countries, we also suggest that the Taiwan tax authority develop an English user interface for the tax filing system so as to remove the language barrier. In this way, the UPEs would be able to file the CBCR on their own to avoid involuntary information disclosure to entities other than the proper authorities.

TECHNOLOGY

Our Goal

Further strengthening Taiwan's position as a key player in the global supply chain for technology-enabling, value-added products and services, through well-coordinated speedy joint efforts across all ministries for the adoption of new digital economy to achieve industrial advancement and economy transformation.

Technologies are the fruits of innovation and the locomotive of economic advancement. They have helped mankind solve many critical issues related to social wellbeing, enhance the efficiency of everyday lives, and improve organizational effectiveness. The rapid development in such areas as super computing power and artificial intelligence is transforming our daily life, social structures, and government operations, as well as triggering the next industrial revolution.

Taiwan offers a strong technology infrastructure, excellent engineering talent, solid intellectual property protection, and a central location in Asia. To make the best use of these advantages and catch the next wave of technology advancement, it is vitally important for the government to gather resources across all ministries to create an optimum ecosystem. Such an ecosystem should be conducive to the incubation, development, protection, and speedy commercialization of core new technologies. It should help to drive the next wave of Taiwan's economic growth.

The Committee appreciates the government's continuous efforts to seek to improve Taiwan's regulatory environment to cope with changes in society and the economy. We are concerned, however, that the scope and speed of the progress may not be keeping up with the rapid pace of change. We urge the government to create a forward-looking regulatory infrastructure suitable for the digital age.

Suggestion 1: Build a sound data-governance infrastructure to unleash the potential of the data economy.

1.1 Classify government data according to security and confidentiality levels. Today's most exciting technologies and associated innovations are built into and powered by cloud services. Throughout the world, businesses, educational institutions, and NGOs are increasingly adopting cloud services in order to reap advantages in terms of cost savings, efficiency, and innovation. The challenge to governments is how to adopt and promote the use of innovative technologies to remain globally competitive. According to the research firm Gartner, the primary reason for governments' hesitation to adopt cloud services is concern about security. In many countries, a clear classification of government data in terms of security priority has been developed to enable government agencies to embrace the advantage of cloud services.

The newly promulgated "Regulations for Classification of Cybersecurity Responsibility" classifies government agencies into different levels – from level A to level E – with level A having the highest responsibility regarding cybersecurity. We propose that the government take a similar approach toward government data, classifying it by means of levels of security and confidentiality. The basic legal infrastructure thus created for government agencies will enable them to leverage the advantages of the cloud and make the best use of their data in providing innovative government services.

1.2 Limit unnecessary data localization. The increasing development of the internet as a platform has brought significant benefits to international trade and other business activities. In particular, the capacity to transfer data efficiently has reduced transaction costs and enhanced the real-time management of resources. Unnecessary data localization or data nationalism may hinder a country's economic development.

However, Article 21 of the Executive Yuan's draft Digital Communications Act, proposed in 2017, stipulates that "digital service providers, for users located within the territory, shall not irregularly bypass facilities located within the territory to transmit, receive, process or store user-related digital information." Strict interpretation of this article may create a data-localization burden for foreign service-providers. Moreover, the terminology "irregularly bypass" is so vague that it raises concerns regarding its constitutionality.

The Committee supports agreements on digital trade that facilitate the cross-border flow of data and limit data-localization requirements. We urge incorporation in the draft of a more specific definition of "irregularly bypass," so as not to place an undue burden on foreign service-providers who lawfully operate businesses in Taiwan.

Recommendations:

1. ***Classify the data owned and managed by the government.*** We urge the government to classify government data, allowing greater access to cloud service by the public sector.
2. ***Specify a clearer scope for Article 21 in the Digital Communication Act draft.*** We urge the government and individual legislators who support this bill to drop Article 21 or else clearly define the term "irregularly bypass" to prevent undesirable effects of data localization or data nationalism.

Suggestion 2: Include major violations of the Trade Secrets Act in prosecutors' and judges' guidelines for serious criminal cases.

Trade secrets are recognized as extremely valuable assets that are vulnerable to theft, especially in high-tech industries. Frequent incidents of trade secrets that are stolen and taken overseas could throw the future of Taiwan's economic competitiveness into serious question. To address this concern, effective and timely law enforcement is crucial to deter possible trade secrets cases.

The Ministry of Justice Investigation Bureau (MJIB) has listed major violations of Trade Secrets Act (namely Article 13-1 and 13-2) in its "Directions for Determining Serious Economic Criminal Cases." While the Committee appreciates MJIB's efforts to prioritize its investigations of trade secrets poaching, we urge the Prosecuting Authority and Judicial Branch to take the same approach. We join with the Intellectual Property & Licensing Committee in calling for the "Guidelines for Handling Serious Economic Criminal Cases by the Prosecution Authority" and the "Guidelines for Speedy Trial and Decisions in Serious Criminal Cases in Court" to explicitly include major trade-secrets violations.

The Committee firmly believes that the law-enforcement system for trade-secrets cases will be greatly strengthened if harmonized practices to prioritize and incentivize the handling of such cases can be applied across the stages of investigation, prosecution, and trial.

Suggestion 3: Build a comprehensive startup ecosystem to incubate contributors to the next wave of Taiwan's economy growth.

A solid startup community is essential to drive Taiwan's next wave of economic growth. The Committee therefore encourages the government to continue its efforts to build a comprehensive startup ecosystem by deregulating its labor policies, accelerating plans to develop a bilingual nation, and adopting a generally open regulatory approach that avoids being overly protective. Taiwan is competing in this regard with other regional hubs such as Singapore and South Korea. To attract foreign and local startups to Taiwan, the government needs to provide a clear set of incentives to early-stage startups engaged in innovative businesses that will spur the development of the new economy. Here are some examples of how Taiwan can improve its general friendliness toward startups:

a. ***Relax the revenue requirement imposed on startups for hiring foreign professionals.*** Under the current regulations governing the hiring of foreigners, an entity with foreign investment that wishes to hire a foreigner as a manager or executive officer is required (i) to have paid-in capital or operating funds in Taiwan of more than NT$500,000, and (ii) earn sales revenue of more than NT$3 million a year, have an import/export amount of more than US$500,000, or receive commission of more than US$200,000. Even more severe restrictions apply if a company wants to hire a foreigner as a technical specialist, hire more than one foreign citizen, or renew its foreign citizens' work permits when they expire. It would be unrealistic to expect a technology startup to achieve any sales revenue in its first few years, as its primary goal is to invest in R&D, which may not bring any return for some years. Yet it is critical for a technology startup to be able to benefit from foreign professionals' skills and experiences in their respective practice areas.

   Restrictions on fixed-term labor contracts also need to be relaxed. The Labor Standards Act permits an employer and employee to enter into a fixed-term labor contract only under very limited conditions. This policy creates hurdles for a technology startup, especially in its early stage when it needs flexibility to adjust the size of its workforce depending on the progress of its R&D development, which is very difficult to predict.

b. ***Increase access to funding by attracting more VCs to Taiwan.*** While Taiwan has approximately 200 venture capital companies investing in diverse industries, most of them invest in "established" companies rather than early-stage (pre-seed, seed, and Round A) startups. Taiwan's National Development Council has taken an important step by investing US$83 million in four different VC firms to encourage them to invest in local startups. To further spur innovation, we recommend that the scope of such investment targets be broadened to include foreign startups that have solutions applicable for Taiwan. In addition, we urge the Taiwan government to incentivize international VCs to open branches in Taiwan, as well as to encourage local VCs to engage in more early-stage investments through tax incentives and relaxing the currently existing grant restrictions.

c. ***Ease tax pressures.*** Companies often face intense scrutiny from the local tax office if they do not show a minimum profit on their tax returns, but technology startups' business plans frequently aim to reach profitability only after a lengthy period of R&D, product development, and market penetration. The absence of profit during

the first few years may be completely consistent with management's objectives for the company, rather than a sign of tax evasion.

The Committee believes that the above measures would help foster an active ecosystem for innovation and encourage both foreign and local startups and entrepreneurs to establish operations in Taiwan.

Suggestion 4: Adopt policy measures and establish a high-level cross-ministerial working group to prepare for a future driven by new technologies.

Society is about to enter a bold new phase sparked by groundbreaking new technologies. Artificial intelligence (AI), big data, machine learning (ML), virtual and augmented reality (VR and AR), and cloud computing have the potential to solve some of humanity's largest problems, leading to a new era of prosperity.

We have outlined two sets of public policies to help prepare for the transition to that future society. In addition, we encourage the government to establish a high-level cross-ministerial working group to oversee the opportunities and challenges driven by new technologies. The overall aim is to provide Taiwan with a sound policy environment to foster both economic growth and citizens' welfare.

a. ***Preserve trust in the technologies that drive advancements.*** Governments need to adopt appropriate data-safeguard policies to address privacy and security concerns while providing legal certainty for businesses. The following approaches are recommended:
   - Promote data privacy and cybersecurity through voluntary conformance with open global standards. Adopt industry-leading security practices to safeguard data.
   - To the extent that is politically feasible for Taiwan, resolve any conflicts of law or jurisdiction caused by different approaches to cybersecurity and data privacy by means of standardized agreements among governments.
   - Support transparency and data-governance policies that will help people understand how an AI system came to a given conclusion or recommendation. Companies must be able to explain what went into their algorithm's recommendations.

b. ***Support workforce readiness policies.*** To prepare students, education systems, workers, and businesses for the significant transformations that can be expected by 2030, governments can best assist by:
   - Revisiting workforce policies and labor regulations that are fundamental to prepare the workforce for the future of work.
   - Emphasizing STEM disciplines, critical thinking, communication skills, and digital literacy in public education and training programs.
   - Using data analytics, VR, and AR to personalize and enhance learning with immersive content delivery.

Suggestion 5: Collaborate with stakeholders to seek appropriate solutions to disinformation in accordance with the principles of protecting free speech and due process of law.

Disinformation has been a heated issue closely watched by the Taiwan government. Since December 2018, the Executive Yuan has proposed multiple bills to deter people from fabricating and disseminating unlawful false speech by strengthening the criminality of false information and its punishment under existing laws. The Executive Yuan has also considered amending the draft Digital Communications Act to require digital communication platforms or social media to review user reports of disinformation and remove such items without prior consideration by the courts.

We are deeply concerned that the Taiwan government has considered legislative actions without paying sufficient attention to the complexities involved in the phenomenon of disinformation. We refer the authorities to the Manila Principles on Intermediary Liability, a set of guidelines on censorship and take-down laws established by an international consortium of NGOs in 2015 and widely accepted as a global standard. The second principle clearly states that intermediaries must not be required to restrict content unless an order has been issued by an independent and impartial judicial authority that has determined that the material at issue to be unlawful. To be consistent with international principles protecting freedom of speech and access to information, we urge the government and the Legislative Yuan not to place unreasonable obligations on digital platforms that may abridge freedom of speech and contravene the due process of law.

In democratic societies such as Taiwan, a comprehensive program to elevate the public's media literacy is still the most effective means of combating disinformation. Toward that objective, several fact-checking organizations have begun to collaborate with companies in the digital industry. Social media and digital platforms in Taiwan have also been developing relevant policies and self-regulation measures to guard against the dissemination of disinformation and the harm it causes in society.

Recommendations:

1. *Respect fundamental democratic values when tackling the problem of disinformation. Combating disinformation is a crucial but highly sensitive issue.* We urge the Taiwan government to engage in comprehensive consultation with all relevant parties to find solutions that are feasible, effective, and in line with the basic democratic principles of freedom of expression and due process of law.

2. *Elevate the level of media literacy and foster a self-regulation platform. The ultimate solution for combating disinformation is raising the public's media literacy.* We urge the government to promote programs to enhance citizens' ability to distinguish between real and fake information. Encouraging digital platforms to implement self-regulation measures should also be among the government's policy priorities.

TELECOMMUNICATIONS & MEDIA

Our Goal

Nurturing a market environment that is welcoming to new technology and provides broad consumer choice.

The Committee urges the National Communications Commission (NCC) and Ministry of Transportation and Communications to review current regulations affecting the telecommunications and media sector in the interest of facilitating the application of advanced technology and promoting the industry's long-term development. The expectation of high fees for 5G spectrum bidding and usage is having a negative impact on telecom companies' willingness to invest on 5G network infrastructure. The prospective launch of tiered pricing for cable-TV in 2020 is another concern for the industry, as are the requirements for written customer contracts and the provision of free set-top boxes to customers.

As outlined below, we encourage the Taiwan government to make adjustments in several draft regulations, so as not to hinder the long-term development of the industry.

Suggestion 1: Reduce the charges for frequency usage to promote development of the mobile broadband industry.

According to the NCC, telecom company revenue in Taiwan's mobile communications has declined over the past seven years, from NT$217.2 billion in 2011 to NT$178 billion in 2018. That steady decline in revenue and profits has been coming at the same time as regulatory charges have been rising, with the added costs from the advent of 5G service fast approaching. The squeeze deters telecom operators from investing as much in new services as they might otherwise, to the detriment of consumers.

Some 590MHz of spectrum have been released in Taiwan, and the five major telecom companies paid a total of nearly NT$3.4 billion in frequency usage fees annually in 2017 and 2018. When the prospective 5G spectrum is released, the burden will be even heavier. There will be a negative impact on investment in the 5G network infrastructure, and therefore on Taiwan's ICT industry development and the long-term interests of consumers.

The "Frequency Usage Fee" and the "Bidding Fee for Radio Frequency Release" are separate issues. Because of the scarcity of spectrum resources, competitive bidding is conducted at the time of spectrum release to establish user rights, while the frequency usage fee is designed to cover management costs to "improve the effective use of frequency resources." That principle is widely recognized and adopted by regulatory agencies around the world. In the United States, Germany, Finland, Singapore, and other countries, the purpose of collecting the frequency usage fee is "to cover the cost of spectrum management costs." Hence, we suggest that the total amount of the "Frequency Usage Fee" should not exceed the actual frequency management cost.

From this year, the NCC has adjusted the "per-MHz frequency usage fee" and the "band adjustment factor" to reduce the total frequency usage fee. But overall the billing mechanism and standards for frequency usage fees are still based on a system established in the 2G era more than 20 years ago. Since 2001 when Taiwan began rely on competitive bidding for the release of frequency, the "frequency value" has been reflected in the bid bond, but the formula for calculating the frequency usage fee has not been adjusted. We recommend that the government follow the example of the U.S., UK, EU, Japan, South Korea and other countries to offset the management costs with frequency usage fees, as was done with the release of 642MHz in the UK and the release of 688MHz in Germany. We also suggest referencing the frequency management costs charged by the UK and Germany in those cases, adjusting for purchasing power parity.

Considering that the bidding fee in Taiwan is much higher than in most foreign countries, it is unreasonable to charge high frequency-usage fees. Therefore, we urge the government to review the mechanism for charging frequency usage fees as soon as possible to return to the principle that the frequency usage fees should not exceed the actual management cost – lowering the fees gradually year by year until that goal is met. This policy will definitely help the business and technological development of Taiwan's mobile broadband industry.

Suggestion 2: Deregulate cable-TV tariff controls.

When the current rate regulations for cable TV in Taiwan were introduced in 1990, the cable-TV industry was the dominant video service. The rationale for rate regulation was to protect consumer rights because consumers had limited choices regarding the service. However, with the advancement and popularization of digital technology, the market has changed dramatically over the years. Now multiple video services, such as IPTV and OTT, have become powerful competitors to the traditional cable system. At the end of 2018, Taiwan had over 2 million IPTV subscribers, accounting for a roughly 40% share of the cable-TV market.

OTT services have also gained a significant market.

Furthermore, the NCC in recent years has issued new cable licenses and allowed existing operators to operate in different franchises. Since cable-TV operators today face a high degree of internal and external competition, and the sector no longer dominates the video service market, the government should deregulate its strict controls over tariffs.

When effective competition exists among video providers, there is no need for rate-control regulation because the consumer can choose among a variety of services. That is the case in the U.S, UK, Germany, Japan, South Korea, Australia, New Zealand, Vietnam, and Thailand. In addition, deregulation enables cable operators to obtain sufficient capital for investment in emerging digital services.

The strict rate control in Taiwan is not only contrary to world trends, but has led to a situation where tariffs have actually been dropping. Even as the Consumer Price Index inevitably rises year by year, the average cable rate has declined from NT$579 a month in 2001 to the current NT$518. The unreasonably low price cap has seriously hindered the development of the cable-TV and content industries, including satellite operators.

Given that effective competition now exists among video providers, the Committee urges the NCC to eliminate the rate control system for cable-TV tariffs.

Suggestion 3: Drop proposed regulations on basic channel tiering as beyond the NCC's authority.

In March 4 this year, the NCC issued draft "Fee-Charging Standards for Cable Radio and Television System Operators." According to Article 3, cable radio and television system operators shall provide at least two tiers of basic channel groups to be broadcast by HDTV or Ultra HDTV.

The proposed regulation exceeds the authority granted under the Cable Radio and Television Act (usually referred to as the Cable Act). Article 44 of the Act states: "System operators shall report the subscription fees to special municipality or county (city) governments within a month after the first of August every year. The special municipality or county (city) government will examine the report in accordance with the standards of service fees enacted by the central regulatory agency and then make an announcement" regarding the fee to be set for the following year.

The legislative purpose of the provision is to define the role of the municipality or county (city) government in the yearly review process of operators' subscription fees. Nothing in the regulations authorize the central-government authority to formulate a cable-TV tiering scheme or otherwise regulate cable-TV operators' channel combinations. Furthermore, the draft regulations would constitute a mandatory order to system operators to provide tiering service with basic channel groups in HDTV or Ultra HDTV. But since cable systems are private property built and invested in by the operators, the regulation would clearly restrict the operators' rights and obligations without legal authorization. As a result, the draft regulation clearly violates the people's property rights as safeguarded by Article 15 of the Constitution.

In view of the problems mentioned above, the Committee urges the NCC to drop its proposed draft regulation.

Suggestion 4: Remove the requirement that system operators allow subscribers to borrow two digital STBs free of charge.

The draft amendment to the "Fee-Charging Standards for Cable Radio and Television System Operators" not only forces system operators to provide at least two grouping basic channels, but also requires them to lend two digital set-top boxes (STBs) to subscribers for free. This regulation clearly violates Article 15 of the Constitution regarding the protection of private property rights. As mentioned in Suggestion 3, the NCC needs to have clear legal authorization before it can implement the basic channel grouping policy.

Further, forcing system operators to lend two digital STBs to subscribers free of charge is not conducive to the long-term development of the industry. In the process of digitalization, operators' investment in carrying out the government's digitalization policy is estimated to have been as much as NT$55.4 billion – money that has not yet been recovered. Adding in the cost of the two free digital STBs per subscriber increases what is already a heavy financial burden for the operators.

The draft does not even include a provision for compensation if the subscriber, upon suspension or termination of the cable service, discards the borrowed STB or even auctions it online, depriving the operator of the opportunity to reuse or recycle the equipment. Consequently, the operators will be less willing to introduce high-end digital STBs, subscribers will be disappointed in the quality of the service, and development of the industry will suffer.

Instead of compelling operators to lend the digital STBs to subscribers, the subscribers should be required to rent or borrow them according to the principle of fair user charge, including their return in good order upon termination of the contract.

Suggestion 5: Enable system operators to enter into service contracts with subscribers without written signatures.

Currently the Cable Radio and Television Act, the major regulation governing system operators, expressly stipulates that system operators must enter into written service contracts with subscribers. That requirement ignores the advances in communications technology, as well as the Taiwan government's advocacy of environmental protection and its promotion of e-policies such as the use of electronic

and paperless documents. At the same time, the stipulation that the service contracts be made in writing makes local operators less flexible and efficient when competing internationally.

In addition, that stipulation appears to be directly contradicted by provisions of the Electronic Signature Act, which expressly permits system operators to use electronic documents such as TV Mail to replace subscribers' written consent on paper, as well as allowing subscribers to sign service contracts with an electronic signature.

In the era of digitalization, there is no need to require service contracts to be in writing. To resolve this issue, we propose to delete the word "written" in Article 50 of the Cable Radio and Television Act and revise this article to state that "system operators shall sign contracts with their subscribers for visual and audio services." Besides being more environmentally friendly, this approach will be more flexible and convenient for both system operators and subscribers.

TRANSPORTATION & LOGISTICS

Our Goal

Coordinating with Customs and other government agencies in support of policies and practices that expedite the cross-border flow of goods and people.

E-Commerce presents a new engine of growth for Taiwan. The country's online spending accounts for 10% of total retail, worth US$9.7 billion, according to Euromonitor's market research. Taiwan was the fifth-largest e-commerce market in the Asia Pacific region in 2017, after China, Japan, South Korea, and Australia.

Taiwan is also located in the world's fastest-growing e-commerce region, with over 50% of all online shopping for retail goods and services taking place in the Asia-Pacific region. All markets in the region are expected to have double-digit growth annually between 2017 and 2022, presenting tremendous opportunities for Taiwanese companies tap into.

To help Taiwan better capture this new growth opportunity, the Committee encourages the government to consider establishing measures to further simplify trade, facilitate clearance, and simplify taxation for low-value shipments – most of which are e-commerce.

At the same time, we recognize that cross-border e-commerce may bring new challenges to policy makers. A surge in volume of low-value shipments may strain resources for Customs. Many e-commerce importers are individuals and small businesses who are inexperienced and often unfamiliar with the rules of trade, creating various compliance challenges for Customs. Our members would be pleased to work with relevant government agencies, especially Customs, to develop policy solutions that address this new economic reality.

Suggestion: Create a public-private working group to develop policies and procedures for e-commerce.

Since a traditional policy approach may not be suitable to cope with the new challenges created by e-commerce, the Committee proposes to organize a public-private working group on trade facilitation for e-commerce. The working group would include representatives from Customs, international express companies, and other experts. The objective of this working group would be to identify policy solutions to simplify customs procedures, improve border clearance processes, promote efficient tax payment and collection, and facilitate the return of e-commerce purchases.

The group will draw on international best practices and policy frameworks from the World Customs Organization and the World Trade Organization, and leverage insights from local customs experts to customize the solutions for Taiwan. Based on its own study, sharing by international experts and brainstorming among the members, the working group would commit to present a report to border agencies with actionable recommendations in next year's AmCham *White Paper*.

TRAVEL AND TOURISM

Our Goal

Helping Taiwan attract 20 million overseas visitors annually by 2024 by strengthening Taiwan's appeal to independent travelers and the MICE industry.

The Committee would like to express our sincere appreciation to the Taiwan Tourism Bureau for its willingness to engage with our members and to understand our concerns on various issues in Taiwan's travel and tourism industry. The recent launch of the *Michelin Guide to Taiwan* creates a very positive energy within the tourism business related establishments in Taiwan and enhances Taiwan's competitiveness in attracting inbound growth from international markets.

It has long been the Committee's view that if the government wishes Taiwan to become a major tourist destination in Asia, the tourism authority must be elevated to a higher level to expand the resources available for tourism promotion. We have recently learned the Tourism Bureau will be transformed into the Tourism Administration, remaining under the Ministry of Transportation and Communications (MOTC). While welcoming this step, we continue to believe that it would be better to upgrade the Tourism Bureau to a

Cabinet-level agency to empower it to carry out the necessary inter-agency coordination.

The Committee would also like to mention that timely communication between government agencies and representative stakeholders from the business community is crucial to a healthy and forward-looking regulatory environment. Unfortunately, that was not the case when the MOTC in April announced draft amendments to the Act for the Development of Tourism. Government consultations with industry were held without participation by local or multinational Online Travel Agency operators (OTAs). When holding this kind of consultation, it is important to ensure that all relevant segments of the industry are included.

We look forward to continuing discussions with the future Tourism Administration and other relevant government agencies to find ways to improve Taiwan's tourism market, to help support Taiwan's economic growth, and to strengthen the nation's people-to-people connections with the international community.

Suggestion 1: Establish a Board of Tourism within the Executive Yuan to champion Taiwan's tourism development agenda at a higher level and ensure that development of tourism is a high national priority.

Transforming the Tourism Bureau into the Tourism Administration, as called for in the current government reorganization plan recently approved by the Executive Yuan, will provide the organization with higher status and more resources. However, as the Tourism Administration remains under the MOTC, it will still not be fully effective in coordinating the input from many other ministries that is needed for Taiwan's travel and tourism sector to reach its potential. These ministries include the Ministry of Culture, Ministry of Foreign Affairs, Ministry of Education, Council of Agriculture, and numerous other government organizations.

We believe that even after establishment of the Tourism Administration, active involvement by the Executive Yuan (EY) will be needed. High-level policymaking and collective action are required to develop a true strategic vision for Taiwan's tourism for decades to come. The EY's Tourism Development and Promotion Committee (TDPC), formed in 2002, was initially expected to play that role. So far, however, the committee has had difficulty resolving cross-ministry issues, one of its explicit missions.

If the TDPC is unable to realize its potential, an alternative approach would be for the EY to create a new Board of Tourism, convened by the premier and emulating the kind of consultation and coordination found at the Board of Science and Technology. Japan's Council for the Development of a Tourism Vision to Support the Future of Japan, chaired by Prime Minister Abe, offers another worthwhile model for high-level strategizing and coordination. The reasons for such an approach are clear. Tourism development is a multidisciplinary, inter-agency endeavor, encompassing policies related to transportation, culture, diplomacy, information technology, and sustainability, among others. Without concerted effort guided by a strategic priority, many tourism development programs are likely to be sporadic and inconsistent, resulting in limited or short-lived success. The authority, strategic focus, and sense of urgency represented by a Board of Tourism will help sustain momentum for cross-ministry coordination, bringing positive changes to the sector and Taiwan's economy.

Suggestion 2: Support grassroots entrepreneurialism and promote regional revitalization by creating more flexibility and autonomy in the use of local tourism and accommodation resources.

2.1 Learn from the example of Japan, the travel and tourism leader in North Asia. Acknowledging that tourism is an important engine for economic growth, the Abe administration has pledged to mobilize all available resources to make Japan a "tourism-oriented country." As falling population levels and urban-rural disparities pushed a number of towns to the edge of disappearing, the Japanese government stepped up its effort at "regional revitalization," seeking to rekindle economic activities and create new jobs in struggling areas, with tourism as a key component. Aggressive targets for inbound tourism have been announced: 40 million international visitors per year by 2020 (the year of Tokyo Olympics) and 8 trillion yen (almost US$75 billion) in spending by international visitors. The ultimate goal is to reach 60 million visitors and 15 trillion yen in spending by 2030. In 2017, the number of overseas visitors to Japan already increased by 19% from the previous year to more than 28 million.

The Taiwan government has shown readiness to look to the Japanese experience with tourism development for insights. But it has not yet clearly followed the Japanese example in adopting a tourism-led national development strategy.

Experiences rooted in local culture and lifestyle have always held a special appeal for international visitors, and Japan is at the forefront of turning cultural traditions into marketable commodities. In Taiwan, much progress has been made in helping individual localities to market unique cultural assets to attract tourists, but there have also been missed opportunities where under-developed infrastructure, substandard service quality, and lack of innovation have held back progress in the tourism sector. This is precisely where the central government's involvement is needed in pooling resources and coordinating disparate efforts. For example, numerous central government agencies have been involved in

promoting so-called "cultural tourism," each with its own agenda. These include the Tourism Bureau, Ministry of Culture, National Development Council (NDC), Council of Agriculture, and Ministry of Economic Affairs.

