Anti-Money Laundering Law of the People’s Republic of China

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Chapter General Provisions

Article 1 This Law is formulated for the purpose of preventing money laundering activities, maintaining financial order and containing money laundering crimes and relevant crimes.

Article 2 Anti-money laundering in this Law shall mean relevant actions taken in accordance with the provisions in this Law against money laundering activities that conceal and disguise through various means the source and nature of the income and its gains from drug crimes, organized crimes of gangland, crimes of terrorism, crimes of smuggling, crimes of corruption or bribery, crimes of disrupting financial management order and crimes of financial fraud.

Article 3 Financial institution(s) established within the territory of the People’s Republic of China and specific non-financial institution(s) with anti-money laundering obligations as per relevant provisions shall adopt preventive and monitoring measures, establish and improve the customer identity system, customer identity information and transaction record keeping system, large and suspicious transaction reporting system to discharge obligations of anti-money laundering.
Article 4 Administrative department of the State Council in charge of anti-money laundering shall be responsible for the national anti-money laundering supervision and regulation. Relevant departments and organs of the State Council shall, within their respective functions and duties, discharge supervision and regulation duties of anti-money laundering.

Administrative department of the State Council in charge of anti-money laundering, relevant departments and organs of the State Council and judicial organs shall act in a concerted manner in anti-money laundering work.

Article 5 Customer identity information and transaction information obtained in discharging duties or obligations of anti-money laundering shall be kept confidential and unless the law requires may not be disclosed to any units or individuals.

Customer identity information and transaction information obtained by administrative departments in charge of anti-money laundering and other departments or organs responsible for anti-money laundering supervision and regulation according to the law shall be used for the sole purpose of anti-money laundering administrative investigation.

Customer identity information and transaction information obtained by judicial organs according to this Law shall be used for the sole purpose of criminal proceedings of anti-money laundering.

Article 6 Institutions and their staff discharging the obligation of anti-money laundering shall be protected by the law when submitting reports on large and suspicious transactions according to the law.

Article 7 Any units or individuals shall have the right to report money laundering activities detected to the administrative departments in charge of anti-money laundering or the public security organs. The said departments and organs that have accepted the report shall treat as confidential the reporter and reported activities.

Chapter Anti-Money Laundering Supervision

Article 8 Administrative department of the State Council in charge of anti-money laundering shall organize and coordinate the national anti-money laundering work, be responsible for the fund monitoring, formulate or formulate jointly with related financial regulatory bodies of the State Council the anti-money laundering regulations for financial institution(s), supervise and inspect financial institution(s)’ discharge of the obligations of anti-money laundering, investigate suspicious transactions within their obligations and fulfill other duties associated with anti-money laundering as provided by the law and the State Council.

Offices dispatched by the administrative department of the State Council in charge of anti-money laundering shall, within the authorities granted by the latter, supervise and inspect financial institution(s)’ discharge of the obligations of anti-money laundering.
Article 9 Related financial regulatory bodies of the State Council shall participate in the formulation of anti-money laundering regulations of financial institution(s) under their supervision and regulation, require the said financial institution(s) to establish and improve internal controls of anti-money laundering and fulfill other duties associated with anti-money laundering as provided by the law and the State Council.

Article 10 Administrative department of the State Council in charge of anti-money laundering will set up an information center of anti-money laundering, which shall be responsible for receiving and analyzing reports on large and suspicious transactions, for reporting the results of such analysis to the said departments, and fulfilling other duties as provided by the administrative department of the State Council in charge of anti-money laundering.

Article 11 For the purpose of discharging the duties of anti-money laundering fund monitoring, administrative departments of the State Council in charge of anti-money laundering may obtain necessary information from related departments or organs of the State Council. The said departments or agencies shall provide if required.

Administrative departments of the State Council in charge of anti-money laundering shall periodically report related departments or agencies of the State Council on anti-money laundering work.

Article 12 Upon discovery that the cash or bearer securities taken by any individual on entry/exit exceed the allowed amount, the Customs shall timely report to the administrative departments in charge of anti-money laundering.

The criteria of the amount for determining whether report is required in the preceding paragraph shall be prescribed by the administrative department of the State Council in charge of anti-money laundering in consultation with General Administration of the Customs.

Article 13 Upon detection of any transactions involving money laundering crime, administrative departments in charge of anti-money laundering and other departments or agencies with legal duties of anti-money laundering supervision and regulation shall forthwith report to the investigation organs.

Article 14 When examining and approving proposed financial institutions or new branches of financial institutions, related financial regulatory bodies of the State Council shall review internal controls of new establishments. Applications for such establishments not in compliance with this Law shall not be approved.

Chapter  Financial institutions’ Obligations of Anti-Money Laundering

Article 15 Financial institution(s) shall establish and improve internal controls of anti-money laundering in accordance with the provisions in this Law, and persons in charge of the said financial institution(s) shall be responsible for the effective implementation of internal controls of anti-money laundering.
Financial institution(s) shall have special anti-money laundering organs or designate
internal organs to be responsible for anti-money laundering work.

