

The Rules for Anti-money Laundering by Financial Institutions

The People's Bank of China Decree No.1 [2006]

In line with *the Law of the People's Republic of China on Anti-Money Laundering, the Law of the People's Republic of China on the People's Bank of China* and other relevant laws and regulations, the People's Republic of China has formulated *the Rules for Anti-money Laundering by Financial Institutions*. The *Rules*, adopted at the 25th Governor's Meeting on November 6, 2006, is hereby promulgated and shall enter into force as of January 1, 2007.

Zhou Xiaochuan
Governor of the People's Bank of China
November 14, 2006

The Rules for Anti-money Laundering by Financial Institutions

Article 1 These *Rules* are formulated in line with *the Law of the People's Republic of China on Anti-Money Laundering, the Law of the People's Republic of China on the People's Bank of China* and other relevant laws, administrative rules and regulations with a view to prevent money laundering, standardize anti-money laundering regulatory activities and anti-money laundering activities of financial institutions so as to safeguard the order of financial industry.

Article 2 These *Rules* are applicable to the following financial institutions legally established within the territory of the People's Republic of China:

- (1) commercial banks, city credit cooperatives, rural credit cooperatives, postal savings institutions and policy banks;
- (2) securities companies, future brokerage companies and fund management companies;
- (3) insurance companies and insurance asset management companies;
- (4) trust and investment companies, financial asset management companies, finance companies, financial leasing companies, auto finance companies and money brokerage companies;
- (5) other financial institutions specified and announced by the People's Bank of China.

Articles in these *Rules* on anti-money laundering management and supervision over financial institutions are applicable to institutions involved in business such as currency exchange, payment and settlement, and fund sales.

Article 3 The People's Bank of China, as the competent administrative authority for anti-money laundering under the State Council, shall supervise and manage the anti-money laundering work of financial institutions according to laws. The China Banking Regulatory Commission, China Securities Regulatory Commission, and China Insurance Regulatory Commission shall each undertake anti-money laundering supervision and management responsibilities within its competence.

The People's Bank of China should cooperate with relevant agencies and institutions under the State Council and law enforcement agencies in fulfilling the obligations of anti-money laundering.

Article 4 The People's Bank of China, as authorized by the State Council, participates in international anti-money laundering cooperation on behalf of the People's Republic of China. The People's Bank of China can establish anti-money laundering cooperation mechanisms with other countries and regions, and conduct cross-border anti-money laundering supervision and management.

Article 5 The People's Bank of China undertakes the following anti-money laundering supervision and management responsibilities according to law:

(1) To stipulate anti-money laundering regulations for financial institutions solely or jointly with the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission;

(2) To monitor fund flow in both RMB and foreign currencies for anti-money laundering purposes;

(3) To supervise and inspect the fulfilling of anti-money laundering obligations by financial institutions;

(4) To investigate suspicious transactions within its competence;

(5) To report transactions suspected of money laundering crime to law enforcement agencies;

(6) To exchange information and documents relevant to anti-money laundering with overseas anti-money laundering institutions in line with relevant laws and administrative regulations;

(7) And other responsibilities as defined by the State Council.

Article 6 The China Anti-Money Laundering Monitoring and Analysis Center, established by the People's Bank of China, shall undertake the following responsibilities according to laws:

(1) To receive and analyze reports of large-value transactions and suspicious transactions both in RMB and foreign currencies;

(2) To establish a national anti-money laundering database and properly store large-value and suspicious transaction reports submitted by financial institutions;

(3) To report analysis results to the People's Bank of China;

(4) To require financial institutions to promptly supplement and revise reports of large-value transactions and suspicious transactions in RMB and foreign currencies;

(5) To exchange relevant information and materials with foreign institutions with authorization of the People's Bank of China;

(6) And other responsibilities as specified by the People's Bank of China.

Article 7 The People's Bank of China and its staff shall keep all information obtained in fulfilling its anti-money laundering responsibilities confidential, and must not disclose to outsiders in violation of regulations.

The China Anti-Money Laundering Monitoring and Analysis Center and its staff shall keep confidential information on clients' identities, large-value and suspicious transactions

obtained while legally discharging the anti-money laundering responsibilities; unless otherwise specified by law, such information shall not be disclosed to any other organization or individual.

Article 8 Financial institutions and their branch offices shall establish a sound anti-money laundering internal control system, establish a specialized unit or designate a unit to be responsible for anti-money laundering tasks, formulate internal operational procedures and control measures for anti-money laundering tasks and carry out staff training on anti-money laundering so as to strengthen their working capacities.

Responsible persons of financial institutions and their branch offices shall take responsibility in effective operation of the anti-money laundering internal control system.