The NDC has been working vigorously on Regional Revitalization projects across Taiwan to boost "youth return migration" into rural areas and to revive local industries severely hampered by declining population. The goal is laudable, but regulations forbidding "unlicensed" tourism-themed activities and lodging facilities have limited entrepreneurial possibilities that are essential to Regional Revitalization. Under reasonable legal requirements and proper risk-management mechanism so that safety concerns are not compromised, these operators should be allowed more flexibility in their operations.

The Committee encourages the government to continue exploring economic growth possibilities through cultural tourism and regional revitalization, with reference to applicable models found in Japan and other countries. Serious cross-ministry coordination towards a common objective are sorely needed. We recommend consolidating and prioritizing policies and campaigns to capture the most value for all stakeholders – especially the travelers and local communities the policies are intended to serve and support.

2.2 Consider allowing more old buildings with cultural uniqueness and aesthetic appeal to be used for lodgings. The Committee welcomes the relaxed regulations on setting up "homestays" at historical locations designated by local governments. We recommend extending that policy to permit tourist accommodations in more areas to further diversify the product offerings in Taiwan's tourism market.

Many such buildings are located in areas where a large number of paying lodgers might be attracted only once a year for a local festival or other cultural event, or for seasonal fruit-picking, firefly watching, etc. The owners often have little incentive to put in the time and money necessary to qualify for homestay business registration. Without compromising fire-safety conditions, the regulatory approach could be made more flexible. For example, city and county governments could help provide basic fire-safety equipment (fire extinguishers and carbon monoxide detectors) to facilitate the registration process and enable these buildings to qualify for home-sharing use.

We also urge the authorities to consider revising the "Regulations for the Administration of Hotel Enterprises" to allow some variation in on-site inspection requirements (including fire-safety equipment and facility accessibility) according to the size of the accommodation. Fire-safety conditions in small hotels with fewer than 50 guest rooms (including youth hostels) are different from large establishments and should be regulated accordingly. With the right mix of offerings in accommodations and travel experiences, Taiwan can take international travelers beyond densely-populated urban centers and traditional scenic spots, redistributing tourism income to more people and places.

Suggestion 3: Facilitate the delivery of satisfying end-to-end travel experiences for free independent travelers.

With 11 million international visitors in 2018, Taiwan is poised to establish itself as a prominent player in global tourism. With the right mix of policy measures catering to the preferences of free independent travelers (FITs), Taiwan could attract 20 million overseas visitors annually by 2024, providing substantially more jobs, making an increased contribution to economic growth, and creating valuable opportunities for cultural exchange.

The FIT market is crucial because it's an area of rapid growth worldwide due largely to the proliferation of travel-related online content, platforms, and mobile apps that make it easier for travelers to get around on their own. Taiwan needs to allocate more resources to services targeting the food, transportation, and accommodation needs of FITs, with the aim of making all of Taiwan's 368 townships more easily accessible to them.

A reliable and diversified public transportation system would also help draw a constant inflow of FITs, creating alternative income streams and employment opportunities for rural and smaller municipalities less visited by tour groups. The east-west divide in transportation infrastructure continues to hinder tourism development significantly. For example, capacity on the Hualien-Taitung railway still lags far behind demand in peak seasons. And while the Taiwan Tourist Shuttle is a good initiative for taking passengers to Taiwan's major tourist attractions, there is a need for transportation options to serve international travelers who wish to go from airports or train stations to visit rural or remote scenic spots.

Suggestion 4: Prioritize expansion of the Taiwan market for MICE (Meetings, Incentive, Conferences, and Exhibitions).

4.1 Expand or rebuild large-capacity conference facilities (other than ones available in hotels) as an investment in Taipei City. When the Taipei International Convention Center (TICC) was opened in 1992, it was one of the largest convention centers in the Asia Pacific. Over time, however, many larger and newer conference facilities have been built in such major cities in the region as Singapore, Kuala Lumpur, Sydney, etc. TICC's current facilities and capacity are no longer adequate to meet current demand, let alone satisfy future needs.

The newer Taipei Nangang Exhibition Center offers a large capacity and good facilities for exhibition purposes, but is not very suitable as a conference venue, which is what Taipei currently needs the most to expand its international MICE market.

We suggest that the authorities consider the following several possible ways to fill the gap in large-scale conference facilities:

- Transform Exhibition Hall 1 of the Taipei World Trade Center into a conference facility through a BOT (build-operate-transfer) project.
- Use the site of Exhibition Hall 3 of the Taipei World Trade Center to build a new conference facility.
- Build at least one conference facility on the scale of those in Singapore: (1) Singapore EXPO Convention & Exhibition Centre, (2) Sands Expo & Convention Centre, (3) Sentosa Convention Centre, and (4) Suntec Singapore.

Taipei has many attractive features that would appeal to conference organizers. The only major shortcoming has the lack of suitable conference venues. Providing modern, attractive facilities will enable the city to host many more largescale international conferences, with the associated widespread economic benefits for hotels, restaurants, shops, taxi drivers, and others.

4.2 Actively cultivate contacts with international associations and NGOs in an effort to attract more conferences to Taiwan. International associations exist for virtually every industry and type of social activity, and most of them regularly sponsor global and/or regional meetings and conferences for their members. As a key part of its MICE promotion, Taiwan needs to actively reach out to these organizations, both individually and through the U.S.-based Association Alliance.

We also urge the authorities to encourage more domestic Taiwan NGOS to communicate and cooperate with their international counterparts as part of the effort to build up Taiwan as a MICE destination. The Committee suggests that the government's MEETTAIWAN office could organize familiarity tours, inviting executives of international NGOs or trade associations to visit Taiwan in hope of stimulating their interest in Taiwan as a destination for their future events.

Since many hotel operators and personnel are insufficiently knowledgeable about the MICE business, the Committee also suggests that MEETTAIWAN provide training programs to make them better equipped to promote quality MICE services.

Suggestion 5: Apply international best practices to hotel booking refund policies.

The Committee strongly encourages the Tourism Bureau to adopt international best practice in the treatment of hotel booking refunds. We have raised this issue over the past two years, but unfortunately have not made as much progress as we had hoped, and so are raising it again.

Changing the current policy, which requires hotels to give refunds on canceled bookings – even when part of a special package offering preferential rates but on a non-refundable basis – is important for a number of reasons. The first and most important is that non-refundable rates are beneficial to travelers – both Taiwanese and foreigners. They are also beneficial to hotels, which are major providers of employment, and by bringing Taiwan into conformity with international best practices, they contribute to the Taiwan economy by facilitating inbound tourism.

Under the current unreasonable regulation, many hotels in Taiwan have found it necessary to stop offering special-price promotions for guestrooms, to the disadvantage of both travelers and the hotels.

A. Benefits for travelers. Non-refundable rates are almost always lower than refundable rates for comparable rooms. Hotels are able to offer non-refundable rooms at lower prices because they are willing to offer a discount in return for the certainty of knowing that their inventory is sold. Airlines have been selling tickets on this principle for years, and consumers around the world are quite familiar with the practice and embrace it. Travelers who know their plans in advance buy these cheaper air tickets – just as travelers in other countries buy non-refundable hotel rooms at lower prices when they are sure about their plans.

The savings can be substantial – often 30% or more. These savings allow travelers to spend more money on other aspects of travel (a benefit to local businesses, such as restaurants, bars, entertainment, shops, etc.), or to stay longer. Sometimes the price inducement is the key factor in travelers' decision to take the trip, since they might not be able to afford it at the full price.

For this practice to work, it is essential to clearly inform consumers about the pertinent conditions at the time of the sale – and airlines and hotels around the world over have been doing precisely that for many years.

The Tourism Bureau may feel that individual consumers whose plans change will suffer if non-refundable rates are allowed. This problem can be prevented through proper education and communication with the customer on the part of hotels and travel agencies. Although there will always be some consumers who book non-refundable rates and lose money when their plans change, the losses of these few consumers must be weighed against the gains of many thousands – even millions – of consumers who benefit from lower rates. Protecting the few by overcharging the large majority is not being friendly to consumers. It is, in fact, being very unfair to them.

B. Benefits to hotels

Hotel room-nights, like seats on an airplane flight, are a perishable product. They must be used at the designated time or they lose all value. A hotel that sells a non-refundable room at a deeply discounted price months ahead of a special in-demand time period such as Chinese New Year should not be expected to reverse the sale because the customer has changed their plans at the last minute. At short notice, such rooms cannot be re-sold. Hotels will have difficulty staying in business if they cannot be sure that their product (rooms) will remain sold when they are booked in advance.

In addition, international chains need to have pricing policies that are consistent worldwide to satisfy their international customers and to make it possible to manage their companies in a reasonable and effective way. Creating special rules for their hotels in Taiwan will only damage the hotels' business, discriminate against international travelers, and discourage hotel chains from investing further in Taiwan.

Taiwanese consumers are mature and educated enough to make their own decisions about booking conditions. We suggest that the Taiwanese government revise its regulations, respecting the hotels' own terms and conditions, leaving it to consumers to decide on the best choice before they make their bookings. Once the booking is made, customers should abide by the terms and conditions they accepted.

AmCham Taipei

ONLINE ACCESS

The full 2017, 2018 and 2019 *Taiwan White Papers* are available in the Advocacy section on the AmCham Taipei website (www.amcham.com.tw).

Individual Committee position papers are also posted in each Committee's section of the Chamber's website.

Additional copies of the *Taiwan White Paper* can be ordered by using the form on page WP11.

Discount rates are available on bulk orders; contact AmCham Taipei to inquire.

農化委員會

農藥登錄查詢系統推出之後，所有申請和提報都能在線上查詢，有效改善了行政管理效率。農業委員會動植物防疫檢疫局(BAPHIQ)及其台灣農業藥物毒物試驗所(TACTRI)在查詢系統的建立上功不可沒。

委員會也要感謝衛生福利部(MOHW)自今年一月開始逐步恢復農藥最大殘留容許量(MRL)的設定，並建立「農藥MRL查詢系統」以方便相關資訊的利用。但委員會發現MOHW尚未就MRL復審程序提供確切的時程。

委員會也提醒，必須使本地農藥相關法律和政策與國際標準接軌，同時應鼓勵穩定導入在安全與效率方面都更進步的農藥產品。為本地農藥明確定義殘留容許量也十分重要，如此方能確保合規、促進作物出口並提升台灣農業的價值。

我們提出以下有助於保護環境、糧食安全以及消費者與農業工作者健康的建議。

建議一：說明設定農藥MRL的方法和時程

農藥最大殘留容許量的設定必須依據科學方法。委員會在許多案例中發現到台灣食品藥物管理署(TFDA)所設定的限值與用於農藥在作物上施用所接收的方法並不一致。我們促請TFDA釐清其所用以計算的方法和理論基礎，例如依據可接受每日攝取量(ADI)數值與標準公式之間誤差所產生的計算公式。

建議二：參照國際最佳實務建立產品規格確認

A. 在國際上，農藥品質測試中所包含的懸浮率測試是按照由國際農藥分析合作委員會所制定的規格。但台灣所用的懸浮率測試方法是依據2000年公佈的CIPAC MT15標準，現行的國際標準是CIPAC MT184，因此有資格不符的問題。委員會強烈建議台灣參照最新標準CIPAC MT181.4更新現有方法。

B. 雖然目前的分散安定性測試方法是參照CIPAC MT180，但5公克的樣本量並不符合國際實務。委員會建議依據CIPAC MT180加上登錄的用量來調整採樣量。

建議三：修正農藥管理法中的「農藥標示替代規則」

該法第14條稱：「農藥標示之使用或變更，應先經中央主管機關核准。標示變更後，原標示應於六個月內更換之。」

委員會促請當局在產品製造或分裝時適用此項要求，但不要求召回已在市面販售的產品，因為這不僅會構成資源浪費，也會讓工人在重新包裝作業期間暴露在危險中。

此外，不需召回已在市面出售的產品再用新版標籤重新包裝，因為原先核准標籤上的描述和指示仍能提供正確的農民使用資訊，所以當局應只需要求在標示變更六個月後進入市場的產品包裝上必須使用新標籤。

建議四：加速使具備相同註冊有效成分的進口及本地農藥均獲准用於本地作物

如同委員會在過去幾年的白皮書中所指出，殘留容許量進口申請所要求的文件與本地登錄所需要的文件相同。因此我們建議在產品獲得進口殘留容許量核准的同時，具備相同有效成分的本地產品也應獲得用於本地作物的核准。可考慮將效力研究視為選擇性的條件。建立這樣的機制可確保台灣農民與他國農民享有相同的機會。

建議五：盡快實施新的十年有效成分測試資料保護期

委員會要感謝BAPHIQ於2018年5月23日將農藥管理法中的有效成分資料保護期從8年延長到10年。但行政院尚未決定此項修定的生效時程。委員會建議立法院考慮除去修正法律中書面明定要等到台灣參與跨太平洋夥伴全面進步協定 (CPTPP)之後才開始實施延長保護期的要求。保護期的延長可吸引外來投資以及低風險高效率的新產品註冊，有益於本地農業。能否進入多邊協議並非台灣所能掌控之事，這些益處實不應以此為附帶條件。

資產管理委員會

本委員會誠摯感謝金融監督管理委員會(「金管會」)於2018年為資產管理產業發展所做的努力，尤以金管會對於通路報酬計算方式所作的革新，以及其對於資產管理業銷售生態的遠見最為值得讚許。本項變革實為資產管理業之一大突破，將有助於降低基金頻繁申贖現象，以及為所有產業參與者及投資人建構更健全的投資環境。

本委員會肯認並感謝金管會近來對於境外基金及投信基金的法規開放，包括境外基金投資中國大陸證券市場之比重自基金淨值的10% 調升至20%，以及對一般債券型投信及境外基金投資高收益債券之比重亦作了相同幅度的調升。本委員會非常樂於與金管會攜手為台灣境內與境外產品打造更靈活且具彈性的法規環境，使台灣境內產品之投資策略與投資組合設計能與國際趨勢接軌，以增進境內產品之競爭力。

金管會對於全民退休投資自選專案的推行充分展現其欲協助勞退基金解決其當前困境的決心。本委員會歡迎金管會具有創新精神的作法，且如同以下建議案一所做說明，期待勞退制度改革的設計能參考其他國家的退休金制度規畫，例如美國的401(k)退休福利計畫與香港及澳洲的退休金制度，如此將可讓更多資產管理業者參與，以提供更多樣化的投資選項予勞工投資人。

本委員將持續與金管會密切合作，以為台灣的資產管理業帶來有益的變革與創新，同時為投資人創造最大效益。

建議一：放寬投信基金投資決策委外時反向交易之限制

依投信基金與全權委託相關法令，於基金經理人與全權委託投資經理人相互兼任，或基金經理人管理一檔以上基金之情形，乃至經理公司之不同帳戶間，均設有對投資標的反向交易（亦即不同投資組合就同一證券為相反之買進或賣出）之限制。除非符合特定要求，或經權責主管事先核准，否則相關帳戶間對於同一投資標的不得進行反向交易。

但此一限制在投信基金海外投資業務委外予受託機構辦理時，卻明顯有窒礙難行之處。按受託機構通常與基金經理公司所在時區不同，故如有反向交易之必要，受託機構須於次一營業日取得經理公司權責主管之核准後，始得辦理相關投資。此一控管反向交易之流程將大幅降低投資決策與交易執行之即時性，進而影響基金投資績效、損及投資人權益，與當初將投信基金海外投資業務委外所欲達成的目的有所牴觸。

再者，投信基金海外投資業務複委任受託機構辦理時，實際進行投資決定者已非該基金之經理公司或經理人，應無反向交易涉及利益衝突之虞。

本委員會茲建請金管會放寬已將海外投資業務複委任之投信基金進行反向交易之相關限制，以減少跨機構、跨時區之交易控管成本，使位於海外之受託機構得有效運用基金資產進行操作，以即時掌握投資機會，增進投資績效，並追求投資人最大利益。

建議二：退休金市場改革

對於台灣退休金產業，本公司很高興看到私校退撫的持續發展並站穩腳步，提供包括人生週期產品等更多、更完善的產品與制度設計。自2013年開始，私校教師以自選方式，準備自己的退休金的制度，已經進入第6年，可以給未來公務人員退休制度與勞工退休金改革，產生社會典範作用。同時我們也認為，由基富

通執行之「全民退休投資專案」的開始，也是一個重要里程碑，讓民眾以定期定額、不間斷紀律投資的方式，在專案的2年期間連續每個月不間斷的投資，以親身參與的方式對長期投資有進一步的了解，對於未來一般民眾理財或是退休金準備的推廣皆有正面助益。

軍公教年金改革後，一般民眾對於勞工退休金的改革有更多的討論。對於勞退新制，除在目前政府保證制度之下，增加自選機制，一直是大家所期盼並與國際接軌的發展方向，因為可以提供勞工更多的選擇，也有助於降低未來政府潛在的財政負擔，更可以提供更多的退休金準備的教育機會。在包括金管會等各證券相關機構共同努力下，「全民退休投資專案」實驗專區將在今年下半年開始兩年的實驗計畫。

我們建議：

(1) 勞工退休金改革部分，不應該因為等待此計畫結果而停頓，而更應該同步持續研擬並進行修法；

(2) 「全民退休投資專案」目前對於目標日期與目標風險產品的分類，是個正確方向，但是對於投資標的（基金池）、投資方式（以組合基金方式投資）等限制過多，未來有可能造成產品同質性過高，降低勞工參與意願，失去自選的重要精神也減少產品創新之動機，建議未來主管機關，制定相關標準與條件，對於投資細節以原則性的方式低度規管，可以有效增加產品的多樣性，提高勞工自選意願；

(3) 建立一個可以使更多金融機構參與的開放平台：國內相關的產業對於建構退休產品的經驗有限，因此更多國際企業的投入對於將會有助於促進這個市場的成熟。若要限制可參與公司的數目，這將會使得民眾的選擇變的很有限。各種不同型態的資產管理公司在一個開放的市場中互相競爭，是一個對投資人比較健康及有利的市場機制。法規制定的重點應放在選取適合的退休產品上，而非可參與之資產管理公司之數目。

修法準備時，應該開始思考如何擴大各類金融與教育機構參與退休金與理財教育，幫助勞工有足夠資訊與能力，面對未來的退休金，有辦法做足準備。

銀行業委員會

過去兩年台灣金融市場因受到許多始料未及的「黑天鵝」事件，如英國脫歐進展以及中美貿議談判等因素，引發大幅度波動。此外，當前歐亞各國的經濟發展也顯露出疲態。全球經濟前景的不穩定對台灣金融機構的經營造成影響。政府針對台灣金融業自由化所做的努力，已協助業者減輕全球經濟不確定所帶來的衝擊。舉例來說，綠色金融的發展已為產業帶來新的商機。此項措施，將有助外國銀行引進離岸風電專業融資經驗，促進外國銀行與本國銀行共同合作，以提供綠能產業之專案融資需求。本委員會期待，台灣政府持續推動台灣金融環境之自由化，吸引更多外國金融機構參與本地市場，並可在與其他區域金融中心的競爭中，取得更多的商機。

本委員會欣見，政府法規鬆綁，銀行業環境不斷改善。金管會現行推動的政策如推廣數位金融科技、發展綠色金融與擴大資本市場規模等措施，將有效改善本地銀行業環境與強化競爭力。身為台灣金融業界盡責的成員，本委員會持續致力於銀行業永續發展，協助打造台灣成為亞洲重要的金融市場。

感謝政府關注去年所提的建議，一些議題已取得具體進展。今年度所提出的五項議題，本委員會相信與金管會當前的政策方向一致，可望於今年獲得解決。展望金管會就擴展金融市場及增加就業機會之目標，本委員會認為主管機關當考量進一步鬆綁放寬提供予各類型投資人之產品範疇，以期能將商機留在台灣，並可藉此提升台灣本地金融產業與鄰近金融市場（如香港、新加坡）的競爭力。本委員會期待政府持續推動台灣金融環境之自由化，以吸引更多外國金融機構參與本地市場，並可在與其他區域金融中心的競爭中，取得更多的商機。

建議一: 同步鬆綁代理買賣外國債券業務可承作之商品範圍

就現行法規對於代理買賣外國債券範圍之限制，致台灣專業機構投資人無法透過國內金融機構取得一站式取得完整之外國債券買賣服務，而須將部分交易透過境外金融機構進行。上述限制對於投資人之資產管理造成不便，也對代理買賣債券業務發展產生阻礙。

目前代理買賣外國債券業務得提供外國債券之服務，惟大陸地區證券市場之債券、香港或澳門地區證券市場中資企業持有股權達30% 以上之公司所發行之債券及恒生香港中資企業指數成分股公司所發行之債券，仍被排除於代理買賣外國債券範圍。因產品範圍限縮，專業機構投資人僅能轉向其他國際金融市場(如香港或新加坡)之金融業者取得服務，此將有悖金管會金融進口替代政策之推動。相較於專業投資人(含個人)於證券商買賣中國大陸地區證券市場有價證券(含債券)，已於102年放寬相關規範，其中並未設有如代理買賣外國債券業務，對大陸交易市場與大陸發行人國別之特別限制。

除為滿足投資人的需求，並為使金融市場各業別得有均衡且一致性之發展，本委員會建請主管機關開放代理買賣債券業務下可承作之商品範圍，以嘉惠台灣金融市場，並符合國際發展趨勢。

建議二: 放寬銀行/證券商與海外關係企業自行買賣有價證券業務之限制

證券商自行買賣外國有價證券及銀行兼營自行買賣外國有價證券之證券業務，受證券商管理規則第31條之3之限制，即不得與海外關係企業進行買賣或交易外國有價證券。參照立法意旨，主要係為避免證券商與海外關係企業進行買賣或交易發生損益操縱之行為，惟從事有價證券投資或買賣本屬證券商及銀行之核心業務，上述證券商管理規則第31條之3之限制，亦阻礙銀行或證券商與其境外關係企業進行條件未優於其他交易對手條件之常規交易，實有討論解決方案之必要性。

由於銀行業及證券商為高度管制之產業且受金融監督管理委員會（以下稱「金管會」）嚴格監理，就關係人交易亦訂有嚴格管理規範及內控要求，實無必要完全禁止其與海外關係企業進行符合市場常規之交易。茲此，建議修正證券商管理規則第31條之3規定，放寬銀行及證券商不得與海外關係企業自行買賣有價證券之限制。

建議三: 綠色融資– 建議放寬目前銀行法下相關函令所認可之出口信貸機構(Export Credit Agency)之定義

依照現行銀行法第三十三條之三授權規定事項辦法第二條之解釋令（106年9月1日發布之金管銀法字第10600188770號），目前銀行辦理經外國中央政府所設立信用保證機構保證之授信業務，於符合下列條件下，對同一法人經該信用保證機構保證之額度，始得不計入銀行法第三十三條之三授權規定事項辦法第二條第二款之無擔保授信總餘額。

實務上已有某些授信案件是由民營ECA提供融資保證，該等民營ECA雖非經外國中央政府所設立之信用保證機構，但其係受外國政府所委託且其所提供之保證契約最終理賠責任將由該國政府所概括承受，例如荷蘭Atradius及德國Euler Hermes。

為更進一步發展台灣之綠色融資市場並鼓勵本國銀行一同參與綠色能源專案融資，本委員會建議金管會鬆綁出口信貸機構之

定義為「承保人為外國中央政府」或「契約最終理賠責任將由該國政府所概括承受」不論其是否為經外國中央政府所設立信用保證機構保證。

建議四: 法令對於客戶資格條件分類定義之一致性

此議題為本委員會首次提出。《銀行辦理衍生性金融商品業務內部作業制度及程序管理辦法》於民國107年2月1日修正時，將全國農業金庫及辦理儲金匯兌之郵政機構納入專業機構投資人定義範圍，而《銀行提供境外衍生性金融商品資訊及諮詢服務應注意事項》則已於民國105年6月21日修正時將銀行提供該服務之服務對象定義為《銀行辦理衍生性金融商品業務內部作業制度及程序管理辦法》所稱之專業機構投資人，亦即此二機構於與銀行進行衍生性金融商品交易及透過銀行提供之資訊及諮詢服務投資境外結構型商品時均被定義為專業機構投資人。惟《境外結構型商品管理規則》定義之專業機構投資人並未包含此二機構，而《證券商經營代理買賣外國債券業務相關規範函》及《外國銀行在台分行發行新台幣金融債券辦法》則將銷售對象分別限定為《境外結構型商品管理規則》所稱之專業機構投資人及專業投資人。

前述之定義不一致造成銀行之客戶適合度分類作業紊亂、全國農業金庫及辦理儲金匯兌之郵政機構無法透過經營代理買賣外國債券業務之國內證券商買入外國債券、並於該二機構擬投資外國銀行在台分行發行之新台幣金融債券時因其必須向發行銀行提出書面申請成為高淨值法人或專業投資人而將其投資程序複雜化。

茲建議將全國農業金庫及辦理儲金匯兌之郵政機構納入《境外結構型商品管理規則》定義之專業機構投資人範圍，以使此二機構於不同法令中定義之客戶資格條件分類一致。

建議五: 數位化

5.1 建議訂定企業數位化金融服務相關規範，提升企業金融數位化競爭力

現有企業申辦金融相關業務，數位化程度顯著低於消費金融近年之數位發展。為持續推動打造數位化金融環境，建議相關單位研擬企金數位金融相關規範，例如企業線上開戶、企業線上申請融資或提交融資徵審文件等數位化相關流程規範，以利銀行發展企業數位業務時可依循辦理。

5.2 建議建立政府開放資料庫，介接金融服務，提高客戶與金融產業往來便利性

為推動金融科技應用及打造數位化金融環境，減少人為處理作業風險，並增進銀行與客戶往來效率，建議貴會促成政府開放資料庫，在客戶授權前提下，開放銀行等第三方金融機構以電子化方式傳輸存取，作為自然人及法人與銀行往來時作業必要文件資料之認證，提供例如法人之公司章程、變更事項登記表、董事會議紀錄、財報、稅簽、印鑑卡等，自然人之國稅局報稅資料、個人基本資料、收入資料、家庭狀況、連絡資料、教育及職業資料等。

以新加坡MyInfo資料庫為例，該平台儲存330萬筆客戶資訊，包括個人身份證基本資料、職業收入、家庭婚姻資料等。用戶有資料使用權並決定是否授權第三方使用資料。經過授權，可依MyInfo認證機制進行身份驗證，並將資料即時傳輸。MyInfo資料與銀行系統串連，有效減少客戶填寫表單與後台人員作業的時間，也降低紙本資料所延伸的相關作業風險，進一步加速銀行審查流程，讓客戶能在短時間內完成相關金融服務的效率並提供良好的金融服務體驗。新加坡的CorpPass概念亦與MyInfo相同，註冊之企業將可有效利用此資料庫平台進行認證與第三方企業資料存取，增進作業效率。

