

## Chapter 6

# Major Economic and Corruption Crimes Case Supervision Unit



Major economic crimes are often the result of well-organized groups, with economic organization, engaged in ongoing continuous acts, conducted surreptitiously and covertly, and internationally, among their varied characteristics which can impede interdiction efforts. While our Office is not tasked as the first responder District Prosecutors' Office responsible for investigating major economic crimes, nevertheless we long ago established a dedicated unit for investigating major economic crimes, ensuring ample investigative resources and unified command capabilities; In 2020, we established the Financial Crimes Prosecution Special Unit, assigned responsibility for its operations to dedicated prosecutors attached to the Taiwan High Court Financial Crimes Tribunal.

### **I. Economic Crimes Investigation Center**

In light of the ever evolving nature of economic crimes, their serious adverse effects on the social order and economic order, the Executive Yuan directed our Office in July 1987 to establish the Economic Crimes Investigation Center. We also developed the Economic Crimes Investigation Center Operational Guidelines, which provide that the Center retain expert members from among the heads of the Judicial Yuan, the Central Bank, Ministry of Economic Affairs, Ministry of Finance, Financial Supervisory Commission, Ministry of Foreign

Affairs, Ministry of Transportation Communication, Fair Trade Commission, National Police Agency, Ministry of the Interior, and the Investigation Bureau, Ministry of Justice, to form an Advisory and Coordinating Committee, combining expertise in finance and economics, domestic governance, and foreign relations' administrative resources. The Advisory and Coordinating Committee meets periodically or on an ad hoc basis as needed, to cooperate on any entity's implementation efforts at investigation of major economic crimes requiring coordinated responses, to alleviate any difficulties encountered, propose solutions, and be responsible for providing expert evaluation, review or professional expertise assistance.

## **II. Combating Financial Crimes Supervision Unit**

To meet Taiwan's economic transformation and development needs, while creating and fostering an internationally competitive financial environment, on June 17, 2002, the Executive Yuan approved formation of an Executive Yuan Finance Reforms Special Unit composed of the relevant competent authorities, academics and experts, to discuss the major urgent national finance reform measures of the time, and propose appropriate plans for short-term, medium-term and long-term finance reform measures, thereby enhancing our domestic financial system's international competitiveness, and fostering Taiwan's national economic development. The Special Unit formed five subordinate working groups for Banking, Insurance, Capital Markets, Primary Finance, and Combating Financial Crimes. To prepare for supervising and guiding these working groups for combating financial crimes, on November 4, 2003, our Office convened the Combating Financial Crimes Supervision Unit preparatory meeting, to study modes of operation and confirm the working groups' prosecutors assigned investigation supervision work. In 2006, our Office's Combating Financial Crimes Supervision Unit prosecutors noted that from a penalty decision of the Financial Supervisory Commission, it appeared that a financial group's senior executive may have been involved in a major crime involving violation of the Securities Exchange Act. At the time, both the Taipei District Prosecutors' Office and the Kaohsiung District Prosecutors' Office had cases open against the said financial group, and it was determined that the Taipei District Prosecutors' Office prosecutors would take the lead, with guidance from our Office's prosecutors, along with commanding the Ministry of Justice

Investigation Bureau Northern Office Duty Station, the Taipei District Prosecutors' Office Prosecutor's Chief Investigator aiding in tracing the funds, and ultimately the combined efforts resulted in successful investigation and initiation of the prosecution, and most importantly, resulting in a successful conviction by the Court. Additionally, as the Taipei, New Taipei, Taichung, Tainan and Kaohsiung District Prosecutors' Offices began establishing their own Anti-Corruption Special Units, the Ministry of Justice established accreditation for financial certification systems, and once prosecutors passed these examinations, they could duly obtain financial certificates. The Ministry of Justice also sought to hire Prosecutor's Chief Investigator with finance and economic backgrounds to aid prosecutors in handling the investigations of economic crimes. As of today, all District Prosecutors' Offices not have dedicated capabilities for investigating major economic crimes, and our Special Unit has performed well in assisting these nationwide District Prosecutors' Offices in investigation of major economic crimes, so this Unit has been retained to the present, and meets as needed to respond to appropriate cases.

### **III. Anti-Stock Market Vulture (Pump and Dump) Unit**

On August 11 and 12, 2016, our Office held the first Chief Prosecutors meeting for 2016, to consider responses to the corrupt practices involving several financial crimes at the time, and the Chief Prosecutors in attendance suggested formation of an Eagle Hunting Unit. The Chief Prosecutor then on the spot directed our Office's Economic Crimes Investigation Center to convene the relevant agencies to consider responsive measures to prevent such corruption, and immediately form our Office's Anti-Stock Market Bald Eagle (Pump and Dump) Unit.