Article 9 Financial institutions shall establish and implement a customer identification system according to rules and regulations.

(1) To identify the identity of a customer who requests to establish business relations or requires occasional financial services above the prescribed amount by requiring the customer to present authentic and valid identity card or other identity documents, verifying and registering such documents and timely updating any change in a customers' identity information;

(2) To understand the purpose and nature of customer's transaction and effectively identify beneficiaries of the transaction in line with relevant rules and regulations;

(3) To re-identify a customer' s identity when detecting any abnormal phenomenon in the process of business operation or suspecting the authenticity, validity and integrity of customer's identity documents obtained previously.

(4) To make sure that an overseas financial institution with which it has correspondent or similar relationship effectively conduct customer identification and that it can obtain a customer's identity information from such overseas financial institutions.

The provisions on implementation of the afore-mentioned shall be stipulated by the People's Bank of China along with China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission.

Article 10 Financial institutions shall properly keep customers' identity records and transaction information such as a transaction's statistics, vouchers and accounting materials.

The provisions on implementation of the afore-mentioned shall be stipulated by the People's Bank of China along with the China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission.

Article 11 Financial institutions shall report to the China Anti-Money Laundering Monitoring and Analysis Center large-value and suspicious transactions denominated both in RMB and foreign currencies in line with relevant rules and regulations.

The provisions on implementation of the afore-mentioned shall be stipulated by the People's Bank of China.

Article 12 The People's Bank of China along with the China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission shall guide the financial sector self-disciplinary organizations to stipulate

guiding principles for sector specific anti-money laundering work.

Article 13 When discovering any suspected crime in carrying out its anti-money laundering responsibilities, a financial institution shall promptly report in a written form to the local branch office of the People's Bank of China and the public security agency.

Article 14 Financial institutions and their staff shall assist and cooperate with, according to provisions of laws, judicial and administrative law enforcement agencies in their anti-money laundering activities.

The overseas branches and subsidiaries of financial institutions shall abide by the laws and provisions of the host country on anti-money laundering, and assist and cooperate with the national or regional anti-money laundering agency in their anti-money laundering work.

Article 15 Financial institutions and their staff shall keep confidential customer identity material and transaction information acquired when fulfilling their anti-money laundering obligations; and shall provide such material and information to other institution or individual in strict accordance with relevant laws.

Financial institutions and their staff shall keep confidential information of their anti-money laundering work such as reporting of suspicious transactions, cooperation with the People's Bank of China in suspicious transaction investigation, and shall not provide such information to their customers or other individuals in violation of regulations.

Article 16 Financial institutions and their staff shall report large-value and suspicious transactions in accordance with law and enjoy legal protection in such reporting.

Article 17 Financial institutions shall submit, in accordance with regulations issued by the People's Bank of China, anti-money laundering statistical reports, information and material, and the anti-money laundering related content in their audit report.

Article 18 The People's Bank of China and its branch offices may take the following measures of anti-money laundering on-site examination as needed in the undertaking of its anti-money laundering responsibilities:

- (1) To enter the premise of a financial institution to conduct on-site examination;
- (2) To inquire staff of the financial institution and require explanation and clarification with regard to the matter under examination;
- (3) To examine and make a copy of the document and material related to the matter under examination, and seal up for keeping the document and material that are at risk of being transferred, destroyed, concealed or tampered with;
- (4) To examine the computer system that the financial institution uses to manage its business statistics.

Prior to an on-site examination, the People's Bank of China or its branch offices shall fill in an application form for on-site examination, specify the institution to be examined, the content and intended time of examination and conduct the examination after approval by the responsible person of the People's Bank of China, or its branch offices.

An on-site examination shall be conducted by at least two examiners, with the presentation of a law-enforcement warrant and an examination notice. In the case that less than two examiners show up for an on-site examination, or no law-enforcement warrant or examination notice is presented, a financial institution has a right to refuse examination.

After the completion of an on-site examination, the People's Bank of China, and its branch offices shall produce an on-site examination opinion, affix the official seal on and deliver it to the examined institution. The content of an on-site examination opinion shall include a description of the examination, assessment, and advice on the necessary improvement and measures.

Article 19 The People's Bank of China and its branch offices may, as needed in the undertaking of its anti-money laundering responsibilities, initiate a conversation with member(s) of the Board of directors or senior management member(s) of a financial institution and request the person(s) to explain major matters of the financial institution in fulfilling its anti-money laundering obligations.

Article 20 The People's Bank of China conducts an on-site examination over a financial institution, and when necessary, may inform the China Banking Regulatory Commission, the China Securities Regulatory Commission or the China Insurance Regulatory Commission of the examination.