資本市場委員會

本委員會對國家發展委員會（NDC）積極地協調監管機構，以解決2018年台灣白皮書所提之建議表示感謝。我們特別感謝監管機構回應業界的擔憂，解除了對境外分析師接觸本地投資人的責任要求並取消週六交易。這些積極的回應向業界傳達了令人鼓舞的信息-監管機構理解到藉由符合國際標準，來提高台灣資本市場的國際競爭力的重要性。

本著同樣的精神，我們提出了旨在促進台灣資本市場和金融業發展的建議。本委員會期待與台灣當局合作，以助台灣的資本市場規則與國際慣例相符。

建議一：維持外國機構投資者(下稱「外資」)投資國內證券市場之競爭力

1.1 簡化外資月報表格式，取消盈虧計算以避免不必要的步驟，並促即時申報月報表

依據「華僑及外國人投資證券管理辦法」（下稱「管理辦法」)第22條規定，境外華僑及外國人資金運用與庫存資料，應由保管機構設帳，逐日詳予登載，並向中央銀行通報前一日資金匯入出情形；於每月終了十日內，保管機構應編製上一月份證券買賣明細、資金匯入出情形及庫存資料，向中央銀行申報，同時將資料提供予台灣證券交易所登錄。然而，目前的月報表格式中，部分申報項目是第22條規定以外之項目，以致保管銀行作業成本增加；且特別在每月十日以前有國定假日的月份，更可能因延遲申報月報表而被處罰。本委員會建議簡化外資月報表，以有效率及優化的作業流程，鼓勵保管銀行專注核心業務並促進外資投資台灣。

1.2 指定臺灣集保結算所之法人對帳系統，作為證券商及保管銀行須採用之交易比對及確認平台

依管理辦法第17條規定，保管機構應辦理有關證券投資之交易確認。近日外資買賣上市證券金額約占整體上市證券交易金額百分之三十，每日皆有大量股票及款項於交易確認後交割。為加強市場交割效率及保護交易資料，臺灣集保結算所(下稱「集保」)已開發法人對帳系統(VMU)以促進證券商及保管機構(參加人)間進行外資證券交易比對及確認。大部分本地投信基金每日交易已經由集保參加人於法人對帳系統比對及確認。然而目前並無強制要求使用該系統，且針對外資證券交易，僅有少數集保參加人採用該系統於封閉式安全環境傳輸資料對帳。因市場尚未達成共識，大多數的參加人仍繼續沿用傳統加密電郵進行證券交易資料傳輸；該傳統方式較無效率且易產生資訊安全疑慮，如電郵透過網際網路寄送時可能會產生駭客攔截等資安問題。基於外資交易權重日益提高，以電郵進行證券交易資料傳輸已成為證券市場潛在的巨大風險。

綜上，為如其他主要亞洲市場建立安全的證券市場及有效率之交割流程，本委員會敦請主管機關頒發函令，指定集保之法人對帳系統為證券商及保管機構須採用之標準交割對帳平台，以進行外資交易之比對及確認。

1.3 允許外資指定其他保管銀行保管作為抵押品之股票

鑑於非現金抵押交易日益成長，這一改變將有利於全球金融市場參與者，且藉由吸引更多外資投資資金而最終使台灣市場從中受益。因此，我們建議放寬管理辦法第17條規定，允許外資從現有指定處理正常託管事宜的保管銀行或證券公司外，得另外指定其他保管銀行或證券公司分別保管作為抵押品的股票。

1.4 允許外國專業機構投資人投資指數投資證券(ETN)

本委員會感謝臺灣證券交易所近年來積極在台灣市場推出新型金融投資商品，使國內的投資商品更為多元，讓投資人

有更多金融工具應用於資產配置及規劃全方位的投資策略。預計於民國108年第二季開始掛牌的指數投資證券(Exchange Traded Note, ETN)為今年度的亮點，指數投資證券主要克服了指數追蹤誤差的問題且追蹤的標的指數可更為廣泛，讓投資人能夠透過指數投資證券追蹤特定交易目標，獲得觸及新市場及交易策略的途徑。依據管理辦法第四條規定，新型有價證券須經金融監督管理委員會核定，方能適用於境外華僑及外國人投資國內證券之投資範圍，因金融監督管理委員會尚未發布核定函令，境外華僑及外國人目前未能投資指數投資證券。本委員會建議金管會允許境外華僑及外國人亦能參與投資指數投資證券，本委員會相信擴大投資人之參與將助於增加該標的之流動性並能夠進一步提昇國內股市之動能。

建議二：提供專業投資人市場短評

我們建議允許台灣登記之業務人員，依其台灣資本市場專業知識得依據市場情勢及公開訊息提供專業投資人市場短評。

依「臺灣證券交易所股份有限公司證券商推介客戶買賣有價證券管理辦法」第3條規定，證券商向客戶推介買賣有價證券需依據研究報告辦理推介。然而，依據國際慣例，除了研究部門發佈之研究報告之外，專業投資人實務上亦期待獲得由營業人員依市場最新資訊所提供之短期交易策略及市場評論。

在台營業人員可貴的價值之一係對台灣當地資本市場洞察機先，作為國際機構投資人與台灣資本市場之間的橋樑。如果營業人員無法傳達最新市場信息予專業投資人之客戶，恐導致降低台灣資本市場對布局全球之國際投資人的吸引力。

有鑒於此，我們建議允許營業人員提供短期交易策略及市場評論予專業投資人，以助專業投資人之獨立決策並了解市場評論與研究報告觀點之差異。

建議三： 開放表彰台灣上市(櫃)公司股票之非參與型美國存託憑證以提高其知名度與流動性

自2014年起，金融監督管理委員會開放台灣上市（櫃）公司參與設立非籌資型存託憑證，即可於美國店頭市場交易（「一級參與型存託憑證」）。參與型美國存託憑證需台灣上市（櫃）公司委任獨家存託銀行，並與之簽訂正式存託契約方可發行。而為進一步鼓勵台灣上市（櫃）公司運用一級參與型美國存託憑證之優勢，建議金融監督管理委員會考慮准許非參與型存託憑證的某些豁免項目。非參與型美國存託憑證為發行公司參與美國證券市場提供一個更加簡便的管道，標的有價證券之發行公司不僅無需在美國證券交易委員會註冊、發行公司與存託銀行無合約義務，且豁免美國薩班斯-奧克斯利法案(Sarbanes-Oxley)之相關規定，而係由存託銀行負責向美國證券交易委員會提交F-6表格，以完成存託憑證在美國證交所之註冊。非參與型存託憑證與一級參與型存託憑證皆得在美國店頭市場進行交易，故其投資族群相同。為提供台灣上市（櫃）公司更寬廣的被投資渠道，俾益股東結構的穩定性與多元化，並可讓股票價格更能正確地反映該公司之公平價值(Stock-Price Valuation)，本委員會建議進一步修正海外證券發行及本地證券交易相關規定，以擴大放寬一級參與型存託憑證並開放台灣上市（櫃）公司股票之非參與型美國存託憑證。本委員會認為此項建議亦符合臺灣證券交易所開放「外國發行人募集與發行有價證券處理準則」第36條促進發行台灣存託憑證之規範意旨。

今日，取得資格的外國機構投資人（FINI）在台灣證券市場扮演重要角色，平均佔每日市場成交量約25%。 然而，未取得FINI資格之外資，因投資身分的限制，目前仍無法投資台灣市場，其中亦包含諸多受特定投資限制，僅得持有或投資美國發行的有價證券之美國投資經理人。開放表彰台灣上市（櫃）公司股票之非參與型美國存託憑證，可提高台灣上市（櫃）公司之國際知名度，並吸引來自未具備外資資格之外國投資人之資金。

台灣上市（櫃）公司之美國存託憑證發行量多年來低於其他亞洲國家，例如：香港、日本和新加坡。然而現行對非參與型美國存託憑證的法令限制，實不利於台灣上市（櫃）公司與資本市場發展。

開放台灣上市（櫃）公司股票之非參與型美國存託憑證（以於次級市場購入並存放於台灣保管銀行之股票交付發行），將能引進更多國外資金以促進台灣股市的動能。證券市場交易量增加、市場流動性提高，將使台灣證券經紀商受益。綜上，本委員會強烈建議主管機關修改相關法規，開放設立非參與型存託憑證。

建議四：建議給予更正作業更大彈性，提高交易確認效率

當綜合聲明中引用的投資者發生異動時，證券商可以根據與投資者當地託管銀行的交易確認/確認交易流程，更新投資者的綜合交易清單。

4.1 建議調整「綜合交易帳戶作業要點」

依據「臺灣證券交易所股份有限公司綜合交易帳戶作業要點」第三條第一項第二款規定，聲明書所轄之委託人發生異動時，應於證券商申報分配成交明細後五個營業日內，將聲明書交付於證券商，或於證券商申報分配成交明細後三個營業日內，以證券商與受任人合意之通知方式（如傳真或電子文件等）將異動名單傳送證券商。

由於授權交易券商使用託管銀行的下單程序受嚴格管控，實務上要求授權交易券商提供修訂文件是無效率且多餘的。當根據交易券商發送的結算指令確認和結算交易時更是如此，這表示券商仍然需要繼續追踪新的綜合賬戶以更新確認狀態。

有關經紀商得通知手續費率之規定為本建議事項提供了立論基礎。現行手續費率依據「臺灣證券交易所股份有限公司營業細則」第九十四條第二款規定，手續費率逾成交金額千分之一點四二五者，應於委託前採取適當方式通知並留存紀錄。然而境外華僑及外國人得於交割前通知，即法規允許券商於交割前若客戶確認交易金額(T+1 Pre-match)，視同已通知客戶，以客戶確認做為通知客戶之憑據。

本委員會建議簡化手續費率通知之通知方式，綜合交易帳戶聲明書所轄之委託人發生異動時，若有保管銀行之客戶於交割前確認交易事實(即T+1 pre-match)，券商可以依據該確認更新受任人所轄之委託人名單，將可簡化受任人與券商之間的程序，減少行政作業。

基於該客戶先前於開戶程序已完成KYC程序，此建議並無損洗錢防制作業的要求，僅為建議簡化不必要之作業流程。

4.2 建議放寬鉅額配對交易後之更正作業

鉅額配對交易為買方與賣方之合意搓合，其中股票、數量、價格、帳號、券源等等交易資訊均已於交易前議定，而由經紀商手動輸入交易系統向證交所/櫃買中心申報買賣。

惟此交易資訊之輸入為100%人工作業，故難免有輸入錯誤之情事發生。相較於一般交易，現行規定對成交後的鉅額交易更正多有限制，導致大多時候，唯一更正錯誤交易資訊之方法為申報錯帳後重新下單。

如前所述，鉅額配對交易為投資人與交易對象雙方議定交易條件，其變更並不會對市場造成影響。故希望主管機關能酌情考慮放寬對鉅額配對交易成交後更改交易資訊之限制：

1. 同一般交易，得更改券源類別
2. 同一般交易，得執行綜合帳戶有關之更正帳號
3. 放寬得更改成交後之交易資訊，如張數、金額等
4. 放寬得刪除輸入錯誤之配對交易

建議五：鬆綁代理買賣外國債券業務可承作之商品範圍

為健全發展台灣資本市場及接軌衍生性金融商品之市場需求，本委員會支持銀行業委員會之建議事項 -鬆綁代理買賣外國債券業務可承作之商品範圍。同時本委員會亦贊同銀行業委員會對此建議事項之論述及觀點，以期擴展台灣金融市場。

化學品製造商委員會

化學品製造商委員會感謝環保署及勞動部傾聽產業界建言，持續地與產業商協會進行雙向交流、溝通，並與各主管機關跨部會合作，共同讓台灣整體化學品管理更為精進，並與國際接軌。

今年初環保署公布之毒性及關注化學物質管理法，其中關注性化學物質管理範疇及徵收化學物質運作費基金，因相關子法辦法尚未公告，希望政府盡早釐清產業界之疑慮。而勞動部修正之危害性化學品標示及通識規則，其商業機密保護申請的條件及審查趨嚴，冀望主管機關考量科學研發豁免及修訂審查標準，有效平衡勞工及下游使用者之職業安全衛生及產業研發競爭力。

議題一　毒性及關注化學物質管理法相關建言

1.1 本次修法新增之關注性化學物質，其濃度、閾值、數量、管理方式及強度等定義尚未公布，祈望環保署在相關子法公告之前能廣納業界實務經驗，多與產業商協會及各利害團體進行多向溝通，以利業者提早因應準備。

1.2 依本法第四十七條，向運作人徵收化學物質運作費成立基金，主要用於化學物質管理及緊急應變用途。然而，化學物質運作費徵收的種類、計算方式、用途等規定尚不明確，尤其是環境事故處理相關應變徵收規定，與現行主要化學品製造業者設置之區域聯防組織、應變人員教育訓練、專責人員制度之關聯與重複性尚待釐清。

且現行空污法、水污法、土污法等多項法令，均已徵收相關防治費用，鑒請環保署詳加評估避免重複徵收。倘若仍需徵收基金，應詳細說明徵收方式及用途，專款專用於毒化災應變及毒化物相關業務。

1.3 依本法第七十一條，運作人應申報運作場所全廠（場）及內部配置圖。然而現行消防署公共危險物品及經濟部工廠危險物品也同樣要求廠場製作化學品存放資料及廠區配置圖於廠區應變中心，其內容格式極為相似。建議各部會協調統整化學品存放相關資料及配置圖之規定，以達確實掌握物質數量位置之應變目的，且能避免業者製備重複性的資料。

議題二　改善危害性化學品標示及通識規則商業機密保護申請條件及審查標準

本次勞動部修正之危害性化學品標示及通識規則，增列化學文摘社登記號碼為安全資料表應列內容項目，且新增定有容許暴露標準之化學物質不得申請保留揭示安全資料表之規定，對於整體產業商業機密保護申請及審查的條件趨於嚴格。

冀望主管機關考量產業科學研發樣品具有少量、多樣且研發週期時效短的特性，研發樣品於安全資料表確實載明危害分類及危害告知等前提下，參考歐盟ECHA*豁免科學研發樣品得彈性使用類名。建議可採聲明書方式，或可管制其使用量及有效期間，以達危害暴露管控及加速產業科學研發之良意，確保台灣於亞太及全球半導體產業的地位及獨特性。

至於證明危害性化學品成分不具第十八條之一特定的健康危害分類級別，業者需提供高達九項毒理資料以佐證物質不具特定危害，並撰寫毒理報告摘要，申請條件繁複。建議修訂審查標準，參考歐盟ECHA**得選擇無GHS分類並陳述原因的方式，以避免過多耗時費工的動物性測試。

參考來源

* *ECHA-16-B-19-EN Dissemination and Confidentiality under REACH Regulation,*
Section 3.6.6 Requests on IUPAC name according to Art. 119(2)(g) (step 1.2)

** *ECHA-16-B-12-EN How to prepare a request for use of an alternative chemical name for a substance in a mixture, Section 6.3 Section 2 Classification & Labelling and PBT assessment*

化粧品委員會

2018年5月三讀通過但尚未施行的化粧品衛生安全管理法，授權中央衛生主管機關至少須訂定26部法規命令以配合新化粧品法制的實行。本商會化粧品委員會肯定主管機關在法規透明度上的努力，例如在預告前主動舉辦與產業界的溝通會議，以及各項命令草案亦踐行預告60天的行政程序，收集各界的意見或修正建議，有利接軌國際規範，並促進與利害關係人與公眾的開放溝通。

然而，本委員會同意零售委員會所主張的：當法規草案預告後，幾乎不見社會各界意見，或者此等意見是否被採納的說明。因此，陳述意見程序的作用明顯不彰。因此本委員會有數項建議如下。

建議一：有關在PIF（產品資訊檔案）中的產品資料審查標準應與國際慣例協和化，以避免技術性貿易壁壘

新的化粧品衛生安全管理法其中一項重要的改革，便是要求將產品安全檔案作為PIF（產品資訊檔案）的一部分。產品安全性評估涉及多項的要素，因此相當複雜，包括原料、使用的程度與頻率、配方組成、產品類型、消費者年齡、皮膚類型、應用範圍、頻率和暴露面積等。由於這種複雜性，加上化粧品種類繁多，因此需要高度的專業知識和技能才能判斷產品是否安全。沒有任何單一的簡單規則可以適用於所有情況。

本委員會敦促衛生主管機關，採用國際最佳的慣例來建立專業的安全資料審查能力，以利執行上市後監控。為了台灣的國際貿易關係和聲譽，避免可能產生對台灣蓄意製造技術性貿易壁壘的指責與誤解至關重要。本委員會很樂意透過會員公司的資源提供協助，藉由監管透明化和協和化來共同建立專業精神。

建議二：避免台灣制訂特有之化妝品禁、限用成分規範，造成技術性貿易障礙

2.1 在最近預告之「化粧品成分使用限制表」（「限用成分表」）草案中，食藥署限制某些成分之用途，但開放在PIF（產品資訊檔案）中有其所宣稱用途佐證之其他成分，。此為不公平且為台灣獨有之法規。例如歐盟化粧品指令附錄III，僅規範限用成分的用量、產品類別、身體部位做規範，但並未限制用途（此為主要管轄當局一慣的管理方式）。衛生主管機關對限制此類成分/物質之重點，應僅是安全性考量。因限用成分表之範圍對業者並不明確，因此，當業者在評估其配方是否符合相關規定時，不免產生混淆。據此，本委員會呼籲食藥署將限用成分表預告草案中，載於「限制規定」欄中之用途規定全部予以刪除，且亦應確保其就成分所加諸之任何限制規定應與國際法規趨勢調和一致。

2.2 在食藥署預告之「化粧品防腐劑成分名稱及使用限制表」草案允許採用某成分，若其為歐、美、日三國地區政府所准用。但若前述三國地區政府管理有差異時，則採規定最嚴者，即最低用量。此方式將會造成台灣獨有之法規並導致貿易障礙。據此，本委員會建請食藥署採用台灣任一主要貿易

夥伴（例如：美國、歐盟、日本）准用於化粧品之成分或物質，並在歐、美、日三國規範若有所不同時，應採用最高用量或彈性標準。

2.3 台灣環境保護署已向WTO通報禁止非天然聚合物（如合成蠟）的草案，計畫將某些特定物質納入台灣2017年已實施公告之《限制含塑膠微粒之化粧品與個人清潔用品製造、輸入及販賣》，以限制含合成蠟微粒之化粧品與個人清潔用品的製造、輸入及販賣。該禁令將與其他國家（如2015年的美國無微粒水域法）的做法不一致。針對此一台灣特有的法規制定，我們敦請台灣環保署延遲擴大禁用範圍之決定，直到能更全面地與產業和科學專家就這些合成蠟或聚合物的特殊性質和其適當的檢測方法進行交流，以評估對產業和消費者的影響。

建議三：與產業合作一起完成進口化粧品之國外安全資料簽署人員之資格認定

在新的化粧品法規架構下，要求每一化粧品必須有含經安全資料簽署人員（「SA」）簽署產品安全性資料之產品資訊檔案。根據最近預告之「化粧品產品資訊檔案管理辦法」草案，SA之資格除須具有大學一定系所之學歷外，並要求SA必須接受規定時數的訓練課程，且每年應接受持續教育。

這些規定實為台灣獨有之法規。歐盟化粧品指令並無要求SA須接受額外之訓練課程或於一定時間內須再受訓練之規定。雖然草案中有增訂互惠對等條款，免除國外SA前述要求，但目前與台灣簽有SA合作協議的三個國家，並非我們主要貿易夥伴，因此，該例外規定並無法解決多數進口化粧品業者所面臨之國外SA資格認定問題。若食藥署認為訓練評估課程有其必要，本委員會呼籲食藥署，應同時以中文及國際通用語言開設實體及線上課程，以避免產生貿易障礙。本委員會非常願意與食藥署合力一起與講授大學、組織、平台及/或講師合作，實施相關教育訓練課程。

建議四: 建請主管機關在制定化粧品回收管理相關法規時，能將風險評估列入考慮範圍，以在消費者保護及法規管理間取得平衡

化粧品回收管理辦法是台灣化粧品衛生管理法中新的子法。它將化粧品回收分為兩個級別。第一級係化粧品中含有禁用成分或產品有安全和衛生的疑慮。回收時程訂定一個月，必要時得縮短為14天。第二級係化粧品未完成上市前登錄或未建立PIF，或未遵守產品宣稱管理或標籤錯誤，回收時程規定是兩個月。

與藥物相比，化粧品對消費者的安全風險要小得多。但是，目前的化粧品回收管理辦法草案和其規定回收的時程並非基於客觀的風險評估 ——實際上比藥品回收管理辦法更嚴苛。化粧品在國內銷售的通路範圍比藥品更廣泛，但規定化粧品回收的時程卻較短，使這項規定變得不切實際，化粧品業者在實際執行上也無法落實。

我們期盼食藥署參考其藥物回收管理辦法，該辦法係根據風險對藥品進行三個級別的分類。 對於有重大危害或影響人類健康疑慮的產品，第一級規定一個月的回收期。 對於有瑕疵或品質問題的產品，第二級規定兩個月的回收期。 對於沒有產品安全或品質問題僅標籤仿單更改的情況，第三級則允許六個月的回收期。換句話說，儘管藥品產銷通路比化粧品更有限制，但回收時間限制並不如化粧品嚴峻。

新的化粧品回收管理辦法應與國際間化粧品回收的慣例保持一致化，也應參考台灣藥物回收管理辦法。基於風險評估分類，為台灣化粧品業者提供合理且可執行的分類與時程。

建議五：在未影響衛生或產生安全疑慮下，進口化妝品無須適用化粧品製造工廠設廠標準

依化粧品衛生安全管理法第8條之立法理由所示，化粧品衛生安全管理法建立製造工廠強制適用GMP準則的目的在於：「確保產品一致性生產及管理，以符合其預定用途，以及如同上市許可或產品規格所要求之品質標準」。

化粧品衛生安全管理法施行細則第4條第1項將「化粧品製造場所」界定為：執行化粧品製造與包裝作業之場所；同條第2項為顧及實際，將「已完整包裝及標示之化粧品『再予組裝或加貼標籤』之作業場所」，排除於「製造與包裝作業」的概念之外。

惟對多數進口化粧品而言，只要廠商於正式銷售前完成中文標籤的加貼或二次包裝作業，即已符合化粧品安全衛生管理法的標示要求，此等不開啟原封蓋等不破壞原廠包裝的中文貼標作業，並無引起產品品質變異的疑慮。再者，針對進行加貼中文標籤廠房設施的品質管制要求，相較於進行生產、包裝（裝填）之廠房需繁複的品質管制措施不同。從而，排除此類無礙化粧品品質、不減損其衛生安全水準的作業於GMP準則以外，自有必要。

數位經濟

全球正以飛快的速度形塑出一個嶄新的世界，這個新世界由創業者與擁抱創新的人們使用新的觀念與技術共同打造。這個新世界形成的過程中充滿機會與挑戰，同時也伴隨著大量的未知與衝突。這股持續演化的創新力量不斷地為我們與我們的下一代發展出全新的生活型態、工作型態與經濟型態。

但同時，我們仍然關切政府是否做好充分的準備，應對如此轉變所帶來的挑戰。問題的癥結在於如何獲致創新的利益並避免社會對立所帶來的風險，區辨出勇於擁抱改變的創新與潛在的不安威脅。我們最高的期望是希望台灣政府能以最積極的途徑採取以下行動：

建議：在行政院轄下設置一個高於部會的權責機關，針對台灣轉型為新經濟型態時負責規劃及制定方向

競爭是創新的關鍵驅動力，但隨著創新的（甚或經常是斷裂式的）商業模式出現，世界各地的政府機關正面臨著巨大的決策困難，企圖在現有的競爭和監管框架下，容納這些新的模式。目前固有的遊戲規則可能完全不適用，但修改法律和法規以適應不斷變化的條件亦是一項耗費時日的工作。但這樣的工作，需要廣泛的知識和對市場趨勢的理解，才能一方面鼓勵新技術和新事業的發展，同時對既有的利害關係人維繫其公平。

面對此一挑戰，我們建議台灣應該設立一個直接對行政院長負責的高層級權責機關，例如設置一個直接向院長報告的委員會，以加速台灣朝向數位經濟轉型。此權責機關應由一位「數位長」帶領，具體聚焦於移除或解決阻礙市場競爭的障礙，發展一個開放且具競爭性的市場，進而有效地促使具創造性的國際及國內企業與投資機構投入。

創新會帶來新的工作與經濟模式，同時也會為舊的工作與經濟模式帶來壓力。處理新挑戰的當前課題之一，是這個新的權責機關應該要能避免政府的決策落入單一部會本位主義，打開廣泛的視角以利決策。面對全新局面所帶來的複雜課題，我們需要這個機構與各個部會頻繁地通力合作，才能有效地擁抱創新。

對於科技部、經濟部以及交通部等部會來說，創新同時會帶來機會與風險，無論是工作型態與行業結構的變化，抑或是新生活型態衍生的隱私或人權議題。新科技會帶來新的國家安全風險，而新社會同時也需要的新教育型態，因此國防部和教育部亦將扮演關鍵角色。由於隱私和人權問題需要特別關注，法務部等其他政府部門也必然會參與其中。

如果我們以僵化的機制面對動態的課題，以狹義的認知定義新生的型態，以保守的態度處理發展中的技術，台灣將會為自己

種下失敗的因子。我們需要的是新的決策方法，促使相關的各個部會之間，能夠積極地協同合作。

能源委員會

建構一個以全方位考量、符合科學、以及務實的台灣能源政策

產業界對供電的共同期望為：充足供電（產業界的一致要求為：備用容量 >= 15%，備轉容量 >= 10%）、穩定電壓（極為敏感的工業用電戶要求零電壓驟降的供電品質），以及具有競爭力的價格。我們認為政府在制定及執行能源政策時，應以國家總體戰略目標做為全方位考量，以滿足全體國民以及產業界的期望，並確保精心規劃的能源政策能永續發展。政府各相關部會應該會同制定「上位優先目標」，全方位考量包括國防在內的國家安全、國民健康、社會福利、支持經濟成長、以及提高產業競爭力等要素。為此，我們強烈建議至少要在行政院這個層級，設立特定機構或國家能源委員會，在國際知名能源專家顧問的協助下，規劃、設計、制定國家能源政策，並且協調與執行能源政策相關決議。此機構或國家能源委員會也可以作為和民營單位或利益相關方收集和交換各種能源政策相關建言或回饋的窗口。

我們同意提高再生能源占比是國際趨勢，但也要提醒政府的是:在提高再生能源占比依賴的同時，更需徹底研究台灣的整體能源需求，以及各類能源選項的生產成本和效率，優先落實最重要的「上位目標」，再逐步、有耐心地朝向「非核家園」的長期目標前進，如此對台灣經濟、民生和工業界而言才不失為一種更為安全務實的作法。

現行的能源政策主要以參考先進國家電力專家的評估內容為基礎，但卻未能充分考慮到台灣特有的地理、氣候、政治因素，或許可能會帶來較高的風險。我們建議政府應同時制定其它備案，以降低當現行這些遠大抱負計劃無法及時落實時的風險。