#### **IV. Continued convening of the Economic Crimes Investigation Center Advisory and Coordinating Committee**

From the establishment of the Economic Crimes Investigation Center in 1987, our Office has acted in accordance with the Economic Crimes Investigation Center Operational Guidelines, to convene biannual meetings of the Advisory and Coordinating Committee, for assisting any agency's challenges or difficulties encountered in investigation of major economic crimes, and proposing solutions. The most recent such Advisory and Coordinating Committee meeting was convened March 4, 2021, and the Judicial Yuan Criminal Division units also assigned delegates to attend and represent them. The meeting included discussions for resolution of John Doe bank accounts by fraud racketeering groups presented by the Nantou District Prosecutors' Office, fraudulent money laundering problems involving high tech gaming companies issuance of digital game points presented by the Shihlin District Prosecutors' Office, and a request to the Central Bank Foreign Exchange Bureau and Ministry of Justice Investigation Bureau to cooperate in reporting suspected financial account activity as presented by the Criminal Investigation Bureau, National Police Agency (NPA), Ministry of the Interior (MOI). Our Office also prepares opinions on the matters of concern prior to the meeting for review, and the meeting issues proposed solutions after detailed discussions.

#### **V. Tracing Illicit Proceeds Special Unit- Seizing Criminal Proceeds Unified Assistance Unit**

This team works among Prosecutors' Offices and entities handling asset forfeiture and seizure of criminal and illicit proceeds. The Illicit Proceeds Tracing and Recovery Unit was established in response to amendments of the Criminal Code resulting in the new seizure system: by establishing a seizure and confiscation of illicit proceeds database, along with addition of a case management system with data fields for asset forfeiture criminal proceeds' tracing and recovery. The unit works for mutual judicial cooperation between the Cross Straits for return of victim proceeds and to assist the National Police Agency and Ministry of Justice Investigation Bureau with relevant data.

## **VI. Financial Tribunal Appearance Special Unit**

### **(I) History of the creation of a dedicated Financial Tribunal in the Courts**

To realize the functions of a dedicated professional Court, the Judicial Yuan established the Taipei District Court Major Financial Special Tribunal. On August 28, 2008, the Judicial Yuan established the Financial Tribunal with three courtrooms and nine trial dockets/hearing chambers; In May 2009, the aforesaid Financial Tribunal expanded to include jurisdiction over the ten major financial Acts, and for cases involving victims losses of less than NT\$100,000,000; on September 2010, the said Special Tribunal was expanded to four courtrooms and nine trial dockets/hearing chambers. After evaluation of the efficacy of the aforementioned Taipei District Court Financial Special Tribunal, the Taiwan High Court from January 1, 2019 began a trial implementation of the Court's enhanced Criminal Financial Special Tribunal project, with that Tribunal's judges in the three courts and ten dockets handling cases involving violations of the The Banking Act, The Credit Cooperatives Act, Financial Holding Company Act, The Act Governing Bills Finance Business, Trust Enterprise Act, Insurance Act, Securities and Exchange Act, Securities Investment Trust and Consulting Act, Futures Trading Act, Money Laundering Control Act ( for cases involving sums less than NT\$100,000,000 ) , and the Agricultural Finance Act.

### **(II) Our Office's establishment of the Financial Special Tribunal**

From August 27, 2020, our Office established the Financial Special Tribunal Unit, selecting seven prosecutors to serve as the Unit's dedicated prosecutors, along with our Office's Major Crimes Unit's two prosecutors, for a total of nine prosecutors dedicated to the Economic and Financial Crimes Supervision Unit (including the Finance Crimes Supervision Unit, the Anti-Stock Market Vulture (Pump and Dump) Unit, and the original Economic Crimes Investigation Center) members, with the Chief Prosecutor as the Convenor, and the Deputy Chief Prosecutor as the Vice Convenor, along with one prosecutor selected to serve as the Executive Secretary. During 2020, among our Office's Financial Tribunal dedicated prosecutors, there were 2 who had previously served as

prosecutors stationed at the Financial Supervisory Commission, five who had served as Chief Prosecutors in a District Prosecutors' Office Anti-Corruption Campaign Special Team or Combating Economic Crimes Special Unit, and the other one among them, who had agued major financial crimes at a District Court, providing us with a modicum of professional acumen and experience in investigating and prosecuting financial crimes.

(III) Deploying prosecutors with dedicated duties for complex financial cases involving discretionary or mandatory appeals for reconsideration who are responsible for appearing in the Finance Special Tribunal throughout the case

In handling financial cases on petition for reconsideration, sua sponte, or by an affected party, in cases pursuant to Article 256 Paragraph 3 of the Code of Criminal Procedure, where the minimum sentence is incarceration for a term of three years, when the prosecutor issues a determination of no prosecution rendered due to lack of sufficient suspicion of offenses, if no person could petition for reconsideration, the original prosecutor shall apply sua sponte to the Chief Prosecutor of the immediate superior Prosecutors' Office for reconsideration. When such a case number is captioned Sua Sponte by our Office, and involves a putative violation of the Securities Exchange Act, the Banking Act or laws involving major economic and financial crimes, where customarily the penalty involves a sentence of not less than three years imprisonment, where the case is a complex one, on approval of the Deputy Chief Prosecutor and Financial Tribunal Special Unit Chief Prosecutor for determination that the case should be handled by the Financial Tribunal Special Unit prosecutors, then the case shall be duly transferred to the Special Unit prosecutors for assignment. After establishment of the Financial Tribunal Special Unit, cases involving major economic crimes where the original District Prosecutors' Office prosecutor determined not to prosecute, and a party petitioned for reconsideration, then the same procedures shall apply for transfer to the Special Unit prosecutors for re-assignment.