Article 21 When the People's Bank of China or its provincial branch offices finds that a suspicious transaction needs investigation or verification, it can request from the financial institution information of the customer account(s) involved in the transaction, record of the transaction and other related material. The financial institution shall provide cooperation.

The above-mentioned People's Bank of China or its provincial branch offices include the headquarters, Shanghai Head Office, branches, operations offices, sub-branches in provincial capitals and sub-provincial cities.

Article 22 In its investigation of a suspicious transaction, the People's Bank of China or its provincial branch offices can request relevant staff of a financial institution to provide information; examine and make a copy of the account information of the customer under investigation, transaction record and other relevant material; and seal up for keeping the document and material that are at risk of being transferred, destroyed, concealed or tampered with.

At least two investigators shall take part in an investigation of a suspicious transaction, and present a law enforcement warrant and an investigation notice issued by the People's Bank of China or its provincial branch offices. Examining, copying, and sealing up for keeping customer account information, transaction record and other relevant material shall be approved by the responsible person of the People's Bank of China or its provincial branch offices. In the case that investigators violate the prescribed procedures, a financial institution has a right to refuse the investigation.

An enquiry record shall be made for the enquiry, and shall be verified by the enquired. In the case that the record contains omission or errors, the enquired can request inclusion of the omission and corrections. The enquired shall sign his or her name or affix personal seal on the enquiry record after verification; the investigators shall also sign their names on the enquiry record.

When sealing up for keeping documents and materials, investigators shall check and count them jointly with the financial institution staff present at the investigation, and

produce on the spot a list in two copies, both to be signed or affixed a seal by the investigators and the financial institution staff present at the investigation, one to be kept by the financial institution and one to be kept in the investigation file of the People's Bank of China.

Article 23 In the case that money-laundering suspicions cannot be removed upon the completion of investigation, the case shall be immediately reported to law enforcement agency with proper jurisdiction. In the case that a customer wants fund in the account involved in the investigation to be transferred abroad, the financial institution shall immediately report to the local branch office of the People's Bank of China. With approval of its responsible person, the People's Bank of China can take a temporary freezing measure, and inform the financial institution in writing, which shall immediately execute the measure upon receiving the notice.

When the law enforcement agency deems it necessary to continue the freezing after it receives the reported case, the financial institution shall provide cooperation upon receiving the continued freezing notice from the law enforcement agency. In the case that the law enforcement agency deems it not necessary to continue the freezing, the People's Bank of China shall immediately inform the financial institution in writing to lift the temporary freezing after it receives the notice from the law enforcement agency.

A temporary freezing shall not exceed 48 hours. In the case that no notice on continued freezing is received from the law enforcement agency within 48 hours after a financial institution takes a temporary freezing measure according to the request of the People's Bank of China, it shall immediately lift the temporary freezing.

Article 24 When the anti-money laundering staff of the People's Bank of China and its branch offices has one of following behaviors, administrative penalty shall be imposed in accordance with relevant laws:

- (1) Having conducted examination, investigation or take temporary freezing measure in violation of regulations;
- (2) Having disclosed state secret, business secret, or individual privacy that comes to his or her knowledge in anti-money laundering work;
- (3) Having imposed administrative penalty on a financial institution or staff in violation of relevant regulations;
- (4) Other behaviors in the fulfilling of responsibility not consistent with laws.

Article 25 When a financial institution violates these *Rules*, the People's Bank of China or its branch offices above the district or municipal level shall impose punishments in line with Article 31 and 32 of *the Law of the People's Republic of China on Anti-Money Laundering*; the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission are advised to take the following measures based on the specific circumstances:

- (1) To order the financial institution to suspend business and take remedial actions or revoke its business license;
- (2) To disqualify directors, senior executives and other employees held immediately accountable for the misconduct from holding any positions and ban them from working in the financial industry;
- (3) To order financial institutions to issue a disciplinary warning to directors, senior executives and other employees held immediately accountable for the misconduct.

When a branch office at the county or city level of the People's Bank of China detects any violation of these *Rules* by a financial institution, it shall report to its next-higher-level branch office, which shall impose punishment or give relevant suggestions according to the afore-mentioned clause.

Article 26 When the People's Bank of China and any branch office above the district or municipal level impose administrative penalty on financial institutions for violation of these *Rules*, it should act according to provisions in *the Rules of Administrative Penalty Procedure of the People's Bank of China*.

Article 27 These *Rules* shall enter into effect on January 1, 2007 and *the Rules for Anti-money Laundering by Financial Institutions* promulgated by the People's Bank of China on January 3, 2003 are abolished at the same time.