我們對現行能源政策所預見的一些可能挑戰包括：

1. 天然氣發電占比達50%，若遭遇惡劣天候條件或軍事封鎖時，50%天然氣占比的風險過大，這仍未考量安全庫存量不足，以及接收站建設時間冗長等額外風險。
2. 燃煤火力發電占比達27%，因此所產生的空污可能會增加對附近居民健康的威脅。加上空污程度不斷飆升、且屢屢打破紀錄，此次公投結果已經明確表達民眾的反對立場，並要求當地政府減少燃煤火力發電。
3. 再生能源依規劃最終將占本地電力結構的兩成，而再生能源並非基載電源，必須搭配大型蓄電設施和智慧電網，方能提高其可靠性。而大型蓄電設施和智慧電網的發展，卻仍處於不成熟且昂貴的情況。再生能源建設和饋線容量的進展也仍然十分不確定，有鑒於台灣獨特的氣候條件（如炎熱夏季用電高峰期時可能風況不佳），惡劣天候及天災頻繁可能使當前的能源政策面臨更多風險。
4. 天然氣與再生能源有著高昂成本。在2025年前將電價成本提高 33% 以上，將對本地民生經濟造成極高的負面影響。不少國家現提供多項獎勵措施和穩定的基礎設施，以吸引外資。未來若因電費上漲，導致營運成本大幅增加，可能迫使國內製造業者將生產製造搬到海外，跨國公司也可能打消在台灣建立營運據點或擴大投資的念頭。

因此，我們敦促政府繼續投資電力建設以提升電網的充足、穩定、可靠度，並修正再生能源的電價計算機制，以降低再生能源的價格，建議作法如下:

建議一:以提升台灣電力供應的充足性及穩定性為「上位優先目標」之一

台灣持續處於低電力備用容量狀況，此現象在南部地區尤其明顯，過去幾年備用容量曾經降至危險的5%邊緣。正當台灣加速進行產業升級轉型，大步朝向生產半導體晶片或顯示器玻璃基板等高精密產品的方向前進之時，數十分之一秒鐘電壓驟降的不穩定供電可能對產業的生產製造及設備資產造成重大的損失，更不要談限電對台灣經濟所造成的重大傷害。經濟部與台電公司應積極發展並執行於短期內提升備用電力容量的計劃，讓台灣的電力供應可以回到15%備用容量的安全水準。此計劃需淘汰可調度的發電資源，以符合引進間歇性再生能源的政策方向。台灣若要在國際市場中保持高度的競爭力，高可靠性的電力供應至關重要，若產業長期處於高風險的缺電或低品質供電的營運環境，將會嚴重影響台灣在全球市場的競爭力。

建議二：以競價制度等市場機制，降低再生能源成本

台灣目前採用官僚式行政程序制定再生能源躉購費率，而該價格往往明顯高於以設施生命週期計算的電力均化成本（Levelized Cost of Energy; LCOE）。二者之間的差異將導致台灣消費者與納稅人須承受高於市場價格的購電費率，進而造成民眾沉重負擔。利用競價制度等市場機制，依市場供需法則制定再生能源價格，則可降低成本；更理想的情況是，該制度再搭配採數量管理制度設置的再生能源裝機目標。舉例來說，若採再生能源配比義務制（Renewable Portfolio Standard; RPS），台灣電力公司即須於能源價格未予明定下，在特定日期前達成設定的再生能源供給占比。

搭配競價制度，即可於透過經濟誘因激勵再生能源供給的同時，交由市場供需決定最終定價，台灣則得以最具經濟效益的方式，達成其再生能源增長目標。

人力資源委員會

在去年的白皮書中，人力資源委員會僅提出一項議題。我們懇請在勞動基準法中擴增特定責任制專業及管理人員得不受工時及加班費之限制。台灣未來的繁榮取決於是否能成為創新及科技產業領導者，而此產業中的「知識工作者」需要高度的工作彈性，他們的工作表現是以績效而非工時作為衡量標準。

勞動部雖尚未正式宣布此項議題之最終決定，惟國發會已向台北市美國商會保證，勞動部將於草案定稿納入人力資源委員會持續要求之工作彈性。本委員會感謝政府相關部門，就此攸關台灣經濟前景之重要議題採取正面行動。

本委員會今年提出之新議題如下：

建議一：增定特定產業勞工罷工之事前通知期間

委員會促請政府對於特定產業在勞工罷工前實施一定事前通知期間，以免對於社會大眾及台灣的經濟因為突然其來的罷工而衍生出一連串的負面影響。例如航空大眾運輸產業、銀行業或其他需要高階技術等需要24小時不能中斷的營運產業。

發動罷工前之一定事前通知期間之制定乃工會法現代化之重要步驟。也許有人會主張，在勞資爭議處理法的規定之下，在罷工前工會必須先申請調解，得有效作為一種對雇主之非正式事前通知。然而，對於特定產業而言，當罷工可能嚴重影響公眾日常生活時，罷工前之一定事前通知期間是必要的。罷工之主要目的是為了追求更好的勞動條件，並非干擾或甚至損害消費者之權利。通知期間將增加資方壓力，以取得與罷工工會進一步討論之時間。

建議二：賦予僱用之選擇，提供勞資雙方具有彈性且現代化之方式，以求雙方之利益以及台灣人力資源運用之極大化

政府已透過鼓勵科技公司創新並加速新創公司的育成，以謀

求刺激經濟成長與發展具備技術與科技之勞動力。對科技公司而言，針對機密專案、客戶緊急需求及當標準之員工聘僱程序將阻礙企業追求該機會時，使用派遣勞工 為一迅速及彈性增加技術與科技之勞動力之方法(某些情況下須訓練)。

不論派遣機制是否納入勞動基準法或以其他專法規範，一個有效的派遣機制目標應該是最大化勞雇雙方使用該機制之利益。

派遣勞工應該與要派單位內其他不定期勞工享有同工同酬的待遇。再者，為確保派遣勞工之就業安全，政府應考慮在現行失業給付以外增設特別保險機制，透過保險機制提供派遣勞工額外的保護。最後，我們建議派遣事業單位應取得特別執照，俾確保派遣勞工受具有正當治理與保護機制之合格單位所僱用及管理。

倘須對派遣員工佔一個公司員工數的比例設定上限，則其至少須20%，以反映企業運作之現實。如果上限設定得太低，將實質阻礙初期的新創公司 (此類公司大多數面臨緊繃的勞動力狀況) 利用派遣勞工以追求不同的機會並把握成長的時機。再者，阻礙龐大且具有規模的雇主的僱用意願。這將減少派遣勞工就業並與不同雇主發展專門技術之機會，而對潛在派遣勞工造成傷害。另一方面，也會傷害在台灣之潛在投資。

擁有一個有效之派遣機制將同時有助於近年來為長者提供更多工作機會之趨勢。換言之，如果雇主有更多僱用派遣勞工之管道，將伴隨著更多潛在得被僱用之人員，比如想要重回職場之長者。

建議三：調整有關鼓勵殘疾人士就業機會的方針

《身心障礙者權益保障法》中規定各事業機構需按照員工人數，按定額聘用身心障礙者。如違反有關規定有關事業機構會被罰款。

就有關規定的執行機制，茲有如下建議，以提高效益：

1. `除了現有的罰款機制，同時增加獎勵機制，對能夠超越有關聘用規定的事業機構，給予公開表彰或其他有形獎勵。
2. `對於個別事業機構由於業務規模和與員工人數突發增長，或由於業務性質改變以致其有關招聘比例提高，應酌情給予更長的寬限期。
3. 有關政府部門與各產業和相應的非牟利機構緊密合作，針對勞動市場需求的技能，資助更多的相關培訓予身心障礙者，從而讓其建立長遠的事業發展空間。

基礎建設與工程設計委員會

本委員會在此感謝國家發展委員會陳美伶主任委員卓越的領導與協調，以及針對於2018年度白皮書提及之三項建議所作的努力，其中對於本會所提出之提議，陳主委親自主持多場跨部會會議，並與公共工程委員會針對公共工程優先採取「最有利標」做為評選流程議題召開多次會議，因此有機會針對我們提出之建議多加闡述，也讓政府部門能夠對這些議題有所回饋，若無國發會及公工會之支持，這三項建議也無法有當前之進展。

今年度本委員會將不會提出更多建議，而是專注在過去兩年已提出建議之執行成果，為了讓過去所提出的建議能夠實行，為此建議政府採取諮詢之方式，尋求第三方市場專家的幫助，本委員會之相關公司亦相當樂意進行分享及提供協助。

其中一項建議，於公共工程招標優先採取「最有利標」之評選流程，於最近立法院修正條文有一定之進展，本委員會對於此進展相當感謝，也希望相關修正條文能盡快實行，並確保有效之應用與施行。

本委員會得知另兩項建議尚在審理中，我們希望提出之三項建議能夠在今年的第二季能達成執行成效，也希望政府單位能夠持續更新當前的執行狀況，讓本委員會能夠在最終定案前有機會提出我們之想法與回饋。

本委員會提出此三項建議之目的在於，藉由增加國際公司投入台灣政府採購相關專案之機會，進而提出創新概念給台灣營造市場，並且支持台灣政府對於基礎建設發展計畫有更長遠的規劃，例如，允許廠商提出替代方案，通常可以提出更經濟、更安全、更省工期且更可靠之方案，讓更多國際公司參與，也能對台灣本土產業鏈成長升級有更多助益。

蔡英文總統提及，「因應全球化的競爭，各個國家、企業或是個人工作者，都應把『創新』視為持續成長的核心動力。」增加更多國際公司的參與，對於營建及工程產業來說，提供更多正面驅動的力量。實行本委員會所提出之三項建議，將能減少商業隔閡，且能增加多國際廠商參與投標及遴選。

建議一：以更有系統的方式，鼓勵在公共基礎建設工程中採用替代方案

我們了解當前政府正在針對此項建議，發展相關促進執行的執行原則，然而即使了解替代方案是很好的做法，但從各機關採購單位之回饋得知，機關並不確定此方案如何執行。雖然明確了解本建議是值得推崇且無疑是對的做法，然而如前述，對於上述建議有諸多些微差異，當前發展的執行原則及指引需正確反映此建議及差異，才能替政府帶來最大的助益，如此才能真正吸引國際廠商進入台灣市場。

何謂前述之些微差異？舉例來說，在過去一年的討論會議當中，我們了解許多政府單位指出，目前政府已採用投標廠商提出替代方案在招標程序當中，但本委員會相信政府採購部門對於國際合約及國際工程市場上所謂「替代方案」存在一定之誤解，兩個最常見的案例如下，用此說明上述所謂「替代方案」的差異。

1. 於正式招標書發布之前，發布招標書草案公開預覽。
2. 允許得標者在得標後提交變更和備選方案以供審議。

雖然上述兩種方法或許是大型和複雜計畫的良好的執行方式，但它們沒有達到國際市場上對於「替代方案」招標的定義。在國際市場上之「替代方案」為投標人提供一個機會於正式投標時提出不同於基本招標書外的替代方案，而非於公開預閱覽階段或是得標後階段。以下將說明替代方案與以上兩點的不同。

關於第一點公開預覽階段，招標書草案所得到的廠商建議缺乏許多必要的資訊，無法幫助辦理招標機關比較替代方案與原招標書草案之優劣。對於替代方案也沒有明確的需求或時程來量化這些效益，以吸引廠商提供更好的方案。再者，此階段並無成本或時程的基準來做比較，且也無法將各家廠商所提出的各替代方案提供價值評估。此外，各家廠商提出的意見也並無互相流通，然而，第一個案例明顯地並沒有給足夠時間，無法讓廠商做充足的準備去提供更好的替代方案或是價值工程，政府部門也沒有足夠資料去評估廠商之各項能力(例如，品質、預算、安全性及時程)。

關於第二點，此方式只有得標廠商有機會提供創新的想法，這使得招標機關失去了讓各家廠商提供良好替代方案的機會，此外，得標廠商也會因為已經得標，失去了提供良好替代方案的動機。

最後，替代方案並不會只針對技術性的部分提出，並可以提供業主更廣泛的建議，如實惠的成本、時程、安全以及營運維護上之建議。例如，某替代方案要求業主於專案用地內提供額外的材料暫存區即可節省時間及成本；另一個例子如專案支付條款，如果變更其付款條件使現金流入及流出相當，專案可無須先預支資金，即可將成本降低，許多投標者可以大幅降低其價格。

改善合約支付條款將會有相當大的影響，主承包商會依據同樣的政府採購條款付款給下包商或下游廠商，而下游廠商相對也減輕自身對財務之負擔。政府當前計畫新建之電廠總預算皆超過

10億美金，若以原有之合約支付條款執行，對於承攬廠商的財務面將會是一筆負擔。承攬商須透過貸款來資助這項專案，進而使專案總造價上升，主承攬商得需自行吸收部分成本，以維持競爭力。

如果變更其付款條件使「現金流入」與「現金流出」相當或略微超過「現金流出」，則因為成本降低許多投標者可以大幅降低其價格，也因此可將努力放在技術面上，並將資源投入於專案上，使服務表現更好。因此，變更其付款條件即可有更好的品質、更安全、及更省時間以及更低的投標金額，對政府經濟來說更有效益。

為了能夠真正獲得替代方案的價值，應將其納入為實際招標過程，不是僅作為公開預覽階段收集意見所用，或是得標後由單一廠商來提出。這是國際市場的準則，它促進了創新，允許國際承包商從其經驗受惠及台灣的工程環境。

以下所述各階段建議為採購機關如何進行替代方案的招標方式:

1. 決定採用替代方案於招標階段的投標文件。
2. 建立內部審議程序及標準來選擇投標商。
3. 將替代方案如何進行的程序及標準公布於招標文件中。
4. 最常見的方式為要求各廠商皆需提供符合招標規範的完整方案。
5. 當完整方案皆投標後，各家廠商可額外提出其替代方案並明確提出可節省的時間或成本。
6. 在投標文件中有標準的替代方案執行原則，提供給各家廠商完成提案並提交，以及節省時程。
7. 基於替代方案所節省的時間、成本及差異，由招標機關決定哪些替代方案可被接受。
8. 將被接受的替代方案由招標機關再次以招標文件附件的方式公布給各家投標商。
9. 各家廠商必須基於這些新的方案再次投標。
10. 先前所建立的審議機制將開始進行決標程序。

本委員會認為台灣市場在這方面的經驗並非完整，因此本會的成員願意幫助台灣政府機關建立替代方案招標方式的完整程序。若要取得其優勢，正確的執行及程序的設立是非常重要的。因此，本會希望政府在建立並批准這些程序之前可以提供分享替代方案的實踐計畫以獲得反饋。

建議二：修訂公共工程契約範本，使承包商得通知業主變更契約

正如先前於白皮書中提出之說明，政府目前所提供的公共工程契約範本對工程技術服務合約或施工營造合約都無包含此項建議，使承包商無法根據條件的變化，要求對合約進行調整並通知業主變更契約。但是相反的，政府機關可以要求承包商進行變更契約。這種單方面做法既不公平又違反國際慣例，且有可能影響國際公司參與台灣的公共工程計畫的意願。

本委員會針對此議題已與行政院公共工程委員有詳盡的討論，期望我們的建議很快能被接受，進而實行。

建議三：公共工程招標優先採取「最有利標」之評選流程，而非「最低標」

本委員會感到非常欣慰，在2019年4月30日，立法院通過了修訂「政府採購法」中關於使用「最有利標」的第52條限制。政府機關現在可依據採購法中第52條規定，並可以自由選擇52條規定的四種方法當中之任何一種來招標和評估招標。這項修訂為跨國公司參與政府招標創造了一個更有利的環境，我們對此表示相當感謝。委員會期望這項變革得以實施，並期望與政府合作，以制定相關規則作為新的修正案之補充，幫助其有效推動，並確保所有重大公共基礎設施工程皆能採用「最有利標」，如同即將開始招標的複循環發電機組電廠計畫。

同樣的標準與原則也應適用於所有政府採購，例如醫療器材等。

保險委員會

在這個充滿不確定性的世界，保險產業存在的目的是為了讓社會更加安定與美好。許多人無法獨自承受重大的財務挑戰，即便是最具財務實力的家庭，都能獲益於保險的保障。為了協助整體社會更加強健，台灣的保險業者必須準備好協助個人承擔風險。

我們感謝政府透過每季的交流會議持續展現與我們直接合作的決心，尤其是保險局與國家發展委員會。在一個以本地業者占多數的產業中，這樣的交流會議提供國際企業發聲的寶貴機會。

雖然2018年有具體的進展，2019年要持續改善產業，更貼近社會的需求，這目標是明確且重要的。以下保險委員會將為台灣政策制訂單位與執法單位，提供數個主要專注領域之具體、可實行的建議。我們期待透過持續的每季交流，討論2019白皮書的目標。我們的目標是提供消費者更多選擇，提高其保障，同時協助金管會推動創新。

建議一：以簡易且創新的方式提供台灣民眾保障

消費者的期待與對金融創新的需求持續增加。為符合期待，本委員會希冀能翻轉台灣在產業創新的全球定位。

此刻對以下議案採取行動，台灣的主管機關及立法者可以創造一個提高商品選擇多樣性的環境，並讓消費者擁有大幅優化的消費體驗。台灣將可成為保險業創新的領航者。

1.1 讓台灣消費者能支付台幣購買任何幣別收付的保單

目前法規並不允許台灣消費者支付台幣購買以外幣收付的保單。允許台灣民眾以台幣支付外幣保單的保費，由於外幣換匯可納入產品設計中，將提升台灣民眾購買保險的便利性。此舉同時也為無關係企業銀行的國際企業移除競爭障礙。

1.2 提供台灣消費者保費更低廉的定期保險與長壽保障

台灣消費者無法購買保費負擔最輕的定期保險與長壽保險，因為國內法規強制要求產品必須包含儲蓄元素(即保險公司必須儲備解約金並為其訂價)，這與許多先進國家實務相異。例如日本、韓國及美國，若符合某些條件，允許定期保險得不給付解約金。美國也允許某些種類的年金商品在開始年金給付之前得不給付解約金。

提高台灣消費者保險保障的第一步，即為修訂保險法以提供純定期及純長壽保險。此舉亦將協助壽險業達到金管會訂定的目標：提升台灣的保障程度，同時不加重業者為提供該保障而須承擔的投資風險。

<u>本委員會具體建議如下：</u>

- 修訂保險法第119條，讓保險業者開發價格更低廉的純定期壽險(即不須給付解約金)。
- 修訂保險法第135-1條，增加新的年金商品類型，稱為遞延收入年金，藉以提供台灣消費者純長壽保險(即不須給付解約金)，並且不受保險法第119條限制。

這些法規修訂將鼓勵消費者導向商品的創新，並強化台灣的社會安全網。

1.3 放寬營利事業所得稅查核準則第83條定義的團險保費抵免公司稅之範圍與限制

現行營利事業所得稅法提供員工保險有限制的減稅額度，每人每月團體壽險上限台幣2千元。此限額是企業提供員工保障額度的關鍵決定因素之一。由於台灣的保障程度低，若能放寬企業保險的減稅範圍，將鼓勵企業為員工購買合適的保障/年金商品。提高減稅額度同時也將使台灣公司稅的規定

與日本、美國等國相當。

1.4 確保實支實付保險商品之風險控管機制不影響客戶對於保險商品之選擇及保險需求

為防止民眾濫用實支實付型醫療保險而獲取不當得利，保險局先前要求保險業者研擬實支實付型醫療保險商品風險控管機制之可行性。本委員會認為，既然民眾無法預先決定終其一生所需之自費醫療費用，故通常傾向投保數張實支實付型醫療保險商品以填補可能的自費醫療支出。然而，若浮濫理賠之預防與實支實付保險商品之控管二者間比例失衡，可能造成保戶保險保障缺口。因此本委員會建議，保戶應有權自行決定購買實支實付保險產品之保障額度。

1.5 增加網路投保之健康保險商品類型及開放線上理賠作業

依據現行「保險業辦理電子商務應注意事項」規定，網路投保僅得銷售一年期實支實付型之健康保險，而網路保險服務僅開放線上辦理身故保險金理賠申請。為滿足客戶多元保險商品需求，同時避免道德危險，建議開放網路投保得銷售未含死亡給付之健康保險，例如：短年期定額或較低額度之手術健康保險及癌症健康保險。此外，為加速理賠申請流程，建議保險公司得於適當風險控管情況下，辦理較低金額之線上理賠申請作業。

1.6 維持現行客戶盡職調查程序，不予新增留存消費者身分證影本之要求

為強化洗錢防制與打擊資恐，保險局要求中華民國人壽保險商業同業公會研擬要求客戶盡職調查程序中應包括蒐集消費者身分證影本的程序與時機。然而，本委員會認為這個新要求將重大影響當前實務的銷售程序並且會對消費者造成不便。現行保險法與洗錢防制及打擊資恐相關法規並未要求保險公司留存客戶身分證影本，也沒有法律規範不留存客戶身分證影本的法效果。再者，防制洗錢金融行動小組(FATF) 40項建議與壽險業風險評估指引雖要求保險公司確認消費者身分，但並未要求保險公司保存消費者身分證影本。現行實務關於親晤親簽程序與留存高風險客戶的身分證影本已可滿足FATF 40項建議。我們不認為目前有必要增加留存消費者身分證影本的新要求。

1.7 提供多樣化與便利的支付方式: 開放數位(電子與第三方)支付機制

當丹麥、瑞典與英國邁向無現金社會，數位支付的好處顯而易見: 彈性、效率、安全，並能節省政府發行與流通紙幣與鑄幣成本。金融監督管理委員會2016年5月12日公佈之「金融產業政策白皮書」八大策略主軸中「推動數位化金融」即將普及行動支付服務及開放電子支付機構納入。此刻，不應再忽視台灣保險業開放數位支付的需求。本委員會呼籲政府全面開放數位，包括電子與第三方支付保險費的機制: 讓消費者有選擇支付工具的彈性，並得無額度上限地使用數位支付工具繳付保費。

建議二：推動完備、全球性的投資與風險管理實務作法

推動完備的資產負債管理、投資及風險管理實務作法，對於整體保險業的健全極為重要。台灣對於保險業者的投資設有諸多法規限制，因而較難採取適當的投資以支持保險負債。如此所造成的非預期結果是，保險業者會投資於較不利資產負債管理的風險資產，卻是現行法規所允許的(例如以外幣資產支應台幣保單負債)。

台灣應放寬可投資的範圍，同時也可減輕行政單位的負擔，對於原本就不必要加諸於機構投資人的限制，就不需再去規範或修訂。我們的2019年目標就是希冀在此方面取得進展。

2.1 採用風險基礎方式進行風險管理及稽核作業，與銀行規定一致

在全國虛假財務報告委員會下屬的發起人委員會(COSO)的內部控制框架中，以「三道防線」機制鼓勵企業重視風險管理，並要求應由企業內部的三道防線分別負責管理其職責範圍內的各種風險。感謝金管會的前瞻領導，台灣的金融業多年來已因應法規而執行「三道防線」機制，以確保內部控制機制的完整性。對於已採取措施在第一和第二道防線內建置正式、例行且充分的風險管理框架的公司，內部稽核應代表第三線，評估第一道和第二道防線執行其職責的成效。

相較於「保險業內部控制及稽核制度實施辦法」第18條的概括性「全方位稽核」，較聚焦的「風險基礎稽核」能夠強化內部控制機制。後者自1999年起風行全球，有助於有效判斷以下情境：1) 重複操作；2) 執行不必要的步驟；3) 遺漏重要步驟；4) 系統與流程運作異常或未能協助改善流程；5) 作業人員未完成工作、未了解相關事項或未完成培訓；6) 工作相關的指示不足；7) 遺漏重要的檢核或測試，或並未發揮預期功能。時至今日，「風險基礎稽核」已經成為ISO 31000的一環。

金管會於2016年透過「金融控股公司及銀行業內部控制及稽核制度實施辦法」第15-1條導入該機制，允許銀行捨棄傳統的全方位稽核、而採用「風險基礎稽核」。為提供保險公司誘因，以提升內部稽核的效能與效率，本委員會建議將「風險基礎稽核」的概念納入保險法規當中。

2.2 開放債券投資信用評等規定，若於保險集團母國具備該國法令許可信用評等，可免除本地評等要求

外國私募證券是保險公司用來分散一般帳戶的有效工具。美國及歐洲的私募證券市場具以下特色：

- 透過債務契約提供保障，較未證券化公司債之信用等級為高
- 由於對借貸人提供額外結構保障，可降低實現虧損狀況
- 比起公司債具額外信用利差，可彌補較公開市場低之流動性

美國大多數私募證券沒有國家認可統計評等組織(NRSRO)之評等。美國的保險監管機構「全國州保險監理官協會(NAIC)」允許保險公司使用NAIC之證券評等辦公室(SVO)評等。

保險公司應得使用SVO評等來投資私募證券。委員會建議修改「保險業辦理國外投資管理辦法」，刪除要求NRSRO評等之規範。

2.3 投資組合型基金 (fund of funds)時，移除共同基金總資產10%之投資限制

目前台灣保險法規針對投資任何單一基金，設有基金總資產10%之限額。此限額目的為確保投資組合充分分散，避免資產管理人基金過度集中之風險。本委員會完全支持此規範目的，但認為針對投資組合型基金需有一定彈性。

我們認為10%的限額應僅適用於單一管理人基金，不適用於組合型基金。理由如下：

- 組合型基金係為企業投資人設計，極有效率地建立充分分散的資產投資組合，其設計已符合規範目的；
- 由於組合型基金數量有限，目前規範可能在組合型基金已充分分散時，無意間促使保險公司將投資轉向較不理想的投資機會。

我們建議10%的持有限額僅適用於組合型基金之投資標的基金，而非組合型基金本身。

建議三：涵蓋台灣企業與個人面對的產物風險

全方位財務規劃的重要一環，即為確保人民的財產和義務終生受到妥當保障。我們認為台灣應該提高專業及第三方責任險等領域所需保障程度，與已開發國家的平均值接軌。

3.1允許保險經紀人對有一定財力或專業能力之專業法人客戶約定責任限制

現行「金融消費者保護法」(以下簡稱「金保法」)第6條規定，金融服務業對於金融消費者之責任不得約定限制或免除。該法雖有意將符合一定財力或專業能力之專業法人排除，但規範方式是以該筆商品或服務依其他相關金融監理法規有規定專業法人條件者為限、且該金融監理法規須於「金保法」函令有列舉者（例如：境外結構型商品、銀行辦理衍生性金融商品相關法規），造成其他金融服務業之監理法規未規定專業法人條件者、或雖有相關條件規定但該監理法規未於「金保法」函令列舉者，該金融服務業對於所有法人客戶均不得約定責任限制或免除。

上述情形於金融服務業為保險經紀人時，更顯失衡，保險經紀人提供服務之對象，有許多為具備相當財力或保險相關專業知識及經驗之法人。保險公司依保險金額對客戶負擔給付保險金之義務，其責任尚屬有限，但保險經紀人對客戶之責任卻無此等限制，顯失公平。此外，具一定財力或專業能力之客戶對於簽訂任何責任限制或免除條款，多經由其法律專業人員審視，而有能力作專業判斷，尚無協商地位不對等之情形，於客戶同意責任限額之情況下，實無必要限制保險經紀人對所有法人客戶一律不得約定責任限制或免除。

