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FACT SHEET

## Macao Offshore Institution

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On October 13 1999, just 61 days before the hand-over of Macao from Portugal to China, the then Governor, Vasco Rocha Vieira, signed and approved the “Offshore Law” of Macao, which became effective from November 1, 1999. The law provides the regulation of offshore financial business and offshore non-financial business, mainly through the creation of the Offshore Institution (“OI”) permit.

In this document, we shall describe the procedures and requirements relating to the application of OI for corporations conducting offshore services business (i.e. offshore non-financial business).

### The Offshore Industry in Macao

Not to be confused by the name “offshore”, the Offshore Law is indeed an instrument of attracting investments to improve the onshore economy of Macao. The essential features of the Offshore Law in connection with offshore business and companies are:-

- **Licensing System** The law offers a licensing procedure to companies (known as Offshore Institutions, “OI”), which wish to operate offshore business in Macao. The authorizing body will grant a permit to the OI if it satisfies certain criteria.
- **Form of the Offshore Institution** Companies incorporated in Macao (an “offshore subsidiary”) or outside Macao (an “offshore branch”) may hold the license and become an OI. Therefore, it is quite different from those offshore jurisdictions where a new vehicle, e.g. IBC or exempted companies is required. Companies incorporated in Macao (which has six forms, the most common type being LDA, limited liabilities company) or incorporated elsewhere can apply to become **offshore institution**. The minimum number of shareholder is one and there is no maximum number of shareholders for an Offshore Subsidiary.
- **Scope of Business** The Offshore Law regulates companies involved in offshore commercial or auxiliary services, as well as offshore financial services including offshore banking, offshore insurance and re-insurance and offshore trust and asset management services.
- **Authorizing Body** The authorizing body for non-financial sector is Macao Trade and Investment Promotion Institute (Instituto de Promocao do Comercio e Investimento de Macao “IPIM”). The authorizing body for financial sector is Macao Monetary Authority (Autoridade Monetaria de Macao).
- **Permissible Activities** On 13th June 2005, the Macao government issued Directive 205/2005 setting out eight types of permissible activities that commercial offshore institutions and auxiliary offshore institution can carry out
  1. Management and administration of ships and aircraft
  2. Hardware consultancy,
  3. Software consultancy,
  4. Data Processing
  5. Database related activities,
  6. Research and development activities
  7. Tests and technical analysis activities,
  8. Back office activities

- **Taxation** Macao OI is not subject to any corporate tax provided that it satisfies certain conditions.

### Basic Requirements for Operating Offshore Business

- The OI can only use non-Macao currency in their transactions
- The OI can only target at non-Macao residents as customers
- The OI can only focus on non-Macao markets.

### Application Procedures – for Setting up a Commercial or Auxiliary Offshore Institution

The procedure can be summarized as follows

1. Application of a company name
2. Submission of offshore application form, together with supporting document and investment plan to IPIM
3. Assessment by IPIM
4. Approval obtained from IPIM. A company (either a subsidiary or a branch) has to be set up in Macao within six months of the approval.

The procedures begin from application made to the Macao Trade and Investment Promotion Institute (“IPIM”), as well as the selection of a trading name and application made to the Commercial Registry Office. The company name of the Offshore Institute must include the word “Macao Commercial Offshore” or “Macao Auxiliary Offshore”. A name reservation document will be issued by the Macao Commercial Registry.

Application should be made to IPIM, by completing appropriate application forms and to submit a two years business plan as well as certain documents including minutes, company brochure, bank reference letters, etc. Once the application is accepted and approved, the applicant has to register the Offshore Institution and open an office within six month, which can be either:-

- a. A locally incorporated company (Local company) – please refer to our notes on incorporation of Macao Corporations
- b. A foreign incorporated company registered as a branch in Macao

IPIM may request any additional information that it deems necessary for assessing the application, from the applicants or from other public bodies, namely in terms of the suitability and technical capacity of the applicants.

There is no restriction on foreign entities or individuals applying for an OI in Macao. There are two types of non-financial service OIs: offshore commercial services institution (also known as International Business Company) and offshore auxiliary services institution. The former can provide services to any third party, but the latter can only provide services to its parent or group companies. An OI may operate one or more of the 8 offshore activities as permitted under the law.

After the granting of approval, a Macao company or branch should be set up in accordance with the laws of Macao. Being a code law jurisdiction, the incorporation procedures in Macao are not as simple as that in common law countries. In fact, attorney’s (notary) involvement in the preparation and notarization of documents is required throughout the process. **Please note that the amount of notarization fee depends on the place of incorporation of the parent company applying for the Offshore Institution.**

For procedure of establishment of a Macao Company, please refer to our Fact Sheet – Formation of Management of Macao Company.

Note also that the official languages of Macao are Chinese and Portuguese. All documents should be prepared in either one of the two languages.

### Tax Incentives

OI enjoys full exemption from various kinds of taxes, including industrial tax, property tax, and stamp duties. In addition, OI can engage non-resident managers or specialist technicians who will be exempted from professional tax (income tax) of Macao for up to three years.

### Additional Requirements / Conditions of OI

A business plan has to be submitted to the government to apply for a permit to operate offshore service business in Macao. The plan details the mode of operations, investment amount, local staff to be employed, size of the office, and nature of products/services to be dealt with. After the permit is granted, Macao OI has to satisfy the government that the business plan is carried out as envisioned as a condition for maintaining the status. In particular,

- The OI must engage resident staff in Macao.
- The OI must occupy an independent office in Macao.
- The OI should have substantial activities, demonstrated by the magnitude of its turnover or assets, in the field of the declared offshore activities.

This is a very important part of the offshore operation in Macao. The OI has to be **physically present in Macao** and cannot operate “on paper” only. It can therefore be said that OI has a permanent establishment in Macao.

### Macao’s Relationship with Europe

The attractiveness of using a Macao OI is partly due to the special position of Macao.

- 1 Macao is a previous colony of Portugal. In 1992 a Trade and Co-operation Agreement was concluded between Macao and the European Union. Hence the Euro-Info Centre of Macao, the only Euro-Info Centre in Asia and the Institute of European Studies were set up in 1992 and 1995. Due to historical reasons, there are deep links between Macao and the Portuguese-speaking countries.
- 2 Macao maintains a double taxation treaty with Portugal.

### Operating Office

OIs are required to have an independent office located within Macao.

### Accountancy and Auditing Requirements

Annual audits are required to be performed by a Macao registered auditing company. The audit report has to be submitted to the IPIM.

## How Manivest can help you

The directors and management of Manivest are professionals in the offshore industry serving the Asia market for over 20 years. Through our offices in Hong Kong, Shanghai and Macao as well as our associates in other Asia cities, we offer a full range of comprehensive value-added services to professional advisors and their clients.

Manivest offers the following services:

- Incorporation of Macao and other onshore/offshore companies and structures
- Application for Macao Offshore Institution
- Full corporate management services
- Registered office, business office, mail redirection and business centre (available in selected locations only)
- Accounting services
- Re-invoicing services
- Tax and asset planning services
- Asset protection and preservation advisory services
- Business establishment services
- Market exploration services