Article 16 Financial institution(s) shall establish customer identity system as per
relevant provisions.

When establishing business relationships with customers or provide customers with
one-off financial services of cash remittance, banknote exchange and cashing
negotiable instruments above the allowed amount, financial institution(s) shall request
customers to produce authentic and valid certificate of identity or other identity proofs
for verification and registration.

Where the business is conducted for and on behalf of the customers, financial
institution(s) shall verify and register the certificate of identity or other identity proofs
both of the principals and the agents.

When establishing business relationship of personal insurance and trust and if the
contractual beneficiaries are not the customers themselves, financial institution(s)
shall also verify and register the said beneficiaries’ certificate of identity or other
identity proofs.

Financial institution(s) may not provide services to or transact with unidentified
customers, nor open accounts in anonym or fictitious names for customers.

In case of any queries as to authenticity, validness or completeness of customer
identity information previously obtained, financial institution(s) shall re-verify the
customers’ identity.

Any unit or individual establishing business relationship with financial institution(s)
or requesting provisions of one-off financial services by financial institution(s) shall
produce authentic and valid certificate of identity or other identity proofs.

Article 17 Financial institution(s) verifying customer identity trough any third parties
shall ensure that such third parties have adopted customer identity verification
measures as per requirement of this Law; in case of any failure of such third parties to
do so, the said financial institution shall be liable for such failure.

Article 18 When verifying customer identity, financial institution(s) may, as they
deem as necessary, verify relevant identity information with public security organs
and administrative departments of industry and commerce.

Article 19 Financial institution(s) shall establish customer identity information and
transaction record keeping system as per relevant provisions.

In case of any change to customer identity information during the existence of
business relationship, financial institution(s) shall timely update the said information.

Customer identity information or transaction information shall be retained at least for
five years as of the close of the business relationship or of the transaction.
At the time of bankruptcy or dissolution, financial institution(s) shall transfer customer identity information and transaction information to agencies designated by related departments of the State Council.

Article 20 Financial institution(s) shall implement large and suspicious transaction reporting system as per relevant provisions.

Where a single transaction or transactions in the aggregate over a prescribed period by financial institution(s) exceed the allowed amount or upon detection of any suspicious transactions, financial institution(s) shall report timely to the information center of anti-money laundering.

Article 21 Specific measures on the establishment of customer identification system, customer identity information and transaction record keeping system shall be formulated by the administrative department of the State Council in charge of anti-money laundering in consultation with related financial regulatory bodies of the State Council. Specific measures on the reporting of large and suspicious transactions by financial institution(s) shall be formulated by the administrative department of the State Council in charge of anti-money laundering.

Article 22 As per requirements of anti-money laundering prevention or monitoring system, financial institution(s) shall arrange anti-money trainings and propaganda.

Chapter Anti-Money Laundering Investigation

Article 23 Where suspicious transactions detected by the administrative department of the State Council in charge of anti-money laundering or its dispatched offices at the provincial level require be verified via investigation, they may inquire into financial institution(s) and the latter shall cooperate by faithfully providing related documents and information.

When investigating into suspicious transactions, there shall not be less than two investigators and such investigators shall produce valid certificates and notices of investigation issued by the administrative departments of the State Council in charge of anti-money laundering or its dispatched offices at the provincial level. When investigators are less than two or fail to produce valid certificates and notices of investigation, financial institution(s) shall have the right to refuse to be investigated.

Article 24 When investigating into suspicious transactions, investigators may interrogate relevant persons of financial institution(s) and require them to make explanation.

Interrogation transcripts shall be made and then presented to the interrogated persons for verification. In case of any omission or error, the interrogated persons may demand supplements or correction. When the transcripts are confirmed to be correct, the interrogated persons shall sign or affix seal to the transcripts and the investigators shall also sign thereon.
Article 25 When investigation requires further verification, investigators may, with the approval from the administrative department of the State Council in charge of anti-money laundering or the responsible persons of its dispatched offices at the provincial level, access and copy the account information, transaction records and other related information of the subjects investigated. Investigators may seal up documents or materials which are likely to be transferred, concealed, tampered with or destroyed.

Investigators shall, jointly with the staff of financial institution(s) present, carefully check documents or materials to be sealed up, and make a list thereof in duplicate on the spot which shall be signed or sealed by investigators and the staff of financial institution(s) present. One copy shall be provided to the financial institution(s), and the other kept on file for reference.

Article 26 In case of failure to rule out any possibility of money laundering after investigations, investigators shall forthwith report to the competent investigation organs. Where customers request transfer overseas of fund in the account involved in the investigation, investigators may, with the approval of responsible persons of the administrative department of the State Council in charge of anti-money laundering, take interim freeze measures.