綜上所述，應修改金保法及有關函令，排除符合一定財力或專業能力法人客戶，及移除不得預先約定責任限制或免除之規定。

智慧財產權與授權委員會

台灣在全球迫切關注的智慧財產保護領域，持續有所進展。最近台灣智慧財產法院邁入成立十週年，該法院在智慧財產權保護方面，已向智慧財產權權利人及其他利益關係人提供高度確定性。台灣雖已有諸多進展，但仍需採取後續適當的智慧財產保護措施——尤其是在著作權法與營業秘密保護領域——以促進相關利益關係人的利益。有鑑於此，本委員會提出下列建議，期能就台灣目前仍存在的問題，提供明確、適當且立即可成的解決方案。台灣若能在這些議題上有所進展，就是向全球發出強烈訊號：台灣認真以待，矢志提升其智慧財產制度。

建議一：多管齊下，打擊網路盜版

台灣需要採取多管齊下的方法來解決網路盜版問題。網路盜版可能有許多不同的形式。例如，透過網路傳輸（over-the-top；OTT）的盜版平台，儼然已成為台灣散播非法內容的重要來源。盜版網站和OTT 設備——例如媒體盒、機上盒及其應用軟體——越來越被用於各式各樣的盜版散播行為。即使是科技新手，也輕易可藉由盜版OTT設備連結到外國侵權網站，獲取受著作權保護但未經授權的內容。這種侵權行為，是在台灣經營業務的著作權利人非常關切的問題。串流盜錄是另一種數位盜版的常見樣態。所謂串流盜錄，是涉及某一網站或網路服務，從合法串流媒體平台（例如Spotify、YouTube）獲取音訊或視訊內容，將其轉換為 MP3 或 MP4 檔後提供下載，而未付費予權利人。

許多盜版OTT設備所連結的侵權內容及線上串流盜錄服務都位在境外。國內網站的侵權行為，尚可採取假處分救濟，但對於這類境外網站所生侵權問題並無救濟管道。此種情況存在多年，已對台灣市場造成非常大的傷害。

台灣目前的法律，並無法妥適解決此等議題。例如，自從2007年著作權法第87條第1項第7款立法通過後，執法機關與司法機關都認為此款條文只適用於利用P2P技術所為的重製及公開傳輸侵權行為。台灣智慧財產局先前於2018年10月間澄清此款條文並不限於P2P侵權案件。本委員會認同台灣智慧財產局對此款條文所持的立場，但注意到此解釋並無法將串流盜錄納入此款條文的適用範圍。此類侵權行為，仍亟需一個有效遏止的解決方案。

台灣有些立法委員為解決OTT盜版問題，提案修正著作權法，建議增訂第87條第1項第8款條文（又稱為「機上盒條款」），此條款經立法院於2019年4月16日通過，並於2019年5月1日公布。機上盒條款將對於明知他人公開播送或公開傳輸之著作侵害著作財產權，意圖供公眾透過網路接觸該等著作，有下列情形之一而受有利益者，科以刑責：

(a) 提供公眾使用匯集該等著作網路位址之電腦程式。

(b)指導、協助或預設路徑供公眾使用前目之電腦程式。

(c)製造、輸入或銷售載有第(a)目之電腦程式之設備或器材。

本委員會注意到台灣智慧財產局贊同此機上盒條款，並認同其立場，但仍呼籲台灣執法單位嚴格執行此條款，並強烈建議刪除第87條第1項第7款及第8款「受有利益」的要件，以免不當加重權利人的舉證責任。

建議二：修正著作權法別讓台灣再落後於國際標準

最近由行政院提交、目前正在立法院審議的著作權法修正草案，並未充分解決前述網路侵權議題。本委員會建議，台灣應再就此議題提出修正草案，並修正著作權保護期間，將其延長為符合全球規範的至少七十年期間。

台灣為準備申請加入「跨太平洋夥伴全面進步協定」（CPTPP），業已提交另一著作權法修正草案予立法院審議，但此草案內容與行政院提出的修正草案版本有許多相同問題，兩者仍存在著作權保護期間不足、盜版光碟執法框架薄弱、對境外網站侵權行為缺乏有效救濟等問題。

本委員會認同CPTPP修正草案將網路盜版納入公訴罪，但是此草案卻提出「就有償提供著作全部原樣利用」以及「新臺幣一百萬元以上之損害」二個令人無法接受的公訴罪要件。此一百萬元損害的門檻太高，對某些商品市場價格較低的行業（如圖書出版和音樂產業）並不公平。本委員會建議草案內容應續做修正，以解決CPTPP草案的缺陷。

建議三：加強執法以阻止仿冒侵權品進入台灣

台灣仍持續面對仿冒侵權品輸入的問題。過去就解決此問題的種種嘗試，在缺乏海關適當的檢查下，成果都很有限。侵權人從海外運送仿冒品進入台灣，越來越常使用快遞運送服務，而海關對快遞貨品檢查不足，也不要求提供真實寄件人資訊，因此造成查緝與執法過程的重大漏洞。本委員會要求海關應增加檢查率，特別是針對仿冒侵權品銷售網站最常使用的快遞業者。

台灣智慧財產局的「各機關執行查緝仿冒成果統計表」列舉了由內政部警政署、保二總隊刑警大隊（保智警察）及法務部調查局所執行的查緝案件。在這些機關中，法務部調查局對智慧財產及仿冒品查緝執行案件的數量，從2016年到2017年減少了32%。

去年本委員會建議應將更多資源分配予保智警察。本委員會欣然見到保智警察獲有更多資金與人力，但仍然擔心在智慧財產權的執行案件已全面性的減縮情況下，卻未見猖獗的線上侵權有相應的數量減少。本委員會建議除了增加海關檢查頻率外，也應給予內政部警政署、保智警察及法務部調查局充分資源，以有效阻阻侵權行為。

建議四：於檢察機關及法院對重大刑事案件的認定要點中，納入重大違反營業秘密法的行為，並激勵法官及檢察官加速審理營業秘密案件

營業秘密被認為係極具價值的資產，但容易遭到竊取（尤其是在技術相關產業）。台灣頻繁發生營業秘密竊取事件，已對其

科技產業和其他關鍵領域的經濟競爭力造成嚴重威脅。欲解決此問題，關鍵在於有效、即時的執法。

法務部調查局在「法務部調查局重大經濟犯罪案件認定要點」中，將營業秘密法所定之罪（即第13-1條及第13-2條條文）列為重大經濟犯罪。本委員會肯定法務部調查局將營業秘密竊取案件列為優先調查對象，但也敦請檢察機關及法院採取同樣的做法。重大營業秘密犯罪案件亦應明文納入「檢察機關辦理重大經濟犯罪案件注意事項」及「法院辦理重大刑事案件速審速結注意事項」。

此外，台灣法官及檢察官累積大量的營業秘密案件而未結案，可能係肇因於這些案件的技術性質，導致增加其所需審理或調查時間。除此之外，法官及檢察官亦缺乏快速審結此類案件的誘因。若台灣司法體系能提供法官及檢察官明確誘因（例如可因而減少受分配案件數），使其願意加速審理並即時終結此類案件，將有助於解決案件積壓情形。

本委員會相信台灣若於營業秘密侵害案件的調、檢、審階段，均維持一致的積極處理，會激勵法官及檢察官加速辦案，且對台灣改善營業秘密保護情形，會有莫大裨益。

醫療器材委員會

醫療器材是指任何儀器、器械、用具，軟體，物質或其他物品 - 無論是單獨使用還是組合使用，進而達到診斷，預防，監測，治療或緩解人類疾病的目的，在醫療產業扮演舉足輕重的角色。由於跨領域科學（生物材料研究，細胞生物學，訊息科技等）的蓬勃發展並在醫療器材設計上互相提升，醫療器材的生命週期進展越發快速，國際管理法規亦快速變化。因此，國際法規調和與加速引進這些產品以改善患者的生活品質勢在必行。

隨著人口高齡化趨勢，醫療需求持續成長，台北市美國商會醫療器材委員會會員公司不斷研發和引進創新產品，照護台灣人民。為了達到我們的使命，我們相信透過與台灣政府密切的合作，精簡查驗登記審查流程，可以有效幫助國內患者及民眾盡早享受到尖端醫療技術和產品的效益。此外在有限的健保財務下，透過可預測和穩定的核價和健保給付流程，可鼓勵更快速的引進新技術，我們希望台灣的所有相關團體能為實現這個目標密切合作。

以下是我們的具體建議：

建議一：建立多元溝通管道，提高經營環境的穩定性與可預測性

1.1 降低醫療器材管理法施行後對業界的衝擊，加強相關主管機關/跨部會間溝通與合作，建構一致性的施行政策，並給予業界足夠的執行緩衝時間

醫療器材管理法(以下稱管理法) 為主管機關因應醫療器材多元化和健全國內醫療器材管理制度而推動的法案，本委員會樂見此一政策的執行。待管理法完成立法及公告後，將訂定其相關子法及管理辦法，其中尤以醫療器材優良運銷準則(GDP)、醫療器材技術人員管理辦法、醫療器材單一識別系統(UDI)及來源流向管理辦法等規定影響業界甚鉅，且未來管理法與其相關子法、管理辦法將由不同單位部門分工執行。

本委員會建請主管機關應充分與業界溝通並給予足夠的執行緩衝時間，以協助業界在過渡期間能銜接上新法之規定。相關部會間並應加強橫向溝通與合作，建構一致性的施行政策，讓業界在新法上路後能有所依循; 例如以設計名義登錄之製造業者(即法定製造廠Legal manufacturer)，其相關工廠審查與許可證審查涉及醫粧組與風管組之認定原則，建請醫粧組與風管組共同擬定其文件審核原則與標準，供業界遵循；又產地與製造廠認定原則，則建請醫粧組與關務署相關機構有一致性的認定原則。

1.2 持續與產業界保持良性互動，提高醫療政策的可預測性

本委員會感謝食藥署定期舉辦醫療器材法規與管理會議與業界代表溝通，健保署亦考量本會白皮書建議，持續提高新醫療器材審查之透明度及改善價量調查機制。

建議衛生主管機關應持續與產業界保持良好之互動，定期舉辦政策溝通會議，共同為台灣民眾營造優質的衛生醫療體系。若有重大法規或政策的修訂，更應充分溝通說明，聽取業界的建議，提高醫療政策的可預測性。

建議二：加速上市前審查流程

2.1 醫療器材查驗登記之製售證明免除文書驗證

建請食藥署對於藥品和醫療器材採取一致性的管理模式和文件要求原則，建請醫妝組參考藥品組免除十大醫藥先進國衛生機關出具製售證明之文書驗證作法，同樣免除醫療器材查驗登記審查準則第七條之製售證明文書驗證的要求，可縮短廠商準備送審文件的時間，期讓國內病患儘早使用創新醫療器材。

2.2 擴大以臨床前測試資料切結書替代臨床前測試及原廠品質管制資料的適用品項以加速醫療器材上市

部分風險性較低的第二等級醫療器材已經發展到非常成熟的階段，美國FDA亦在2017年綁上市前申請流程讓部分第二等級醫療器材可免除上市前審查(510(k))。食藥署於2016年7月1日公告「紅外線耳溫槍」等4項醫療器材臨床前測試資料切結書(部授食字第1051603544號)，建請食藥署擴大適用的第二等級醫療器材品項，以加速醫療器材的上市時程，亦在法規管理上與國際接軌。本會將另行提供可適用切結減免的建議品項。

2.3 接受醫療器材單一稽核計畫(Medical Device Single Audit Program, MDSAP)

稽核報告可替代醫療器材優良製造規範簡化模式之美國食品藥物管理署所出具之查廠報告(EIR)

美國FDA所出具之查廠報告(以下簡稱EIR) 係"醫療器材優良製造規範美國廠簡化模式"必要文件之一，而FDA於2016年發表書面聲明認同醫療器材單一稽核計畫(Medical Device Single Audit Program, MDSAP)之稽查報告與EIR具有相同效力。建請食藥署接受醫療器材單一稽核計畫之稽查報告(MDSAP audit report)可視為EIR之替代報告，即適用"醫療器材優良製造規範美國廠簡化模式"。

建議三：分享新醫療科技政策方向及健保預算規劃，健全新醫療器材健保收載政策與核價機制

政府衛生政策方向、醫療資源配置的優先順位、以及總額預算下新醫療技術預算的編列，是影響醫療科技應用與發展的重要因素。前瞻性的政策方向以及良好的健保核價機制，可鼓勵業者引進新醫療器材和技術，為台灣民眾和醫師營造更優質的醫療環境。

3.1 新功能類別特殊材料收載後三年內每年度醫療費用未達六千萬者，得免除醫療科技評估及價量協議

目前新功能特殊材料收載申請案中，預估健保財務影響達三千萬時，需增加醫療科技評估(HTA)流程且完成價量協議。但特殊材料之財務預估與價量協議是不分廠牌和規格，依同功能類別內所有產品銷售量合併計算，以偏低的預算標準三千萬為閾值，不僅增加審查流程，且對原本就偏低的新功能特殊材料核價，無疑是雪上加霜，形同不鼓勵廠商申請新功能醫療器材之健保收載。

考量特殊材料係以同能類別內所有品項合併評估之現況，建

議對收載三年內健保費用影響評估每年未達六千萬者，得免除醫療科技評估流程及價量協議。對於主動檢附醫療科技評估報告之案件，可給予健保價加成予以鼓勵。

我們並建議新功能類別特殊材料比照既有類別品項，將目前每兩年一次的價量調查改以四年為價量調查週期。

3.2 從優給付創新醫療器材並以論量計酬，確保病患獲得創新醫材之臨床效益

創新功能特殊材料係經臨床試驗文獻比較證據顯示，其臨床功能或療效較現行最佳同功能或類似功能類別特殊材料有明顯改善之突破創新特殊材料，經台灣臨床專家審查其臨床效益後建議納入健保給付，並訂定使用規範限制過度使用。

然而創新功能特殊材料若於納入健保時就落入TW-DRGs實施範疇，可能因為TW-DRG給付定額的考量而限制了醫師使用創新功能特殊材料。我們建議對創新功能特材於TW-DRGs下得採用核實給付。

此外，考量醫療器材量少樣多以及台灣需求市場小等因素，建議健保對於創新功能以及沒有既有替代特材之新功能特殊材料，於健保核價時應從優給付，以鼓勵創新功能醫療器材引進台灣和健保收載。

3.3 系統性規劃新醫療技術和特材之健保流程和預算，善用差額負擔機制加速新醫療技術之引進

新興醫療科技的引進帶動許多新醫療技術的發展，乃至照護系統的改變。例如微創手術器材的發明與技術的發展，降低重大手術之死亡率和手術風險；遠距健康監測系統在後急性期、慢性病及居家照護之應用，將改變老年化社會的醫療照護模式。

目前新穎性醫療技術伴隨使用創新醫療器材之健保申請案分屬健保署不同組別評估，當醫療器材伴隨新醫療技術審查時，跨兩個組別依序審查的流程可能讓評估長達數年，同時也影響了台灣病患和醫界使用這些技術和醫材的權益。

為加速審查流程，建議優化新穎性醫療技術伴隨使用創新醫療器材之健保申請案，尤其是需要醫療科技評估的案件，得採用平行審查機制，此舉亦有助於健保署整體考量新穎性醫療技術伴隨使用創新醫療器材納入健保後的資源分配。

此外，對於預算衝擊較大之新醫療技術或創新醫療器材編列足夠之健保特別預算，以免排擠其他費用。善用差額負擔機制收載新醫療技術和創新醫材，以提高民眾對新治療方式的可近性。對於不容易找到適當參考特材品項之創新醫療器材，由保險人參考其醫療效益與健保預算訂定健保負擔之給付上限。

其他

脊骨神經醫學

建議：建立有效的脊骨神經醫學專業立法計畫

台灣一直力求成為國際社會的忠實成員，即使在沒被給予這應有的機會時仍理直氣壯地提出抱怨。然而，這麼多年來，台灣一直是世界上極少數沒有為脊骨神經醫學專業提供合法地位的國家之一，儘管各國都承認它是醫療保健系統的寶貴貢獻者。世界衛生組織(WHO)長期以來認可並支持脊骨神經醫學作為替代醫學的一種形式，而台灣一直渴望以觀察員身分加入由其所舉辦的世界衛生大會(WHA)。

在最近印尼建立了使脊骨神經醫學合法化的機制之後，台灣成為更少數仍然將此專業處於一個政策不明的灰色地帶的國家。經過多年海外留學並取得由美國和其他已開發國家所頒發的執照，這些回台服務的脊骨神經醫師們仍被迫接受在專業活動上的嚴格限制。即使不再像過去那樣不斷受到衛生局的騷擾，他們仍舊無法廣告、架設網站或以其他方式宣傳他們的服務——正如最近發生的事件所顯示，他們必須一直承受著他們的執業權將受到衛生當局以可疑的理由找麻煩的風險。

儘管與當局有先前的理解，外國許可的脊醫可被接受為「脊背調理」——只要他們沒有宣稱任何療效。但最近幾週裡，兩名脊醫卻被衛生稽查人員指控無照行醫。

在印尼，相對的，儘管當地醫師公會長期反對，脊骨神經醫學現在已經是被合法認可的一門綜合補充醫療健康系統。印尼公民只要自國際認可之脊骨神經醫學院校畢業，並通過印尼的認證考試，就能夠在當地合法執業並註冊為脊骨神經醫師。這些醫師能夠合法的給予診斷、宣稱醫療療效及廣告他們的診療專業。

在台灣，相對的，在尋求使脊骨神經醫學專業合法化的方法上卻僅有些微進展。事實上，這項存在於白皮書裡最久而未被解決的議題，從2006年起，便出現於每一期的白皮書。儘管近幾年來國家發展委員會已相當努力尋求解決辦法，但在經過多次的會議之後，同樣的障礙始終未解——衛生福利部一再堅持脊骨神經醫學如果沒有在國內的醫學院或是大學開課便不能被視為醫療保健的一環。

問題是沒有任何一個教育機構願意開辦此課程如果學生沒有獲得保證畢業後能成為有證照的專業人員。在印尼這樣的保證目前已經有了，學校設立完成，而且學生現在也進入第二個學期。

在考量到台灣人口正快速老齡化，加上未來幾年必然會對國家健康保險系統施加巨大的財務壓力，脊骨神經醫學在台灣遇到的障礙尤其令人遺憾。在眾多研究中皆證實，針對年長者的各種痛症上，包括下背痛、脖子痛、頭痛及其他神經肌肉骨骼所造成的病痛，脊骨神經醫學能提供安全而且有效的診療。由於脊骨神經醫學不採用開刀或用藥，所以是具有高度成本效益的方式，可為台灣全民健保帶來可觀的節省開支。

為了讓台灣的患者及醫療照護系統都能獲益，台北市美國商會的脊醫會員們敦請政府繼續尋求讓脊骨神經醫學專業能夠正常合法執業的機會。印尼的例子便印證了只要有足夠的意願就能尋得方法。

菸草

建議一：制定菸稅與菸品健康福利捐之政策，應本於“合理、漸進與可預測”之原則

菸品產業一向支持透明、合理、可預期的菸品稅捐政策。然而，過去幾年臺灣政府在菸稅捐相關政策與法律的制定與作為，卻違反產業對臺灣政府的期許，此舉已嚴重影響相關產業對臺灣市場未來的展望，盼臺灣政府未來在菸品稅捐政策制定上宜審慎思考，並針對相關問題提出對應作為。

從過去經驗來看，菸品稅捐調漲後將使市場對於低價私菸的需求量大增。財政部的資料顯示菸稅調漲後，海關與地方政府緝獲私菸數量皆明顯增加。

政府訂定之「查緝走私菸品精進執行方案」，祭出加強邊境查緝、強化市面查緝、增進查緝效能及加強業務聯繫等措施，有關走私事件仍層出不窮。然而，私菸交易仍然是一個嚴重的問題。種種跡象指出，近來臺灣市場的走私樣態已不是單純走私成品，而是轉為走私菸葉並在台灣製造非法菸品，有時還得到中國相關專家的技術支援。

海巡署的新聞指出，2019年1月出現大型私菸工廠重金聘請中國籍師傅大規模製造私菸，並將製成品流通至市面販售牟利，檢方破獲時查獲約5,472公斤的菸草，若製成成品約能製成39萬包，總市價高達3900萬元。

儘管加強執法力度振奮人心，但政府部門的這些努力依然無法防止大量私菸在私菸工廠被破獲前進入市場。

由於菸品健康捐做為一特殊政府收入，課徵與使用均應符合「專款專用」原則，依法定用途分配。百分之一的菸品健康捐供中央與地方私劣菸品查緝及防制菸品稅捐逃漏之用。但此部分的濫用的情形仍然層出不窮。2018年監察院出具的一份報告顯示，部分直轄市及縣市政府不符專款專用的規定。作為主管機關的財政部，也因長期以來僅消極以函文要求地方政府應依專款專用原則辦理、全然未派員實地查核，遭監察院糾正。

在菸捐不符專款專用規定情況下，卻又因長照政策財源考量而調漲菸稅，兩造因素相互影響，致使私劣菸品問題長期影響臺灣菸品市場，無法根除。

一如過往於白皮書中多次強調，透明、合理、可預期的政策，不僅能保障合法菸品產業免受非法菸品交易所帶來的危害，同時能達成政府在公共衛生和財政稅收上的政策目標。

建議：

一、 重新檢討菸品稅捐政策；
二、 加重私菸非法交易者之罰則，提高嚇阻效果；
三、 加強運用相關資訊平台勾稽分析查緝重點及對象；
四、 針對大型私菸工廠等新興私菸態樣，提出對應的查緝方案；
五、 製作宣導短片，呼籲民眾切勿參與非法菸品交易，拒絕購買私菸；
六、 針對臺灣大量私菸市售價格低於完稅價對於社會、健康及財政造成之嚴重影響進行研究。

建議二：政府應採行有效並合乎比例的菸品管控政策

菸品產業向來支持有效且合乎比例的菸品管控政策，但近期之立法政策實有過當之虞。

立法院已於2017年12月29日一讀通過行政院版《菸害防制法》修正草案，另有26件委員提案亦通過一讀程序。

該等修正草案提出多項極端措施，包括強制要求警示圖文面積擴大至85%、素面包裝、禁止菸品添加香味料等添加物、以及業者5年內累計3次違反規定者處以廢止進口、製造許可之處罰等。

菸品產業反對這些修法，因這些修法除侵害合法廠商的財產權，進而造成違憲的可能性外，亦嚴重影響合法廠商在臺的投資與發展機會，值此國際貿易市場動盪之際，建請政府再三審慎考量。

以「警示圖文面積擴大至85%」為例，修法草案擬將警示圖文面積由現行35%擴大至85%，遠大於世界衛生組織菸草控制框架公約(FCTC)中建議之標示面積，亦將迫使合法產品資訊（如商標等其他得記載或依法應記載項目）僅能記載於所剩的15%面積，嚴重限制合法廠商對合法註冊商標之使用。

另一個例子是菸害防制法修正草案第7條。草案之修法理由為「加味菸係透過技術，加入花草、果香、巧克力、薄荷等口味，降低初試者嘗試第一口菸的菸嗆味，使兒童及少年更容易上癮，並導致上癮時間從一年縮短為半年至數個月。」

此論述不僅尚欠缺實證基礎證明其菸害防制之效果，亦限制合法企業於產品中使用營業秘密之香味料與添加物之配方，更剝奪屬於合法企業營業開發創新的可能性。

上述兩措施將使合法產品在包裝與配方均喪失區隔性，阻礙市場公平競爭、構成貿易障礙，促使消費者轉向非法私菸市場購買菸品。

另有關「業者5年內累計3次違反規定者處以廢止進口、製造許可之處罰」之修法，其違法之裁量權，完全交由各縣市執法人員主觀判定，地方政府亦無修訂相關裁罰基準規定。

若修法通過，將使現有法規實務執行因各縣市執法人員主觀解釋、欠缺客觀標準產生之各種問題更加惡化，除合法進口商與製造商動輒面臨被迫全面停業，進而使整體合法供應鏈停擺、從業人員陷入無故失業之困境外，更將使非法私菸充斥、氾濫於市場，對臺灣法規、投資與社會環境造成嚴重傷害。

政府若輕率地實行前述相關之菸品管制政策，其負面影響牽連層面之廣，不僅將造成政府、消費者、合法業者三輸的局面，更會影響國際企業來臺投資意願及臺灣於國際貿易鏈中的地位。

建議：

一、 菸品產業應與其他合法產品享有相同且一致性的對待；
二、 在制定新法前，建議政府應通盤評估法案是否能有效達成政府的公衛目標，如降低吸菸率。審慎考量其對非法私劣菸問題及整體合法供應鏈可能產生的影響；
三、 立法院於委員會審查修正草案前召開公聽會，所有可能受到該政策影響之利害關係人均應被允許於公開透明的環境表達自身意見觀點。

製藥委員會

獎勵研發創新是台灣生醫產業在亞太區域是否能取得領導地位的關鍵，以實現政府在「5+2產業創新計劃」中所打造的願景。製藥委員會肯定政府近年來致力奠定獎勵研發創新的基礎，特別是通過《藥事法》修正草案建立專利連結制度及實施藥品給付協議(MEA)。

今年製藥委員會特別訴求以下改革:

- 2019年6月30日前施行專利連結制度，以保護大分子及小分子藥品；
- 健保給付制度應更透明化、具可預測性及永續性，以確保病患創新新藥之可近性；
- 加速健保核價制度改革，藥品給付決策應持續擴大參與。

製藥委員會深信透過加速上述改革及獎勵措施能加速升級台灣生醫產業，並奠定台灣醫療體系永續發展根基。

建議一：2019年6月30日前施行專利連結制度，以保護大分子及小分子藥品

製藥委員會為台灣政府在兩年前通過《藥事法》修正草案，建立專利連結制度之重要里程碑喝采。《藥事法》通過至今，製藥產業不論是研究開發或致力學名藥發展的公司，皆與衛生福利部及食品藥物管理署密切合作，以確保專利連結制度與國際規範接軌。近來，我們樂見政府預告之專利連結施行辦法，採用單一專利連結制度，適用於大分子及小分子藥品，與加拿大、韓國及新加坡一致。毫無疑問，將大分子藥品納入專利連結將有利加速台灣成為亞太地區生物醫藥研發的樞紐中心。

根據《中央行政機關法制作業應注意事項》，所有法案之子法規應於總統公告後六個月內完成，也就是專利連結制度應於2019年6月30日前施行。由於缺乏明確實施時程，研究開發型或是致力學名藥發展的製藥公司對專利連結施行準備上無所適從。本委員會呼籲行政院應盡速公布專利連結施行日期，以確保蔡英文總統所提出之「5+2產業創新發展計畫」符合其執行目標。

建議二：加速病患取得創新藥品

2.1 編列充足新藥及新適應症預算，使創新藥品加速獲得健保給付。

製藥委員會肯定健保署在2018年健保總額編列近兩倍於2017年之新藥/新適應症預算；然而2019年健保總額之新藥/新適應症預算不增反減，少於2018年預算。對於製藥產業及病患而言，每年新藥預算波動及新藥預算未能充足編列都將影響新藥健保給付的延宕或不予給付。不充足的新藥預算更將使

製藥產業及病患難以預測新藥何時能獲得給付，以幫助急需的患者。

前瞻掃描(Horizon Scanning)為先進國家已建立的機制，透過前瞻性了解未來幾年市場上有多少新藥問世，來進行多年新藥預算規劃(multi-year budget planning)。製藥委員會建議健保署導入前瞻掃描機制，預先了解市場上近年有多少新藥上市，以採取長遠的預算規劃。例如，健保署應根據各家廠商接下來五年將上市的新藥/新適應症之財務衝擊，前瞻性編列充足新藥/新適應症預算。如此一來，與現行健保預算編列皆以一年為規劃時間軸的方式相比，健保新藥給付相信將更具預測性及永續性。

製藥委員會呼籲健保署承諾2020年健保總額持續編列兩倍於現行之新藥/新適應症預算，作為短期目標；製藥委員會也呼籲健保署長期應以前瞻方式編列充足新藥預算，讓健保創新新藥給付更具可預測性。

2.2 建立創新藥品部分負擔機制，積極凝聚各界共識

部分負擔機制，若妥善設計，可望能紓解健保財務壓力並加速病人取得創新藥品。在健保永續發展下改善病患新藥可近性，急需健保財務改革。目前各界已逐漸了解部分負擔價值，製藥委員會呼籲健保署應積極凝聚各界共識，設計出合適的部分負擔機制。

亞洲鄰近國家如日韓，皆採取10~30%不等的藥品部分負擔機制，一旦超過設定上限，便由政府補貼以保護弱勢民眾。在台灣，對於透過共同負擔促進高費用新藥可近性的共識亦逐漸形成。

以高費用藥物為例，若干病友團體近年來已多次向政府喊話，希望加速部分負擔改革。根據癌症相關病友團體民調顯示，為加速新藥可近性，台灣近8成民眾願意支持共同負擔高費用新藥，大部分民眾願意支付的比例是藥費之10~20%。

此外，2019年2月健保藥物給付項目及支付標準共同擬訂會議（PBRS）代表亦決議，健保署應積極研議允許高費用藥品可由民眾部分負擔，可見社會共識正逐漸形成。製藥委員會相信目前是健保署大刀闊斧，開始推動部分負擔改革的最佳時間點。

2.3 改善新藥審查效率及提升審查透明度

製藥委員會再次肯定衛生福利部及健保署實施藥品給付協議(MEA)，作為新藥給付及協商之機制。製藥委員會呼籲政府應推動下一步改革，致力提供透明及有效率之新藥審查機制，以加速新藥可近性。

目前健保給付流程共面臨兩個困境，一、健保給付程序未設立重要審查里程碑；二、廠商提供的科學療效證據在新藥取得藥證時已核准通過，然而在健保給付卻須再次審核，連續審查過程導致審查延宕。若食藥署和健保署能合作建立雙方資訊共享平台，相信能有助大幅縮短給付審查流程，盡速讓新藥嘉惠病患。

加拿大的經驗提供絕佳借鏡。為簡化審查流程，在產業界同意下，加拿大衛生局於2018年6月展開合作，建立機構間的溝通平台，以共享新藥審查資訊。

建議方案：

製藥委員會呼籲

1. 健保署應在藥品核價過程設立清楚的審查時程及重要里程碑，以提升審查過程透明化及可預測性。
2. 借鏡加拿大，食藥署和健保署間建立資訊共享平台，推動平行審查，以加速創新藥物給付。

建議三：提供生醫產業必須的投資誘因，帶動產業永續成長

建置台灣成為亞太生技醫療產業重鎮，行政院將生醫產業納入「5+2產業創新計劃」，目標放眼國際市場，進一步帶動國內技術成長、吸引人才，以提升產業競爭力。為達成此願景，台灣需推動更具體政策，以加速健全生醫產業環境，確保產業永續成長。

製藥委員會會員公司為台灣創新藥品及新醫療科技的最主要提供者，多年來不斷引進國外最新技術、進行技術轉移，並投入人才培育，以提升台灣整體藥業水準。

為獎勵新藥投資研發，部分經濟合作暨發展組織(OECD)國家積極獎勵新藥開發及引進，除承諾充足新藥預算編列，並將藥品調降餘款直接回歸到新藥預算。

為實現台灣成為亞太生技醫療產業重鎮願景，在產業未來發展上，台灣政府應借鏡國外，給予產業投入創新研發的獎勵措施，讓外資有足夠誘因持續投資，深耕台灣。製藥委員會呼籲衛生福利部及健保署加速以下改革：

建議方案：

1. **鼓勵創新研發，新藥健保核價應反應新藥價值**

根據健保署公布的最新「近年新藥核價結果與國際藥價之比較」統計數據顯示，現行的健保核價並不具有鼓勵研發創新的精神。與國際藥價相比，2013年到2017年台灣健保新藥核價皆遠低於十國中位價;第一類突破創新性新藥之健保核價雖在2014年曾與十國中位價齊平，但多年來仍普遍少於十國中位價;另外，2A類新藥在2016及2017近兩年的健保核價更是遠低於十國最低價。

此外，在現行健保核價機制下，同治療領域之新藥皆以其中的最低價格作為核價基準，此機制不僅未能反應個別新藥的臨床差異性，亦無法合理反應新藥價值，更讓《全民健康保險藥物給付項目及支付標準》制定「第2A類新藥之核價參考品以最近五年收載之療效類似藥品為主要參考」之條文，原欲獎勵新藥上市之美意蕩然無存。

藥品核價過低將影響產業將創新藥品引進台灣及進一步投資台灣的意願。製藥委員會呼籲健保署檢視現行健保核價機制，確保健保藥價合理反應新藥價值，以獎勵研發創新。

2. **改進現階段藥費支出目標制度(DET)並改革藥價差制度**

*a. 調整每年度藥費支出目標基期值之計算：*當年度基期值應修正為以前一年度之實際藥費支出金額乘以該年度健保總額成長率計算。此外，新給付但未包含於前一年度總額預算支出的新醫療科技應於該年度之藥費支出目標成長率予以適度反映調整。

*b. 廣泛認可專利範圍：*有鑑於突破性醫療科技及某些新興治療可能無法以成分專利(目前健保署在藥價核定機制中唯一認可的專利樣態)加以涵蓋，製藥委員會建請健保署擴大專利認定之樣態，以鼓勵創新研發。

*c. 健全R-zone機制：*單源性藥品應給予15%的R-Zone保護。雖然其主成分已過專利期或未於台灣登記專利，但因市場上僅有此單一來源藥物，又無學名藥可替代，若這類藥品沒有適當藥價保護，恐因藥價調整被迫退出台灣市場，屆時將衝擊患者治療權益。

*d. 建立專款藥品藥價調整可預測機制：*健保編列之四大類專款藥費(如HIV/HCV、罕見疾病、血友病之藥物)應建立透明、可預測之藥價調整機制，避免以調降價格作為因應專款編列不足之解方；以HIV藥物為例，HIV藥物給付規範應回歸實證醫學，避免以價格作為用藥主要考量。製藥委員會更呼籲政府應對HIV治療有更全面性規劃，如疾病管制署應對HIV治療編列足夠預算，以確保

病人對HIV藥物之治療可近性，並建立HIV藥物可預測之價格調整機制。

e. *改革藥價差機制：*當新藥列入健保給付項目後，醫院採購藥品過程會進一步要求價格折讓，醫院競價獲取最大利潤的藥品採購模式已進而對製藥產業衍生額外壓力。製藥委員會呼籲衛生福利部及健保署應重新思考藥價差機制，避免醫院在藥品採購的獲利考量成為病人取得創新藥物的另一個阻礙。

f. *藥品給付決策應持續擴大參與：*目前共同擬定會議由醫界代表、學者專家及付費者代表所組成，製藥委員會肯定健保署邀請病友團體列席共擬會議之作為，讓病人聲音能有機會在會議中反映，然而藥業代表卻仍未能參與共擬會議，表達意見。製藥委員會呼籲健保署應將提供藥物的藥業代表列為正式委員，以確保藥品給付決策過程能擴大參與。

私募基金委員會

本委員會感謝政府不僅與企業持開放對話的態度，並透過修訂公司法、企業併購法以及金融監督管理委員會相關規定，去除私募基金在台投資的障礙，並允許證券公司透過子公司對私募基金與創投基金進行投資。

過去一年內政府核准的兩項重要併購案反映出政府對私募基金在台投資的重要進展。科爾伯格-克拉維斯-羅伯茨獲准以購買後再下市的交易方式，取得李長榮化學工業的多數股權，摩根士丹利私募股權亞洲則獲准買下足以控制百略醫學科技股份有限公司的股權。這兩家在台灣石化與醫療器材產業占有重要地位的公司，藉由上述併購案取得它們需要的資金。

藉由進一步行動推動私募基金在台灣發展，對台灣經濟將大有助益。根據麥肯錫公司發表的《2018全球私募市場回顧》，2017年全球逾7,700家私募基金業者共持有創下新高的1.8兆美元未承諾資本，其中約1,300億是在亞洲。如果私募基金的投資流入台灣，台灣將可明顯獲益。台灣雖然不缺資金，但國際私募基金投資可以帶來無法輕易取得的好處。私募基金提供強化且聚焦的全球管理最佳做法，可為台灣企業建立能量，並導入可幫助台灣企業拓展超越本地經濟之區域與全球連結。

如同台灣整體社會，台灣企業也正面臨老化、企業創辦人接近退休的年齡。私募基金提供建立機制並為接班問題懸而未決之企業提供接班計畫途徑。藉解決接班問題，私募基金可幫助確保許多在過去數十年間建立的重要企業得以繼續繁榮發展，為台灣經濟做出長遠貢獻。確保台灣持續對國際私募基金開放，也可使標準提高，提升台灣私募基金業者的競爭力，改善它們的前景，並往鄰近國家拓展業務。

本委員會提出以下建議，做為延續過去一年正面發展趨勢的方法。

建議一：進一步釐清可能成為阻礙私募基金投資的議題

私募基金委員會希冀持續與台灣投資及金融主管機關對話，以找出障礙並尋求解決之道，以提升國內與國際私募基金為台灣做出貢獻的機會。需要進一步釐清的重要議題包括：

- 有關併購後下市的規定與程序。此程序需要更清楚的標準及更高的透明度。下市不應被視為對台灣證券市場不利的情況，反之，下市是幫助企業重整經常需要的步驟，並在私募基金投資者的指引下調整管理階層。下市企業在完成此階段後，往往會恢復上市。
- 同樣跟下市後私有化有關的是，政府是否根據交易規模、相關企業的市值或產業別，維持任何正式或實質的限制。若然，政府應說明維持限制的原因為何。
- 政府是否將針對有意投資個別產業的國外私募基金業者，維持正式或實質的所有權或資格限制，或有不同的審核程序。過去金融服務業、電信業與媒體業均被視為敏感產業。
- 政府是否已建立或試圖建立績效規範或限制，作為併購審核程序的一部分，實例可能包含與勞工或就業保證或特定種類財務結構相關。

私募基金委員會期待瞭解政府對於這些議題的看法，且樂意成為政府在這方面的徵詢對象。本委員會認為，我們與政府有提升投資以建立更繁榮台灣的共同目標。

建議二：更加努力吸引大型國際私募基金業者來台投資

大型國際私募基金業者多專注於金額較大的交易以及已經公開上市的較成熟企業，直到不久之前，此類業者想快速取得監管單位，對其從資本市場下市的許可仍面臨挑戰。這個情況阻礙了大型投資基金的流入，這些大型基金原可協助企業進行結構調整，並使成熟的台灣企業獲得新動能，以便取得再次獲得成功的有利地位。

未能吸引大型國際私募基金，使台灣經濟與台灣企業處在相對於競爭者較為不利的地位。《亞洲創業投資期刊》資料顯示，從2015到2017的3年期間，台灣吸引到的國際私募基金投資僅14億美元，香港在同期吸引的國際私募基金投資達到180億美元、新加坡290億，南韓更達到368億。連發展程度不如台灣的國家在這方面的表現也優於台灣，例如馬來西亞有大約30億美元，菲律賓22億，越南18億。

建議三：鼓勵成立家族投資部門，做為私募基金生態系的重要環節

成立部門為單一富有家庭或多個家庭管理投資是越來越普遍的趨勢，它可以在全球和亞洲補強私募基金的業務。許多傳統避險基金業者已經將其基金關閉，以便成立投資部門為這些家族企業做投顧。由於亞洲具有從全球吸引資金的能力，部分家族投資部門正在開拓亞洲市場，目前多以新加坡和香港為目標。有許多家族企業的台灣也出現類似趨勢，富有的家庭會成立部門，專責管理財富並進行投資。

台北市美國商會私募基金委員會期待與台灣的監理機關共同努力，建立可吸引國際級家族部門基金到台灣投資的環境，同時又能協助台灣的家族投資部門更加瞭解重要投資趨勢並提升營運效率。

公共衛生委員會

台灣在公共衛生領域有著極高的成就，公共衛生委員會願與台灣政府繼續共同合作，達成各項公衛目標，例如加入世界衛生組織。

本委員會及會員將繼續透過邀請企業的資深領導人來台灣，和總部分享台灣在公衛領域的發展及透過美商會每年的華盛頓拜訪，大力宣揚台灣在公共衛生領域的成就。

台灣在肝病的管理上有著傲人的成就。本委員會相信並將透過各種方式與政府攜手合作，將台灣打造為亞洲區的『肝病管理卓越中心』。

本委員會十分佩服衛生福利部在C型肝炎治療上的非凡成就。為了達成2025C肝歸零的這項極具挑戰的目標，衛生福利部在2019年大幅增加了C型肝炎的治療經費，並放寬給付規範。

本委員會肯定健保署將肝癌的治療也納入免疫療法的給付。提供創新及有效的肝癌治療不僅是將台灣推向『亞洲區肝病管理

卓越中心』的重要一步，更能強化台灣加入世界衛生組織的立場。

本委員會除了希望與政府在肝病管理上合作，亦希望能與衛福部一起合作改善台灣的疫苗政策。我們肯定政府持續與國際接軌及科學評估的良善動機，也了解在疫苗預算不足的窘境下，採取階段性政策的必要性；然而我們希望政府正視唯有穩定且長期的國家疫苗政策及預算，方能讓台灣的疫苗政策成功。

長期照護，尤其是骨質疏鬆症的處置，是委員會希望與衛生福利部合作的另一項重大議題。成功的長期照護，關鍵在於改善老年人的健康和行動力，委員會希望與衛福部合作制訂政策和計畫，透過篩檢和醫療介入，以預防台灣老年人口極常見的骨折問題。

建議一：打造台灣成為亞洲的肝病管理卓越中心

肝臟疾病一直以來就是台灣的重要公共衛生議題。根據衛福部的資料顯示，2017年有1萬3千名台灣人因為慢性肝病，肝硬化，或是肝癌而過世。

肝硬化及慢性肝病是台灣第十大死亡原因，肝癌更是台灣死亡率第二高的癌症。B型肝炎及C型肝炎是造成慢性肝病，肝硬化及肝癌的主要原因。

台灣從1986年開始的新生兒B型肝炎疫苗接種，不僅大幅降低台灣B型肝炎患者之盛行率，也獲得國際讚揚。然而慢性B型肝炎仍有未竟之功，政府需要繼續努力，以阻止慢性 B型肝炎患者的疾病惡化及改善長期臨床結果為目標，例如，進展成肝纖維化、肝硬化、肝癌甚至死亡。 持續治療不中斷並有效的控制病毒將會是預防慢性 B型肝炎患者疾病惡化主因之一。

世界衛生組織2030 C肝歸零的全球目標，台灣政府設定了更具挑戰的2025 C型肝炎歸零目標。從2017年給付新型口服C肝藥物到2019年放寬C肝給付規範，台灣政府已經完成許多重要的里程碑，本委員會願與台灣政府一起研擬並執行完整、可行的篩檢到治療的完整計畫，以協助政府完成C肝歸零的目標。

將治療肝癌的創新藥品納入健保，幫助所有的肝癌病人是一件刻不容緩的事。除了可以加速新藥進入台灣市場，更能鼓勵更多臨床試驗在台灣進行。要達成這個目標，政府需要增加健保給付新藥的預算。

台灣政府將生技產業列為台灣重要的經濟成長推手，依據其他先進國家的經驗，要打造一個成功的生技產業，需要人才，智慧財產權保護，政策及市場。本委員會誠摯地希望幫助台灣強化與國際合作，加強肝病相關的新藥研發及引進更多臨床試驗，同時期許政府能加速並擴大病人使用創新藥品。如此將可提升台灣對於慢性肝炎，肝硬化及肝癌的照護及治療。

我們的建議

1. 繼續政府既有的肝病管理政策。台灣政府已經成立了一個C肝辦公室，預計將在2025年將C肝根除。本委員會建議台灣政府能有效篩檢病人並連接至治療，以達到政府的目標。

   台灣政府在B肝疫苗接種有了舉世聞名的成就，本委員會見台灣政府應繼續努力降低B型肝炎的感染及患者的病情惡化。本委員會建議台灣政府能採取更積極的作為，加速給付肝癌的創新藥品讓所有肝癌患者得到適當治療。
2. 配合政府新南向政策，和其他國家分享台灣在肝病管理上的成功經驗。本委員會願配合台灣政府的新南向政策，與政府一起尋找強化和東南亞18個國家在經濟及文化上合作的機會，『打造台灣成為亞洲肝病管理卓越中心』就是一個最好的方案。本委員會願就此計畫與政府有更多的討論。

   政府將生技產業列為台灣重要的經濟成長推手，依據其他先進國家的經驗，要打造一個成功的生技產業，需要人才，智慧財產權保護，政策及市場。本委員會誠摯地希望幫助台灣強化與國際合作，加強肝病相關的新藥研發及引進更多臨床試驗，同時期許政府能加速並擴大病人使用創新藥品。如此將可提升台灣對於慢性肝病，肝硬化及肝癌的照護及治療。

建議二：規劃充足穩定財源以逐步健全疫苗基金，完善疫苗政策，讓台灣預防接種經驗成為國際標竿

台灣預防接種的成效曾在國際上寫下燦爛的一頁，許多嚴重傳染病，如天花、百日咳、麻疹等，都因疫苗接種而受到控制或絕跡。近年世界衛生組織將子宮頸癌預防視為重要公共衛生議題，呼籲透過疫苗接種及早期診斷治療來降低子宮頸癌的發生，台灣子宮頸癌疫苗政策已於2018年底落實施打。衛福部「充實國家疫苗基金及促進國民免疫力第三期計畫」更將自2019年起，連續五年逐步導入多個新公費疫苗，強化我國預防接種政策。

衛福部導入新公費疫苗，與世界衛生組織理念相符合，從全生命週期的思維，透過不同年齡族群及不同風險需求，用科學證據來建立國家預防接種計畫，我們感受到政府意圖跟上國際趨勢的決心。我們理解透過階段性計畫，可短期解決疫苗基金不足困境，但從公共衛生政策的延續性來看，唯有長期且穩定的預防接種計畫，才能達到成效。委員會呼籲政府應有具體疫苗基金財源注入規畫，讓疫苗基金能永續支持各種預防接種政策。

我們的建議

1. 建立全面完善的疫苗施打規劃，並透過編列充足預算確保政策永續不間斷。我們肯定衛福部針對本委員會在2018年白皮書所提出的訴求做出正向積極的回應，然而本委員會更希望能見到政府提出全面完善的策略與預算機制，來支持永續的疫苗政策。
2. 此外，委員會呼籲政府應更積極宣導接種疫苗的效益及認知到疫苗的價值，同時思考在國際競相爭取疫苗穩定供貨的環境中，如何能夠即時取得疫苗，才能具體落實照顧國民健康促進公共衛生的美意。

新疫苗政策的導入需要嚴謹的科學證據支持，也需要借鏡各國經驗，委員會很樂意進一步提供相關的資訊與協助。加速新疫苗的導入不但能為台灣民眾提供與國際水準一致的健康保障，從長遠來看，更是一項最符合經濟效益的健康投資。委員會期待與政府形塑夥伴關係，藉由完善的預防接種規畫提升國民免疫力，共同為國民的健康努力。

建議三：協力提升國人對於骨鬆防治的意識，推動高齡社會的骨質疏鬆初級及次級預防政策

台灣的出生率極低，造成人口迅速老化，在 2018 年正式成為高齡化社會，65 歲以上人口佔總人口的比例達 14%。預估到 2025 年，台灣將邁入超高齡社會，65 歲以上人口佔總人口達 20%以上。

老年人最嚴重的醫療問題，包括脆弱性骨折導致的失能及死亡，而脆弱性骨折通常是骨質疏鬆所造成。骨折需要可觀的醫療及長期照護資源，對於照護患者的家人更是造成沉重的負擔。

脆弱性骨折間接降低社會的生產力，嚴重影響社會經濟，因此是高齡化社會的重大挑戰。台灣由於老年化趨勢，髖骨骨折發生率高於亞太地區其他國家。

骨質疏鬆常有「老年人的沉默殺手」之稱，骨質疏鬆沒有明顯的徵兆，但是骨骼逐漸掏空，最終輕微的碰撞或跌倒就可能導致骨折。國內研究顯示，50 歲以上人口的骨質疏鬆發生率，女性是每三人就有一人；男性是每五人當中有一人。

骨質疏鬆導致的骨折，會造成嚴重疼痛、行動困難，甚至是

長期失能。在所有骨折中，髖骨骨折是最嚴重的類型，患者極度仰賴他人的照護。且骨折後往往因傷口感染而導致嚴重併發症，甚至死亡。

根據中央健康保險署的資料，台灣是亞洲各國髖骨骨折發生率最高的國家，每年有將近 2 萬件病例。在髖骨骨折患者中，多達 80% 導致失能，有 20% 的患者在一年內死亡。髖骨骨折不僅增加整體醫療費用，對社會公共醫療體系也是沉重的負擔，整體社會經濟受到的影響更難以估算。

建議：

1. 骨鬆引發之骨折是可透過篩檢與醫療介入有效預防，早期發現與防治是重要關鍵，當務之急，應儘速由政府結合民間團體與企業之力量，啟動大規模衛生教育宣導，共同提升國人對於骨骼健康及預防骨鬆骨折的瞭解。如此有助於民眾早期檢測骨質疏鬆，及早就醫並採取必要的預防性介入，以有效減少骨質疏鬆導致的失能和死亡。
2. 為使台灣能從高齡化社會順利過度至超高齡化社會，降低骨鬆骨折所造成的負面衝擊，建議政府立即啟動高齡社會骨質疏鬆初級及次級預防政策，以確保民眾骨骼健康同時大幅降低骨鬆引發之骨折為目標，以利台灣醫療體系與社會經濟之長遠永續發展。

本委員會支持蔡英文總統「政府與民間攜手合作，讓國家更好」的政策。本委員會將協力與政府合作，提升國人對於骨質疏鬆的意識，以促進長壽且健康的社會。

不動產委員會

歐美主要城市向來以其透明公平的交易市場及法規吸引全球投資資金投注，因此一直為不動產投資最熱絡的地區。單就2018年歐洲地區總不動產投資額中逾五成來自境外資金，反觀亞太重要經濟體之一的台灣，過去二十年來平均外資投資不到7%的比例來看，值得政府深省。

再者，不動產往往扮演了捍衛每個家庭成員及資產的安全及保障，因此為了保障民眾的權益，政府更應致力創造交易公平且資訊透明的市場環境。近年來我們也觀察到政府於實價登錄、房貸管制、房地稅改革、加速都更等努力；然而，若與歐美或亞太新加坡、香港等已開發國家相比，台灣不動產市場的公開透明程度仍有改善空間。與此同時，近幾年來外資在台投資不動產的交易金額趨近於零，顯現當前台灣市場環境對外國投資人並不友善。台北市美國商會不動產委員會（以下簡稱本會）期許未來能見到政府持續推出有利於不動產市場發展的政策，鼓勵外資及台商來台投資，以促進經濟發展並健全整體產業。

本會針對現行法令與政策提出以下兩點建議，並期望與相關主管機關進行溝通與交流，以進一步改善整體交易環境，促使台灣成為更具競爭力的不動產投資市場。

建議一：修正不動產估價師法，推動估價師事務所法人化

依現行規定，估價業務應由領有證書並設立事務所之不動產估價師所執行，或由二個以上估價師組織聯合事務所，共同執行業務。美國商會不動產委員會敦促政府加速修改不動產估價師法，開放不動產估價師事務所法人化。此建議今年已由本會連續三年提出，然目前仍於內政部研議思考其可行性；希冀相關單位能盡速推動其改革，使台灣不動產環境能與國際接軌，呈現公平及公開。

在法人的架構下，受僱之估價師僅負有限責任，而非以自行開業或合夥人的身份負無限連帶賠償責任，將可大幅減輕其營運與財務壓力，有利估價師專注於估價業務的執行。此外，透過強制法人事務所投保業務責任保險的規定，將更能保障委託人的求償權益。

由於法人組織需制定組織章程，且財務管理制度健全，可確保其賠償能力。此外，法人組織不會因經理人變動而影響公司運作，有利於公司永續經營，並維護客戶權益。整體而言，推動不動產估價師事務所法人化具有下列效益：

1. 明確劃分風險責任範圍，有利人才招募。
2. 公司具備審計與合規政策，可提升估價報告書之公信度。
3. 法人事務所較具規模，有助於蒐集市場資訊、建立資料庫。

建議二：銀行承作不動產貸款應聘請不動產估價師

目前本國銀行機構對於不動產抵押擔保物之估價，多由銀行內部自行估價，反觀外商銀行基於國際統一作業標準，委託台灣具證照的不動產估價師出具簽證報告書，以確保估價業務的獨立性與專業性。若擔保品的估價由銀行內部人員自行評估，可能產生球員兼裁判的情況，或因專業性不足的問題而造成銀行的財務損失。

本會持續建議金管會明文規範銀行業者於辦理不動產放款業務時，應委託不動產估價師出具估價報告，評估擔保品之市場公正價值，其好處在於可杜絕低價高估或超貸情形的發生。此外，銀行應建立內部規範，評鑑不動產估價師的專業度及道德操守，以保障銀行及存戶的利益。

零售委員會

行政院通令下屬各機關之法律及法規命令草案至少公告周知 60 日，以與國際接軌並成就政府施政透明化，固屬變更以往行政程序法中預告期間過短之進步行政作為，值得稱許。

公告周知 60 日旨在廣納各界建言，為了加速有意義務實的徵詢過程，零售委員會冀望政府能考量所有利害關係人的觀點與建議，去制定法案，並公正的評估各種看法，以期裨益最終的法規草案。準此，既然訂定法規命令須踐行預告暨評論程序，行政機關應承擔為何如此訂定的理由說明義務；此等說明義務的範疇自及於，機關對所受理意見如何斟酌與取捨的理由。

零售委員會樂見食藥署願意就所提新法令諮詢業界意見。其他政府機構亦不時邀請業界代表就法律草案及規範表示意見。但過往數年環諸實際，本委員會發現，主管機關法規命令草案的預告期間幾已淪為形式；所提不論有關適當性，甚至涉及適法性的意見，絕大多數類似單向溝通，甚至僅得到「本署已收悉，將錄案參考」的制式回覆。