Upon receipt of the reported case, investigation organs shall timely determine whether to continue the freeze. If continued freezing of the fund is deemed as necessary, investigation organs shall adopt freeze measures in accordance with the provisions of Criminal Procedure Law; otherwise, investigation organs shall immediately inform the administrative departments of the State Council in charge of anti-money laundering and the latter shall forthwith notify financial institution(s) to cancel the freeze.

Interim freeze may not exceed forty eight hours. In case of failure to receive notice for continued freeze from investigation organs within forth eight hours as of adoption of interim freeze measures as per the requirement of the administrative departments of the State Council in charge of anti-money laundering, financial institution(s) shall immediately cancel the freeze.

Chapter  International Cooperation in Anti-Money Laundering

Article 27 The People’ Republic of China shall carry out international cooperation in anti-money laundering as per international treaties concluded or acceded to, or on basis of principles of equality and reciprocity.

Article 28 As authorized by the State Council, the administrative department of the State Council in charge of anti-money laundering shall act on behalf of the Chinese Government to carry out cooperation in anti-money laundering with foreign governments and relevant international organizations, and exchange information and materials pertaining to anti-money laundering with overseas anti-money laundering institutions.
Article 29 Judicial organs shall be responsible for judicial assistance involving prosecution of money laundering crime in accordance with relevant laws.

Chapter Legal Liabilities

Article 30 The staff of the administrative departments in charge of anti-money laundering and other departments or agencies with anti-money laundering supervision and regulation duties shall be given administrative punishments if they:

(1) conduct inspection or investigation or take interim freeze measures in contravention of relevant provisions;
(2) divulge any State secrets, trade secrets or personal privacy obtained on account of anti-money laundering;
(3) impose administrative penalties against relevant institutions and persons in contravention of relevant provisions;
(4) any other breaches of duties according to the law.

Article 31 Should financial institution(s) have any of the following, the administrative department of the State Council in charge of anti-money laundering or its authorized dispatched offices at or above the level of districted city may order financial institution(s) to make corrections within a prescribed period of time; if the merits are serious, may recommend related financial regulatory bodies to impose disciplinary punishments against directly responsible directors, officers and other persons with direct responsibilities:

(1) fail to establish anti-money laundering internal controls in accordance with relevant provisions;
(2) fail to have specialized anti-money laundering organs or designate internal organs to be responsible for anti-money laundering work in accordance with relevant provisions;
(3) fail to arrange anti-money laundering trainings for the staff in accordance with relevant provisions.

Article 32 Should financial institution(s) have any of the following, the administrative department of the State Council in charge of anti-money laundering or its authorized dispatched offices at or above the level of districted city may order financial institution(s) to make corrections within a prescribed period of time; if the merits are serious, may impose a fine not less than RMB 200,000 but not more than RMB 500,000 accompanied by a fine not less than RMB 10,000 but not more than RMB 50,000 against directly responsible directors, officers and other persons with direct responsibilities:

(1) fail to fulfill obligations to verify customer identity in accordance with relevant provisions;
(2) fail to retain customer identity information and transaction records in accordance with relevant provisions;
(3) fail to file reports on large and suspicious transactions in accordance with relevant provisions;
(4) transact with unidentified customers or opening account in anonym or fictitious
names for customers;
(5) breach of confidentiality provisions and divulgence of relevant information;
(6) refuse or obstruct anti-money laundering inspection or investigation;
(7) refuse to provide information to be investigated or provide false information on purpose.

If any act of financial institution(s) described in the preceding paragraph results in money laundering, the administrative departments in charge of anti-money laundering may impose a fine not less than RMB 500,000 but not more than RMB 5,000,000 against the said financial institution(s) accompanied by a fine not less than RMB 50,000 but not more than RMB 500,000 against directly responsible directors, officers and other persons directly responsible; if the merits are extremely serious, may recommend related financial regulatory bodies to order suspension of business or revoke licenses for carrying financial businesses.

For directly responsible directors, officers and other directly responsible persons of financial institution(s) having anything described in the preceding two paragraphs, the administrative departments in charge of anti-money laundering may recommend related financial regulatory bodies to give disciplinary punishments, or recommend disqualification thereof or prohibition of service in relevant financial sectors.

Article 33  If any violation of this Law constitute a crime, criminal prosecution shall be brought.

Chapter  Supplementary Provisions

Article 34  Financial institution(s) in this Law shall mean such institutions legally incorporated to engage in financial businesses as policy-oriented banks, commercial banks, credit unions, postal savings agencies, trust and investment companies, securities companies, futures companies, insurance companies and other institutions engaging in financial businesses as determined and published by the administrative departments of the State Council in charge of anti-money laundering.

Article 35  The range of specific non-financial institution(s) with the obligations of anti-money laundering, performance of the obligations of anti-money laundering and regulation thereof shall be subject to specific measures to be formulated by the administrative department of the State Council in charge of anti-money laundering in consultation with relevant departments of the State Council.

Article 36  This Law shall be applicable to the monitoring of any fund suspected of being involved in terrorism; if other laws provide otherwise, such laws shall prevail.

Article 37  This Law shall come into force as of January 1, 2007.