零售委員會呼籲台灣政府本著法案公告周知大眾的透明施政精神，能公開決策考量過程，說明如何落實各利害關係人之見解，而對法案之健全有所貢獻。我們不得不承認一個開明的政府是台灣進入下一個時代的重要關鍵。

建議一：確保技術標準立法能與貿易夥伴國際接軌並以科學為依歸

1. 零售委員會分別於法規預告期內，就預告中的「食品與相關產品查驗登記及許可證管理辦法」部分條文修正草案前後兩次提出意見，尤其指出其中新增特定疾病配方食品的分類定義、產品規格及如在國外進行臨床人體食用研究者，須檢附證明無人種差異資料，可能有適法性疑問，台灣之外，鮮有國家會有如此法規要求。並無科學證據指出台灣在地的臨床試驗是唯一評估營養適用性的憑據。本委員會呼籲台灣政府應將審查重點放在是否符合食用者的營養需求上並接受來自海外廣受認可的臨床試驗結果，而非因為人種差異所以認定

應當在台灣做試驗，如此沒有科學實據的要求，實在難以得到台灣主要貿易夥伴的認可。

2. 「食品標示宣傳廣告涉及不實誇張易生誤解或醫療效能認定準則」提供合規之食品產品宣稱的表列例示。此正面表列準則中「通常得使用例句」及「營養素得敍述之生理功能詞句」，如果僅限於列舉的意旨，則變通的範圍十分有限，某一程度上將限制言論自由。本委員會期許政府在科學實據下，消費者能不受限地了解所買產品與成分之功能訊息。零售委員會建議政府明確表達準則中「通常得使用例句」及「營養素得敍述之生理功能詞句」，僅為例示而非列舉的意旨。

建議二：制定膳食補充品特定法規分類並惠予更多健康功能宣稱之空間

鑒於我國目前法制對於「膳食補充品」未賦予其不同於一般食品的特殊法律地位，僅部分以「錠狀膠囊食品」視之，即使某些宣稱的科學證據充分，亦不承認是類產品及其成分對於人體保健方面的助益，更否定相關宣稱與廣告的空間，動輒以指涉生理功能或五官臟器而指摘表述的產品訴求，構成誇張或易生誤解。在現行食品安全衛生管理法之下，許多健康功能宣稱可能因而被認定誇大不實或有誤導之嫌而被懲處。

為此，零售委員會往年即曾敦促政府，為「膳食補充品」建立獨立完整的法制，以清楚界定其科學為依歸之健康功能宣稱。如果消費者因此而不能獲得經科學驗證的產品訊息，則其自身權益難免受損。更進一步言，台灣銀髮族人口持續增長，「膳食補充品」得以為因應，扮演健康維護的獨特角色而裨益此一族群。

零售委員會洞悉現行的「健康食品」認證制度不足以涵蓋「膳食補充品」特定法規分類之全部範圍。自民國88年「健康食品」發照以來，核發的範圍僅限13種保健功效。所有「膳食補充品」功效很明顯地並不只限於此13種領域。過往20年來，相對於日本，同性質產品已超過6000品項，在台灣卻僅有437項產品拿到健康食品的證照。我們遺憾地說，相較於台灣貿易夥伴們，健康食品的制度並未幫助台灣「膳食補充品」產業發展。本零售委員會懇切敦促政府制定「膳食補充品」特定法規分類並惠予更多以科學為本之健康功能宣稱。

建議三: 減少同一部會內機關間不一致的法令見解

一致的法規解釋及執行有助於台灣成為世界上有信譽的貿易夥伴。台灣政府應當致力培育一個法令穩定且可預測的商業環境。本委員會對於會員們近年所遭遇法令解釋及執行的不一致的情形感到憂慮。

其中的一個例子是就含有天然香料的果汁有關貨物稅的課徵上見解不一致的情形。海關原認為該產品不是稀釋果汁而採用8%的貨物稅稅率，財政部後來卻認定是稀釋果汁而採15%。進口商突然間就因此面臨必須繳納過去5年的沉重稅差。這種無法預測及不一致的稅率認定導致了進口商因無法正確估算成本導致了財務缺損，也損害了台灣政府的信譽。本委員會呼籲財政部與海關應當重新檢視貨物稅的課徵做法，以避免不同見解並確保規範一致性。

另外的例子則是食品藥物管理署日常在邊境就中文標籤判斷。鑒於標籤格式是由食品安全衛生管理法第22條規範，其內容則是由同法第28條規範，食品藥物管理署的邊境檢查員間常常仍有對於法規解釋不一致的情形。他們之中有的要求中文營養標示必須與原文標示完全一致，其他的則要求中文營養標示則必基於檢驗報告。在較多的時候，端看檢查員使用哪個標準，其間常會有數字上不一致的地方。這樣的差異要求，不但使得進口商感到困惑，更要花費更多時間解釋差異、改標及/或重貼標，而導致長時間的通關延誤。這同時也增加倉儲成本、縮短販售其間，甚至因此造成販售會有不同版本標籤，從而導致消費者的困惑。本委員會呼籲食品藥物管理署在各階層能夠有更一致的法規解釋並提供更清楚的準則，俾利業界遵行。

建議四：原廠產製批號議題

本委員會十分樂見在國發會的重視與努力溝通下，已安排商會與財政部國庫署等單位展開數次工作會議，以期能針對本委員會近年來多次提出的議題尋求解決。

食品安全衛生管理已經成為國際上備受關注的焦點議題，為了維護商品之可溯源性，各國政府大多要求預先包裝的食品、藥品及其他諸多消費產品印上製造批號代碼，台灣政府亦採行此原則，但酒類飲料不包含在管制範圍，更有原始製造批號代碼遭進口商移除或塗改的實例，若發生任何產品缺失，業者將無法確實召回產品並迅速處理，此舉與消費者權益保障背道而馳，亦有損品牌與產品的健全性。

近年來，本委員會看見財政部在此議題的積極態度，已自2016年7月起，要求進口商於進口移除或塗改原始製造批號代碼的酒類飲料產品時自主登錄。但以威士忌酒品類別為例，至2018年年底，無產製批號比例平均約占4%，相當於每年平均有將近100萬瓶無產製批號的產品在市面銷售，儼然形成食安漏洞。

允許進口商移除或塗改原始製造批號代碼，並自行編造批次代碼，顯已至少違反關稅暨貿易總協定 (GATT) 國民待遇條款、技術性貿易障礙協定 (TBT) 國民待遇條款、貿易相關智慧財產權層面協定 (TRIPs) 商標保護與地理標示條款及國民待遇條款等三項世界貿易組織規定，使進口產品面臨不利競爭條件的不平等待遇。

基於上述考量，本委員會呼籲政府落實菸酒管理法第32條第1項第6款，所有酒類飲料產品均應標示原始產製批號，以利識別生產資訊、建立供應鏈信任關係。凡原始產製批號遭塗銷者均應禁止進口或不得於市場販售，以免該產品規避正當溯源機制。

永續發展委員會

美國商會永續發展委員會感謝台灣政府在我們積極參與之下共同努力，我們非常期待近期可以看到努力的成果。

不論是台灣抑或美國商會全球會員，電子產業扮演著舉足輕重的角色，我們希望繼續致力於解決該產業的回收需求。例如，建築材料使用電子回收廢棄物，不僅環保亦有助於降低台灣電子產業的成本。此舉將促進政府推動「5+2」創新產業循環經濟的規劃，鼓勵資源再利用，而非隨意處置。

我們也鼓勵台灣政府實施減碳策略，強制課徵碳稅等相關稅制，讓全世界一同見證台灣在改善溫室效應問題上的努力。

建議一：政府應為私營部門提供更多激勵措施，提倡使用「高品質」再生建築材料

我們感謝台灣政府自2017年永續發展白皮書發表以來，積極推動使用再生建材作為公共部門的建築材料。然而我們相信可透過更多的激勵措施，促使私營部門也開始使用再生建材，例如，使用「高品質」再生建築材料的開發商可提高允建容積率。而所謂的「高品質」再生建材，其回收來源並非爐渣、汙泥等，而是來自太陽能電池板、印刷電路板及半導體製程所使用之濾材等高質量材料。我們的目標是希望讓綠能產業及電子產業廣泛使用再生建材，不僅為台灣未來經濟發展的關鍵，同時也呼應政府提倡循環經濟的理念。

建議二：政府應制定並施行碳稅相關之法規以落實減碳策略

我們建議台灣政府應針對碳排予以課稅，以敦促業者及消費者採行更具能源效率之措施來降低其碳排。部份亞洲國家已採行

碳稅相關措施，如韓國、日本及新加坡。從加速導入低碳技術、產品、服務及基礎設施，到促進綠能市場之發展，碳稅乃是重要而不可或缺的手段。我們強烈建議台灣政府應制定並施行碳稅相關法規以達成減碳策略之落實。

稅務委員會

即使在經濟險峻的時代，台灣政府仍持續致力吸引外國投資並引進最新科技，促使國家基礎建設及產業進一步升級。然而，許多稅務處理尚存有灰色地帶，此將成為台灣進步路途上的絆腳石。舉例而言，基礎建設深受統包合約相關稅務議題所影響，再或者自由貿易區內商業活動所產生的收入能否納入免稅範圍亦具有不確定性。

我們在此建議台灣政府考量下列提案，持續努力打造友善及透明的租稅環境：

建議一: 根據國內稅法及相關國際法，重新檢視統包工程之相關稅務規範

台灣政府於民國106年通過「前瞻基礎建設特別條例」，以增加政府對綠能建設、數位建設、水環境建設、軌道建設及城鄉建設之投資，進而提升台灣的基礎建設與競爭力。台灣政府以積極的態度開發再生能源，並致力於降低對核能發電及進口燃料之依賴。外國開發商在台灣再生能源產業，尤其是離岸風電及關聯產業的發展，將持續扮演重要角色。因此，審視政府相關稅收政策及法規以確保與國家發展計劃一致有其必要性。

根據財政部台財稅第770526922號函規定，若總機構在台灣境外之營利事業，於台灣境內承包營建或安裝工程，該工程合約總價款(包含在境外採購材料及機器設備之價款)，應依法課徵所得稅，即便台灣境內之工程價款（例如營建和安裝施作）可與境外材料或設備價款明確拆分。

然而，根據「所得稅法第八條規定中華民國來源所得認定原則」，外國營利事業直接銷售貨物予台灣境內之個人、營利事業或機關團體，應按一般國際貿易認定，免徵營利事業所得稅。因此，外國EPC公司(涉及工程、採購及建築活動之工程統包公司)通常採用分拆合約的方式，即分拆屬境內服務的合約，其範圍包括境內營造及機器設備安裝工程，此部分需依法繳納營利事業所得稅；及境外材料與機器設備採購合約，此部分按一般國際貿易認定，免徵營利事業所得稅。

雖前述兩份合約一般會由兩家境外關聯企業分別簽署，但因外國承包商須同時履行前述兩份合約之義務，稅務機關可能依實質認定原則，視該兩份合約為同一份EPC合約，即認定兩份合約的全部價款(包含原依一般國際貿易認定免徵所得稅之境外材料及機器設備採購價款)均需依法課徵營利事業所得稅。

若如前述，外國開發商在台灣之所得稅負擔將十分沉重，進而影響其參與台灣再生能源或投資其他基礎建設工程之意願。

此外，外國營利事業可依其實際賺取之營業利潤，或按所得稅法第25條規範向財政部申請核准依合約總價款之15%為營利事業所得額。惟實務上，相關工程實際利潤率通常較前述15%核定利潤率為低，但外國營利事業若主張依其實際賺取之營業利潤課稅，則發現舉證相關成本費用恐耗時耗力，例如需取得由當地合格會計師簽證載有與台灣工程收入相關境外成本費用之財務報告(財政部台財稅第861924459號函)。

另外，倘若一外國企業為稅務居民之國家與台灣簽有已生效之租稅協定，依據台灣現行簽訂已生效之租稅協定第7條規定，除應歸屬於台灣常設機構之營業利潤外，該外國企業之營業利潤僅由其為稅務居民之國家課稅，且歸屬台灣常設機構之利潤，應比照歸屬「個別且獨立之個體」之利潤。根據OECD移轉訂價要點規定，利潤歸屬需同時考慮該常設機構所執行之功能、使用之資產及承擔之風險。

因此，即使外國企業因租稅協定第5條規定被認定台灣有常設機構(例如於台灣境內從事建築、安裝及裝配工程超過一定期間)，外國營利事業於境外設計、製造及採購材料/設備之相關利潤仍不應歸屬於台灣常設機構之利潤。然而，台灣稅務機關經常引用國內統包工程課稅規定，針對工程全部利潤（包含境內服務提供及境外採購部分)課稅，此舉實不符國際租稅協定慣例，且恐有雙重課稅疑慮。

雖納稅義務人可依租稅協定啟動相互協議程序解決雙重課稅問題，但相互協議程序一般極為耗時。

綜上所述，為建立一個有利外商投資國內基礎建設的友善租稅環境，我們敦促財政部能重新檢視對外國企業統包工程的課稅規定，及相關稅務議題租稅協定的適用，在符合移轉訂價常規交易原則的前提下，適當排除歸屬境外採購材料或機器設備之利潤，不屬台灣課徵營利事業所得稅之範疇。

建議二: 將「瞬間移轉貨物所有權」相關交易所得列入自貿港條例免稅辦法之適用範圍

政府於民國108年1月16日通過《自由貿易港區設置管理條例》(以下簡稱自貿港條例)修正，對於在自由貿易港區內進行符合條件之進口、倉儲或運送等活動提供租稅優惠。然而，相關免稅辦法並未明確規定是否前開租稅優惠之範圍包括外國廠商在自由貿易港區內瞬間移轉貨物所有權之行為。

「瞬間移轉貨物所有權」係實務常見之商業行為。外國營利事業基於營運管理目的，將進口至自由貿易港區內存倉之貨物，瞬間轉移進口貨物所有權予另一外國營利事業，再將貨物運出自由貿易港區至我國製造業進行後續加工事宜。然而前開另一外國營利事業並未實際在自由貿易港區內從事貨物儲存交付以外之加值活動。

該另一外國營利事業移轉貨物所有權至我國製造業之所得是否得適用自貿港條例第29條之免稅規定實有疑義。雖然貨物原產地仍來自國外，但實務上可能僅係因為貨物非直接由該另一外國營利事業進口而被視為「境內採購」，若依據修正前相關免稅辦法，將無法適用免稅規定。為配合政府促使我國自由貿易港區成為區域轉運中心，建議主管機關修訂相關免稅辦法時，考量實務需要，將瞬間移轉貨物所有權之行為納入免稅範圍。

若稅捐徵機關尚無法明確將瞬間移轉貨物所有權之行為納入免稅範圍，建議將該情形納入財政部107年4月17日台財稅字第10600664060號令(有關外商在台從事輸入、儲存、運送活動之利潤貢獻程度課稅)適用範圍，以降低稅負不確定性進而吸引更多投資。

建議三：建立國別報告申報稅務系統之英語使用者介面

台灣自2017課稅年度開始實施移轉訂價三層文據要求，其中包括集團主檔報告(Master File，MF)、國別報告(Country-by-Country Report，CBCR)、和移轉訂價報告(Local File，LF)。若跨國企業集團在台灣有實體者，且集團總收入超過新台幣270億元避風港門檻，除最終母公司（UPE）或代理最終母公司所在國家與台灣可以進行有效的資訊交換，否則該台灣實體有義務向台灣國稅局申報。

由於目前與台灣簽署主管機關協定（CAA）的國家僅有紐西蘭及日本，因此美國母公司向美國國稅局提交的CBCR將無法與台灣國稅局進行交換。美國母公司僅能透過台灣實體向台灣國稅局提交CBCR，提交方法包含：紙本、XML格式建檔並存放於光碟，或使用線上申報系統透過網路申報（網路申報僅能在報稅期間使用）。

礙於CBCR內容牽涉跨國公司在全球各地的繳稅情況、員工人

數、與關聯及非關聯企業交易及等營業機密，因此大部分UPE希望能夠自行提交CBCR，而非透過在台實體送交，但目前國稅局申報的網站僅限於中文介面，此將導致眾多跨國公司UPE在遞交CBCR過程中會有相當困難。

再者，多數跨國公司禁止相關機密文件以光碟或是網路申報電子方式傳出。因此，很多UPE選擇以紙本送交。

我們敦請台灣稅務機關認真研究此問題，為跨國企業尋找最佳解決方案。此外，大多數UPE皆在非中文語系國家，我們建議台灣稅務機關在CBCR申報網站中加入英語使用者介面以降低語文障礙。如此一來，國外UPE可以直接申報，避免向應申報單位以外非自願的洩露資訊。

科技委員會

科技是創新所成就的豐美果實，也是人類進化的核心，更是推動經濟發展的火車頭。科技發展所帶來的創新協助人類解決眾多與社會福祉有關的重大問題、促進日常生活效率、提升組織運作效能。在可預見不久的未來，諸如超級運算能力、人工智慧等技術的快速發展，將改變我們的日常生活、社會結構、政府運作，並引發下一波工業革命浪潮。

台灣的科技基礎厚實、工程人才濟濟，智慧財產權保護完善，同時地處亞洲的中心區域，台灣政府若能充分善用以上各項優勢，就能跟上下一波科技洪流的浪尖。極為重要的是，政府應當整合各部會資源打造優勢生態體系，為核心新科技的孵化、發展、保護、以及快速的商業化提供有利的環境，以推動台灣未來經濟發展。

科技委員會深知並感謝台灣政府持續致力於改善法規環境，應對社會經濟變化。但現行政府工作進展的幅度、速度恐難跟上外部環境變化的步伐。因此，我們強烈建議政府創造一個前瞻的科技政策環境，帶領台灣迎頭趕上數位經濟時代。

建議一：建構健全的資料治理法規架構，以發揮資料經濟的發展潛力

1. 資料分級

   當前最為令人期待的技術和相關創新，多建構在雲端技術基礎上，並由雲端服務提供支持。綜觀全球，越來越多的企業、教育機構、非政府組織都採用雲端服務，以期節約成本、提高效率、促進創新。政府面臨的挑戰是如何採納並推廣此項創新科技，以維持國際競爭力。研究機構Gartner指出，各國政府因對安全存疑，遲遲不願採用雲端服務。可資借鏡的國際通行做法是按安全優先級別，建立明確的政府資料分級體系，讓政府機構能安享雲端服務所帶來的競爭優勢。

   新頒布的《資通安全責任等級分級辦法》將政府機構劃分為不同等級，辦法第二條指出政府機構得將資料分成從E級到A級，A級標示代表最高層級的資料安全保護責任。在此背景下，我們建議政府採取相似的舉措，根據安全與保密級別對政府資料進行分級，為政府機構奠定一個基本的法規基礎框架，讓政府機構充分利用雲端優勢和政府資料，提升政府服務效能。

2. 限制非必要的資料在地化要求

   網際網路平台化發展對國際貿易、創新和商業活動大有裨益。高效資料傳輸既能降低交易成本，又能加強即時資源管理。非必要的資料在地化、資料國家主義等要求，並不利於國家的經濟發展。

   行政院2017年提出的《數位通訊傳播法》（Digital Communications Act）草案第21條規定：數位通訊傳播服務提供者對其位於境內之使用者，不得以不合營業常規之方式規避經由境內通訊傳播設施傳輸、接取、處理或儲存與使用者相關之數位訊息。如果對該條款進行嚴格解釋，則外國服務提供商可能需承受資料在地化之義務負擔。另外，「以不合營業常規之方式規避（irregularly bypass）」含義不明，可能引起合憲性質疑。

   本委員會支持簽訂數位貿易協定，以促進數據跨境流通、限制資料在地化要求。我們強烈建議在草案中將「不合營業常規之方式規避」的定義明確化，避免在台灣合法經營的外國雲端服務提供商被施予過重之負擔。

我們建議：

1. 就政府數據進行分級，促進公部門使用雲端服務。數十年來，資料分級在業界已被廣為採用，以針對敏感或關鍵資料進行適當層級的保護。我們建議政府實施資料分級，以便根據其相對風險和關鍵性更有效地管理和保護資訊，從而簡化認證並加速政府善用雲端服務。
2. 明確《數位通訊傳播法》草案第21條的適用範圍。我們強烈建議台灣政府和草案相關的立法機構，刪除草案第21條或者明確"以不合營業常規之方式規避"的定義，避免產生資料在地化或資料民族主義的不良影響。

建議二：增列重大營業秘密竊取案為檢察機關認定之重大經濟犯罪，及法院認定之重大刑事案件

對科技產業而言，營業秘密是企業最具價值，也最易被竊取的資產。近來營業秘密遭竊取至海外的案件頻傳，已嚴重威脅台灣競爭力與經濟前景。惟有及時且有效的執法，方能遏止此類犯罪。

法務部調查局已將竊取營業秘密（違反營業秘密法第十三條之一、第十三條之二之罪）列入「法務部調查局重大經濟犯罪案件認定要點」。本委員會感謝調查局對營業秘密案件之重視，也敦請檢察機關與法院採取同一措施。我們呼應智慧財產權與授權委員會之主張，建議將違反營業秘密法第十三條之一、第十三條之二之罪，明文列入「檢察機關辦理重大經濟犯罪案件注意事項」，及「法院辦理重大刑事案件速審速結注意事項」。

本委員會堅信，調、檢、院一致明文將竊取營業秘密案件納入此等工作準則，將有助於調查、偵辦及審判過程之時效性與力度，可大幅強化執法效果。

建議三：建立健全的新創公司商業生態體系，培育台灣經濟成長的下一波浪潮

健全的新創事業圈對於推動台灣下一波經濟成長是必不可或缺的要素，本委員會鼓勵台灣繼續努力打造一個全方位的新創公司商業生態體系，鬆綁對新創事業勞工政策的管制、加速建立雙語國家的計畫，並全面開放、避免過度保護現有的產業以營造一個自由競爭的環境。台灣在這方面必須與其它例如新加坡、韓國等區域中心一較高下。為吸引外國和本地的新創公司進入台灣，政府應考慮為從事創新和新經濟發展的早期新創公司，設立一套明確的獎勵措施。以下舉例說明台灣可以如何改善其對新創公司的友好程度：

a. 放寬對新創公司的勞動力限制

   放寬對外資實體新創公司對聘僱外籍專業人才的最低營收條件限制：

   根據現行外籍人士聘僱管理辦法規定，外資實體若希望聘僱外籍人士擔任經理或高階主管，要求此外資實體（i）在台灣的實收資本額或經營資金須超過五十萬新台幣、（ii）每年銷售收入須超過三百萬新台幣，進出口金額須超過五十萬美元，或是傭金收入須超過二十萬美元。若外

資實體想聘僱外籍人士擔任技術專家、聘僱一名以上的外國公民，或在外國公民工作許可證到期時續簽，則有更嚴格的限制規定。想期望科技新創公司在營運頭幾年便有這般的銷售收入，是不切實際的事，這些新創公司的主要目標為投資在研究發展，這表示可能在幾年內都不會有任何回報。但是對於這些科技新創公司來說，則必須要在個別專業領域內，能夠聘僱外籍專業人士並依賴他們的技術和經驗。

放寬固定期限的勞動合約限制：

勞動基準法允許勞資雙方僅在極為有限的條件下，才能簽訂固定期限的勞動合約。這項政策對科技新創公司而言是一大阻礙，尤其是在當它需要視研發進度彈性調整勞動力的早期階段，而這個階段的進度又難以預測。

b. **吸引創投公司來台灣投資，並增加取得融資的管道**

台灣約有兩百家投資於各行各業的創投業者，多數都是投資於「根基穩固」的公司，而非投資於早期新創公司（種子前、種子和 A 輪）。台灣國家發展委員會已採取重要措施，投資8,300萬美元於四家創投公司，用於投資本地新創公司。我們建議透過適用於台灣的解決方案，放寬此類投資範圍並納入外國新創公司，以刺激創新。我們還敦促台灣政府獎勵國際創投公司在台灣開設分支機構，並藉由稅收優惠和放寬現有放款限制，以鼓勵本地創投公司進行更多的早期投資。

c. **減輕查稅壓力**

公司的報稅單上若未出現最低利潤金額，往往會面臨當地稅務主管機關的嚴格審查，然而科技新創公司的商業計畫卻經常要經過一段時間的研發、產品開發和市場滲透活動後，才會出現盈利。最初幾年沒有利潤是極為正常的情況，並與管理階層對公司的目標完全一致，而非有意逃漏稅。

本委員會認為上述措施將吸引外國和本地新創企業在台灣建立業務，從而有助於培育建立一個充滿活力的新創公司商業生態體系。

建議四：採取政策措施，並建立跨部會的高層工作小組以因應由新科技推動的未來世界

我們的社會即將進入一個由革命性新科技創造的嶄新世代。人工智慧、大數據、機器學習、虛擬／擴充實境及雲端運算等科技具有解決人類世界重大問題的潛力，進而引領社會進入富庶繁盛的新時代。

為幫助社會轉型迎向未來，我們提出兩大公共政策建議。此外我們也鼓勵政府建立一個跨部門的高層工作小組來審視、管理新科技帶來的機會和挑戰，最終目的是為台灣創造一個健全的政策環境以促進經濟發展、增進人民福祉。

1. **對推動進步的新科技保持信任**

政府必須推行適當的資料防護政策以解決隱私和安全問題，同時為企業提供明確的法規環境。我們建議從以下三點著手：

- 透過自主遵循全球開放標準強化資料隱私與安全性，並且導入領先業界的安全措施來維護資料安全。
- 在台灣可達成的政治框架內，藉由政府之間的標準化協議來解決不同網路安全或資料隱私作法所引發的法律和司法衝突。
- 支持有助社會大眾了解人工智慧如何做出決策或提供建議的資料透明及資料治理政策。企業必須要能清楚說明有哪些因素導致其演算法做出特定建議。

2. **支持勞動力培訓政策。為協助學生、教育體系、員工及企業做好準備迎接可能在2030年就會來到的重大轉變，政府可提供以下協助：**
   - 重新審視勞動政策及法規，以培養出能適應未來世界的勞動力。
   - 公共教育與培訓計畫應著重在STEM（Science科學、Technology科技、Engineering工程和Mathematics數學）訓練、批判思考、溝通技能和數位素養。
   - 利用資料分析技術、VR、AR建立沈浸式內容以實現並提升學習效果。

建議五：政府應與各方關係人共同合作，尋求合乎保障人民言論自由及正當法律程序原則的假訊息治理適當解方

假訊息一直是台灣政府近來密切關注的重點問題。2018年12月起，行政院陸續提出多項法案修正案，力圖透過強化現有法律對不實訊息的規定及處罰，以期扼止人民製作及散佈不法不實言論。此外，行政院也曾考慮修改《數位通訊傳播法》草案，要求數位通信平台、社交媒體在未有法院事先評斷的情況下，審查並刪除用戶舉報的虛假信息。

台灣政府僅片面地考慮採取立法措施對抗假訊息的行動，而未充分留意假訊息現象所涉及問題的複雜性，十分令人憂心。我們籲請當局參酌《馬尼拉仲介方責任原則》（Manila Principles on Intermediary Liability）；該原則係由一群國際非營利組織於2015年所建立關於言論內容審查與下架法規之指引，並廣被接受的國際標準。該原則第二點明確規定，除非獨立、公正的司法機關發佈命令，認定所涉內容非法，否則不得要求仲介方限制用戶內容。為求符合保護言論自由和資訊存取的國際原則標準，我們強烈建議台灣政府和立法機構勿向數位平台施加諸如侵害言論自由以及與正當法律程序相抵觸的不合理義務。

在像台灣這樣的民主社會中，我們認為對抗假訊息的危害，最有效的方式仍為全面提高台灣民眾的媒體素養。為達成此目標，目前已有數個真相查核團體開始和數位產業中的企業展開合作。同時，在台的社群媒體與數位平台亦開展對抗假訊息以及防止其對社會產生危害的相關政策與自律措施。

我們建議：

1. 在處理假訊息問題的同時也能尊重基本的民主價值。對抗假訊息是重要但也是高度敏感的議題。我們籲請台灣政府應向所有相關關係人進行全面的諮詢，尋求可行、有效且與合乎自由及正當法律程序等基本民主價值原則相符之解方。
2. 提升公眾媒體素養與促進平台自律。提升公眾媒體素養為對抗假消息的最終解方。我們建請政府推廣各式計畫以提升公眾區辨真實與虛假資訊的能力，並且鼓勵數位平台實現其自律措施亦應為政府的政策優先重點之一。

電信及媒體委員會

本委員會亟盼國家通訊傳播委員會與交通部能以前瞻角度、因應未來科技的應用發展，審視現行法規的適應性，俾使電信及媒體業者在未來長程的投資發展上能有法源依據而得以規劃。由於現行鉅額的頻譜使用費及未來可預期之5G頻寬投標金已讓電信營運商在基礎建設的投資上躑躅不前，而有線電視產業不但要面對費率審議、相對與無法規管的IPTV、OTT等服務平台的競爭，在有廣法上仍被約束需要取得用戶的書面服務合約的要求，以及即將頒布實施的多元付費方案、免費機上盒提供等問題所造成的不公平、不合理的競爭環境，對電信與媒體業者的投資意願產生負面影響。

我們期望台灣政府能就以下議題之相關法令檢視調整，以提升更長遠高綜效的電信及媒體產業發展。

建議一：檢討頻率使用費收費機制，並持續調降以促進行動寬頻產業發展

依NCC「通訊傳播事業概況總覽」之資料顯示，台灣行動通信市場營收近7年均呈現持續下滑，自2011年的2,172億新台幣減少至2018年的1,780億新台幣，下滑近392億台幣，而5G即將來臨，各家電信公司不僅面臨營收及獲利之不斷下滑，卻又同時面臨頻率標金與管制成本之不斷墊高，這情形並不利於政府、產業與消費者，政府應該正視電信產業的經營困境而積極做出調整。

以台灣目前已經釋出590MHz的頻譜，2017與2018年台灣五大電信公司每年均已繳納逾34億元的頻譜使用費，若再加上即將釋出之5G頻譜，超高之頻譜使用費必將成為產業發展之沉重負擔，不僅不利於5G網路建設投資，更會因而對於上下游資通訊產業發展及消費者長期利益造成嚴重影響。

「頻率使用費」之收費與「無線電頻率之釋出標金」本即為分別獨立之議題，不應連結觀之，此情形尤其在頻率改採競標機制釋出後更加明確；依據「規費法」之精神，針對稀有之頻譜資源釋出，於使用者付費原則下，由電信事業以標金之方式攤付，而頻率使用費則應僅為「提升頻率資源之有效利用」下主管機關所為之管理成本，該原則與邏輯與國際案例作法並無差異；而以美國、德國、芬蘭、新加坡等國為例，收取頻率使用費之基礎均為「填補頻譜管理成本之支出」，因此，所收取之總費用以不超過頻率管理成本為原則。

主管機關雖將於今（2019）年起實施以調整「每MHz頻率使用費」及「頻段調整係數」方式調降頻率使用費，但其計算機制與標準仍依循20餘年前之2G時代所設立之模式，建議政府與主管機關應仿效美、英、歐盟、日、韓等國都是以頻率使用費填補管理成本，如英國釋出642MHz、德國釋出688MHz所收取的頻率管理成本換算以台灣購買力平價推算，折合台幣約為11.1億元、0.9億元，而我國頻率既然已改採競標方式釋出，且標金也遠高於國外，再收取高額頻率使用費實非常不合時宜，因此建請政府與主管機關儘速再次檢討頻率使用費之收費機制，以回歸「不超過主管機關之實際管理成本」為頻率使用費之計算依據，並逐年調降以全面回歸實際管理成本，期能協助台灣行動寬頻產業及技術之發展。

建議二：解除有線電視費率管制及收費上限

台灣於1990年訂定有線電視收費標準時，由於當時對視訊內容服務的選擇性不多，基於保護消費者權益而有進行費率管制之必要，然而隨著數位科技的進步與普及，有線電視產業除了面臨IPTV、OTT等不同視訊服務平台的強力競爭外，國家通訊傳播委員會也自2012年7月起開放有線系統新進業者之設立，並允許既有業者跨區經營。台灣的消費者已有多種視訊服務平台可以選擇的情況下，有線電視業者同時面臨內、外部高度有效競爭，嚴格的費率管制實有重新檢討之必要。 數位匯流科技的發展令市場出現多樣化的視訊平台服務。至2018年底為止，台灣視訊服務市場共有超過201萬訂閱式IPTV (SVOD IPTV)訂戶，佔507萬有線電視訂戶40%，以及高達數百萬下載的人次按次計費(TVOD)的OTT使用者。

在視訊服務市場，有線電視業者同時面臨內、外部的高度競爭，世界上多數國家，如英國、德國、日本、美國、南韓、澳洲、紐西蘭、越南、泰國等均已解除對有線電視費率管制，以確保有線電視業者有足夠資金挹注數位化新興服務的投資。建議我國有線電視資費應比照美國FCC之規定，不管制有效競爭區域的基本頻道收視費用，回歸市場自由競爭機制。

台灣有線電視嚴格的費率管制不但違反世界趨勢，實際收取的資費也不斷縮減；對照台灣消費者物價指數的年年攀升，有線電視平均費率卻由民國90年的579元逐年下降至目前517.86元，整體產業面臨業務收入年年銳減之窘境，嚴重斲害產業的正常發展。由於數位匯流的影響，視訊服務市場已充分競爭，為維護市場公平競爭與良性發展，令有線電視能夠與現有OTT、IPTV等業者公平競爭，建議台灣政府應解除有線電視的費率管制，交由市場機制來決定。

建議三：NCC規劃頻道分組付費政策應有明確法律授權

國家通訊傳播委員會於108年3月4日預告「有線廣播電視系統經營者收費標準修正草案」，其中草案第3條強制規定系統經營者應提供有線電視頻道分組付費機制，實有逾越母法授權之虞。

依據有線廣播電視法第44條規定：「系統經營者應於每年8月1日起1個月內向直轄市、縣(市)政府申報收視費用，由直轄市、縣(市)政府依中央主管機關所訂收費標準，核准後公告之。直轄市、縣(市)政府未設費率委員會，應由中央主管機關行使之。」

是以，有廣法授權訂定收費標準之立法目的，係作為直轄市、縣（市）政府審查系統經營者每年申報收視費用之審查標準，並未授權中央主管機關訂定有線電視分組付費機制，或者對於有線電視頻道組合的規劃有介入與管制之權限。此外，系統經營者之網路及頻譜係業者投資興建的私有財產，強制業者提供分組基本頻道，限制系統業者經營自由與商業營運規劃，亦違反憲法第15條保障人民財產權之規定，因此頻道分組付費政策應有明確之法律依據。

有鑑於此，委員會敦請NCC刪除收費標準修正草案中有關頻道分組付費機制之規定。

建議四：取消強制有線電視系統經營者無償借用二台數位機上盒予訂戶之規定

前述的收費標準修正草案除了強制業者提供分組基本頻道外，也另強制規定系統經營者無償借用訂戶二台數位機上盒。此一規定侵害業者的財產權，應有明確法律授權否則即有違憲之虞。

其次，強制規定系統經營者無償借用訂戶二台數位機上盒不利於產業長期發展。

數位化過程中，業者為配合政府的數位化政策所投入的數位化投資估計高達553.57億元均尚未回收，如今卻進一步強制系統經營者無償借用訂戶二台數位機上盒，勢必擴大業者沉重的成本負擔。另外，業者依據之前實施數位化實驗區的經驗可知，由於訂戶欠缺退還押金與保證金之誘因，訂戶中止或終止服務時隨意丟棄業者無償借用的數位機上盒，甚至上網拍賣，令業者無法回收再利用數位機上盒，擴大業者財務負擔，同時阻斷業者引進高階數位機上盒之意願，反而將減損訂戶權益與產業發展升級可能性，因此建議應刪除強制業者無償借用數位機上盒之規定，訂戶應依據使用者付費原則，以租用或押借方式使用數位機上盒。

建議五：修正有線廣播電視法第50條業者應與訂戶訂立書面契約之規定，允許業者以彈性方式與訂戶訂立服務契約

現行有線廣播電視法明文規定，系統經營者應與訂戶訂立收視、收聽服務書面契約，惟現今通訊科技持續進步發展，且為配合台灣政府提倡環境保護、推動電子化、無紙化之e化政策的同時，現行有線廣播電視系統之服務契約仍規定應以書面為之，不僅違背數位匯流發展之趨勢，亦違反環保與e化之趨勢，本土業者與國際業者競爭時，更缺乏彈性與效率化。

強制有線電視業者與訂戶所簽訂的契約必須以書面為要件是不必要、且不合理的規定，此一強制規定形成有線電視產業活絡發展的障礙，因為依據電子簽章法的規定，有線電視業者如使用電子文件方式，例如：TV Mail代替紙本的書面同意，客戶應以電子簽章簽署服務契約才能發生效力，形成業者推動無紙化、電

子化的嚴重阻礙。

數位化科技時代，實已無必要強制規範有線電視業者和訂戶間的服務契約必須做成書面契約，因此建議刪除有線廣播電視法第50條「書面」的規定，建議修正為「系統經營業者應與訂戶訂立收視、聽服務契約」，允許業者以多樣化的彈性方式，規畫與訂戶間訂立服務契約之方式，以符合無紙化、電子化等趨勢，方能使訂戶享受文件電子化所帶來之便利性，同時亦可維護環境資源。

交通運輸與物流委員會

電子商務是台灣新的成長動力。根據Euromonitor的市場研究報告，台灣的線上支出佔總零售額的10％，達97億美元。2017年，台灣已躍居亞太地區第五大電子商務市場，僅次於中國、日本、韓國和澳洲。

同時，台灣也位於全球電子商務成長最快速的區域，有超過50％的線上零售商品和服務採購都是發生在亞太地區。預計2017年至2022年，此區域中的所有市場每年都會有兩位數的成長，這對試圖進軍亞太電子商務市場的台灣業者來說，意味著龐大的商機。

為協助台灣充分掌握此一新的成長契機，委員會鼓勵政府考慮制定措施，以期能進一步簡化貿易、加速通關，並簡化低價貨物的徵稅——其中大部分是電子商務。

與此同時，我們理解到跨境電子商務可能會給決策者帶來新的挑戰。低價貨物量的激增可能會使海關疲於應付。許多電子商務進口商通常是缺乏經驗、不熟悉貿易規則的個人和小型企業，他們給海關帶來了各種法遵的挑戰。我們的成員很樂意與相關政府機構，特別是海關合作，以制定政策方案來因應此新的經濟現實。

建議：建立公私合作工作小組，制定電子商務政策和程序

由於傳統的政策作法可能不適合用來解決電子商務帶來的新挑戰，因此委員會建議，應針對電子商務的貿易便捷化建立一個公私合作工作小組。工作小組將由來自海關、國際快遞公司的代表和其他專家所組成。該工作小組的目標是確定政策方案，以簡化海關程序、提升邊境清關程序、促進有效的稅金支付和徵收，並加速進電子商務的退貨程序。

該小組將利用世界海關組織(WCO)和世界貿易組織(WTO)的國際最佳實務和政策框架，並結合當地海關專家的見解為台灣打造適合的解決方案。根據自行研究的結果、國際專家的分享以及成員間的集思廣益，工作小組承諾，將在明年的美國商會白皮書中對邊境管理機構提出包含可行建議的報告。

旅遊與觀光委員會

交通部觀光局願意與美國商會旅遊與觀光委員會成員保持溝通，理解我們所關注的台灣觀光旅遊產業各項議題，我們在此表達由衷謝意。近期《米其林指南》推出台灣版美食餐廳名單，也為台灣觀光產業相關機構持續創造正能量，有利台灣在吸引國際旅客方面厚植競爭實力。

多年來本委員會都認為：政府如果期盼台灣成為亞洲觀光重鎮，就必須把觀光事務主管機關的行政位階提高，擴增觀光推廣資源。據瞭解，觀光局即將改為觀光署，未來仍會留在交通部轄下。我們歡迎此一新轉變，但仍深信：觀光局有必要升格至內閣部會層級，方能有效完成必要的跨部會協調。

同時認為，政府機關與產業代表之間，應維持密切及時的溝通。這對於營造一個健康正向、積極進取的法規環境，極其重要。很遺憾今年四月交通部公佈《發展觀光條例》修正草案，政府與傳統業者雙方磋商討論時，並未邀請國內或國外網路旅遊平台業者參與討論。在此建議政府在進行觀光法規修訂討論時，應彙集各方利害相關人的意見，事先做到充分溝通。

我們期待，產業界能與將來的觀光署及相關政府機關做更多溝通討論，一起尋求改善台灣觀光市場之道，支持台灣經濟成長，強化台灣與國際社會的人際連結。

建議一：在行政院設立觀光會報，以更高的決策層級，推動台灣觀光發展，並使其成為國家施政優先重點

依行政院近期核准的政府組織改造案，觀光局可望升格為觀光署。這會讓觀光主管機關行政位階更高，資源更多。不過，觀光署隸屬於交通部，恐無助於跨部會的施政內容彼此協調配合，使台灣觀光旅遊產業徹底發揮潛力。這些與觀光相關部會包括文化部、外交部、教育部、農委會等眾多政府機關。

我們認為，即便觀光署正式成立，行政院的積極引導，還是不可或缺。台灣的觀光要發展，有必要建立時間跨度長達數十年且貼近世界趨勢的策略願景。這有賴行政決策位階的提高及施政行動的通盤整合。行政院在2002年設立的觀光發展推動委員會，原本被賦予這樣的任務，只是截至目前，在跨部會協調此一重點工作方面，觀光發展推動委員會的進展有限。

如觀光發展推動委員會無法有效發揮應有的功能，建議行政院設立由院長主持的觀光會報，是比較實際有效的作法。其運作方式，包括政策諮詢協調的部份，應可參照行政院科技會報。此外，由日本安倍首相召集的「觀光立國推進內閣會議」，由日本國家高階擬定觀光政策與協調的模式，頗值得台灣參考。有必要參考這種模式的理由，其實非常清楚：觀光發展是跨領域、跨部會的工作，所牽涉的政策，包括交通、文化、外交、資訊科技與環境永續等等。如果涉及各種領域的觀光施政，缺乏國家整體策略作為引導、定調，觀光發展計畫容易流於瑣碎片段，無法調和一致，施政成果會變得很有限，或是難以維持。行政院層級的觀光會報，由行政院長官指揮觀光立國策略，並以帶有危機意識的方式促進跨部會間協調速度與執行，將能為台灣觀光旅遊產業及經濟帶來正向轉變。

建議二：提供更大彈性及自主空間給區域型小旅行與在地旅宿服務提供者，進而支持在地草根創業活動以實踐地方創生

2.1 向日本，北亞觀光旅遊領先國家取經

安倍政府體認到觀光對國家經濟成長是重要引擎，已宣示動用所有資源，實現「觀光立國」目標。人口減少、城鄉落差使許多城鎮有消失之虞，日本政府因此極力推動「地方創生」，試圖提振地方經濟活動，為處境艱難的地區創造新工作機會，而觀光正是關鍵要素。日本政府宣佈入境旅客大幅增長的目標，則包括2020東京奧運年訪日國際旅客達到4千萬人、國際旅客消費總額達8兆日圓（約750億美元）。最終目標，是在2030年達到6千萬訪日國際旅客、消費總額15兆日圓。其實在2017年，訪日國際旅客數量就已經比前一年增加19％，超過2800萬人。

台灣政府顯然很願意從日本的觀光發展經驗學習，但是台灣至今仍沒有像日本一樣，把觀光產業作為國家發展策略主軸。

對於許多國際觀光客來說，能體驗在地文化與生活型態的旅遊方式極富吸引力。在善用傳統文化研發與行銷觀光服務與商品上，日本確實領先群倫。反觀台灣，儘管政府努力協助地方行銷獨特文化資產以吸引遊客，也頗有成果，仍有許多問題，使觀光產業進步緩慢，錯失良機。例如基礎建設欠缺、服務品質低落和創新不足等問題，都亟需中央政府參

與，引介資源，凝聚與協調原本各行其是的單位。例如，有好幾個中央政府機關（觀光局、文化部、國發會、農委會、經濟部等）都投入了所謂「文化觀光」的推廣業務，但各有偏好側重而非有統合的戰略計劃。

國發會正積極在台灣各地推展地方創生計畫，盼能刺激青年返鄉，振興飽受人口減少衝擊的偏鄉地區。推動地方創生，值得稱許，只是現行過時僵化法規持續禁止所謂「無照」區域型旅行服務及「無照」旅宿設施，反而限制了許多有利地方創生的創業活動。我們認為主管機關應適時調整過時僵化的法規，在合理規範、合適且顧及安全的風險管理機制之下，應該給予這類觀光旅遊服務提供者與旅宿設施經營者更多彈性鬆綁以取得執照。

本委員會期盼台灣政府參考日本等國的具體作法，持續推展文化觀光、地方創生，多方刺激經濟成長。同時，急需跨部會協調合作以達成共同目標。在此誠摯呼籲政府應有效整合所有觀光相關政策、計畫，釐清工作優先順序，以創造利害相關人最大的價值，尤其是應重視來自世界各地旅客的需求和地方創生政策所要服務與支援的在地民眾們。

2.2 考慮准許更多具備文化特色、美學魅力的老建築轉型為旅宿空間

樂見政府放寬民宿法規限制允許在地方政府所指定的人文歷史街區得設置民宿。也建請政府將現行法規再作鬆綁，讓更多地方可以設置旅宿，使台灣觀光市場的旅宿產品選擇更豐富多元。

許多能發揮旅宿功能的建物，受制於所在地點，只有在一年一度地方慶典、文化活動發生，或者是採果、賞螢火蟲這類具有季節性的活動舉行時，才可能有付費旅客造訪入住。這類房屋的所有人，通常少有意願投入大量時間、金錢去申請民宿經營執照。建議政府在顧及消防安全的情況下，賦予旅宿法規更多彈性，例如縣市政府可以協助或提供基本防火消防設備（滅火器、一氧化碳偵測警報器）給房屋所有人，降低他們取得執照的門檻則將可以使更多這樣的建物作為住家分享之用。

建議主管機關修訂《旅館業管理規則》，讓消防安檢相關要求（諸如消防設備、無障礙空間）能夠根據旅宿房間數多寡而設定不同的規範。全部客房少於50間的小型旅宿（包括青年旅舍）應該與大型旅館適用不同標準的消防規範。

國際旅客若能在住宿與旅遊服務上有更多元化與深度的選擇，將更樂意到人口稠密大都會與傳統景點以外的地方旅行，而讓台灣更多鄉鎮，部落與該區民眾也能享有觀光收益。

建議三：讓自由行旅客有更滿意的「點對點」旅遊體驗

2018年，台灣迎接了1100萬人次國際旅客，顯然在全球觀光扮演要角。若台灣政府能針對自由行旅客的偏好，推出各種具有吸引力的政策措施，絕對有可能在2024年達到訪台國際旅客2千萬人次的目標，而這將會創造許多新工作機會，對經濟成長做出更大貢獻，對跨國文化交流亦有相當大的價值。

自由行旅客這個市場非常重要，隨著網路上旅遊資訊、旅遊平台與手機應用程式的普及，旅客自主行動能力變強，世界許多地方的自由行市場，都呈現飛躍式成長。台灣必須投入更多資源，讓旅遊服務能滿足自由行旅客的飲食、交通及住宿需求，讓台灣368個鄉鎮市區，有更多機會迎接這群自由行旅客。

穩定可靠、選擇多樣的公共運輸系統，有助於台灣吸引更多自由行旅客，並且為比較少有團客造訪的農村、小城鎮，帶來另類收入來源與就業機會。而台灣東、西兩岸在交通基礎建設上的巨大落差，一直嚴重阻礙台灣整體觀光發展，花東鐵路在旺季的載客運量，仍然遠遠落後實際需求。此外，對於有意前往台灣主要觀光景點的旅客來說，「台灣好行」公車服務用處很大，但對於想要從機場、火車站直接前往鄉村或偏遠景點的國際自由行旅客來說，大眾交通工具的選擇仍很缺乏，建議政府積極跨部會協調以改善基礎建設。

建議四：集中資源拓展台灣會展產業（包含會議、獎勵旅遊、大型會議、展覽活動等）

4.1 擴大或重建（非旅館本身所附的）大容量會議設施，作為對台北市未來發展的投資

1992年台北國際會議中心（TICC）剛落成時，是亞太地區最大型會議中心之一。如今在新加坡、吉隆坡、雪梨等亞太重要城市，已經建有許多更大、更新的會議中心。TICC的設施與容量，已無法滿足現在需求，遑論滿足未來的需求。

比較新的台北南港展覽館1館，有較大空間容量及優質的設施，很合適展覽用途，但作為大型會議的場地仍有不足之處。台北會展產業要升級，最迫切需要的，就是大型會議場地與多樣性。

我們懇請主管機關考慮以下幾個可能方案，藉以彌補台北在大型會議設施方面的不足：

- 以興建營運後轉移（BOT）模式，將世貿一館改造成大型會議場館。
- 在世貿三館所在地，建立一全新大型會議場館。
- 至少建立一個規模類似下列新加坡會展中心的會議場館：(1) Singapore EXPO Convention & Exhibition Centre, (2) Sands Expo & Convention Centre, (3) Sentosa Convention Centre, and (4) Suntec Singapore。

對於國際會議主辦單位來說，台北有許多吸引人的特色，但唯一缺點，是缺少合適的會議場地。打造現代化、吸引人的會議設施，可以吸引更多大型國際會議來台北舉行，週邊旅館、餐飲、商店、計程車等業者，都能分享其經濟效益。

4.2 主動與國際性協會團體、非營利組織建立友好關係以吸引更多會展活動來台辦理

幾乎每一種產業、每一種社會活動，都存在國際性的協會組織。大多數國際組織都會定期贊助邀集會員參與的全球或區域會議。提昇台灣會展產業的關鍵任務之一，就是主動聯繫這些國際組織或透過位於美國的協會聯盟來建立關係。

我們敦促政府機關，盡量鼓勵在地非營利組織與國際同類型組織更多的溝通合作，把會展活動帶來台灣舉辦。我們也建請經濟部推動會議展覽專案辦公室（MEETTAIWAN）爭取國際非營利組織或產業協會主管來台參與踩點行程，讓他們對台灣更感興趣，樂於選擇台灣作為未來會展活動的地點。

目前台灣許多旅館經營者及員工對於會展產業的內容瞭解很有限，我們也期盼MEETTAIWAN投入更多資源推動會展產業人才培訓計畫，使業界更有實力推廣優質的會展服務。

建議五：在旅館訂房退款政策方面，採納國際間最佳實務作法

本委員會呼籲觀光局在處理旅館訂房退款相關議題上，能夠採納國際通用的最佳作法。過去兩年，我們都曾提出此一議題，可惜進展未如預期，特別重新提出。

現行的規定，是旅館應退款給取消訂房的客人，即便是房價打折且設定為不予退款的特惠專案也是如此。這個政策必須改變的理由有幾個。首先也是最重要的，是不退款的折扣房價，對台灣及外國旅客都很有利，對旅館也有好處。旅館創造了許多就業機會，如果台灣的政策能與國際上的最佳實務作法維持一致，相信有助於吸引國際遊客訪台，活絡台灣經濟。

現行規定並不合理，台灣許多旅館也因此停止優惠房價促銷，這對旅客、旅館是雙輸局面。

A. 對旅客的好處

一般來說，兩間客房如果規格相同，不退款的預訂房價，都會比可以退款的房價低。旅館願意推出不予退款的較低價客房，是因為他們希望以優惠房價吸引客人把房間預訂一空。多年來，航空公司根據這個原則銷售機票，全世界的消費者都很熟悉並接受這種作法。旅行計畫提早定案的旅客，就可能買這種比較便宜的機票。在台灣以外的國家，旅行計畫已確定的旅客，也很樂意選擇訂價優惠但不予退款的房間入住。

如此一來，旅客省下的花費相當可觀，通常可以達到原訂房價格30％以上。旅客省下來的錢，可用於旅程其他方面（對餐廳、酒吧、娛樂業、店舖等在地商家是利多），或是延長住宿天數。有時候，較低房價的誘因，會成為影響旅客選擇旅行地點的關鍵因素，因為他們可能無法負擔原先的房價。這種作法要發揮效果，就必須在訂房交易進行時，明確告知消費者相關條款。這正是世界各地航空公司、旅館行之有年的實務作法。

交通部觀光局或許認為，個別消費者一旦訂了不予退款的房間，之後又須取消訂房，權益必會受損。要預防這種問題，旅館、旅行社就必須對消費者做好充分的教育溝通。儘管總有某些預訂不退款房間的消費者，會因旅行計畫更動損失金錢，其損失規模，遠遠不及成千上萬（甚至百萬）享受較低房價消費者的獲益。一心保護少數消費者，卻讓絕大多數消費者無法享受到優惠房價，絕非對消費者友善的行為，反而對消費者極不公平。

B. 對旅館業者的好處

旅館房客「留宿夜數」這種商品，性質一如客機座位，只要不被利用，就會自動消失。假如無法在指定時間之內被人利用，其價值會完全消失。或許旅館在春節這種熱門檔期之前數月，就開始銷售大幅折價且不予退款的房間，訂房客人若在最後一分鐘才取消訂房，也不該期望旅館能回收這次交易。一旦有臨時退訂的情況，房間就無法順利賣給其他房客。旅館如果不能確定已被客人預訂的商品（房間）能維持「被賣出」狀態，生意就很難維持。

此外，國際連鎖旅館需要確保其訂價政策全球一致，好滿足國際客人所需，並讓旅館公司本身經營管理情況維持合理、高效率。專為台灣旅館另訂規範，只會傷害國際連鎖旅館公司的營運，對國際旅客造成歧視，甚至讓連鎖旅館不願在台灣加碼投資。

台灣消費者已相當成熟，也有充知識針對訂房情況自行作決定。我們籲請台灣政府修訂法規，尊重旅館自己訂定的訂房條款，讓消費者訂房時能自行做出最佳選擇。訂房完成後，客人就須遵守他們認可的各項條款。

AmCham Taipei