

Law of the People's Republic of China on Anti-money Laundering

Order of the President
(No. 56)

The Law of the People's Republic of China on Anti-money Laundering, which was adopted at the 24th meeting of the Standing Committee of the 10th National People's Congress of the People's Republic of China, is hereby promulgated and shall come into force on January 1, 2007.

President of the People's Republic of China Hu Jintao
October 31, 2006

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(Adopted at the 24th meeting of the Standing Committee of the 10th National People's Congress)

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Chapter I General Provisions

Article 1 The present Law is formulated for the purpose of preventing money-laundering, safeguarding the financial order and cracking down on the crime of money-laundering as well as other relevant crimes.

Article 2 The term "anti-money laundering" as mentioned in the present Law refers to an act of adopting the relevant measures according to the provisions of the present Law to prevent any money laundering activity for the purpose of concealing or disguising, by all means, the sources and nature of criminal proceeds generated from any drug-related crime, organizational crime of any gangland, terrorist crime, crime of smuggling, crime of corruption or bribery, crime of disrupting the financial management order, crime of financial fraud, etc..

Article 3 A financial institution as established within the territory of the People's Republic

of China or a special non-financial institution that shall perform the obligation of anti-money laundering shall adopt relevant measures for prevention and supervision according to law, establish and improve a clients' identity identification system, a preservation system of clients' identity materials and transactional records, a reporting system of large sum transactions and doubtful transactions, and perform its anti-money laundering obligations.

Article 4 The administrative department of anti-money laundering of the State Council shall take charge of the anti-money laundering supervision and administration throughout the country. The relevant departments and organs under the State Council shall, within their respective scope of functions and duties, perform their obligations of anti-money laundering supervision and administration.

The administrative department of anti-money laundering of the State Council, the relevant departments and organs under the State Council and the judicial organs shall coordinate with each other in their anti-money laundering work.

Article 5 Any client's identity material or transactional information as acquired in the performance of the duties and functions of anti-money laundering according to law shall be kept confidential. None of the aforesaid information may be provided to any entity or individual in the absence of relevant provisions of law.

The clients' identity materials and transactional information as acquired by the administrative department of anti-money laundering or any other department or organ bearing the obligation of anti-money laundering supervision and administration according to law in the process of performing their anti-money laundering functions and duties shall only be used in the administrative anti-money laundering investigation.

The clients' identity materials and transactional information as acquired by the judicial organ according to the present Law shall only be used in the criminal litigation on anti-money laundering.

Article 6 Where any organ or functionary bearing the anti-money laundering obligation submits a report on large sum transaction or doubtful transaction according to law, it shall be protected by law.

Article 7 Where any entity or individual finds any money laundering activity, it/he has the right to tip it off to the administrative department of anti-money laundering or to the public security organ. The organ that accepts a tip-off shall keep confidential the tip-off maker as well as the tipped-off contents.

Chapter II Anti-money Laundering Supervision and Administration

Article 8 The administrative department of anti-money laundering of the State Council shall organize and coordinate the anti-money laundering work throughout the country, take charge of the supervision over the anti-money laundering funds, formulate, by itself

or in collaboration with the relevant financial regulatory bodies under the State Council, the relevant anti-money laundering regulations of financial institutions, conduct supervision and examination on the performance of anti-money laundering obligations by financial institutions, investigate into doubtful transactions within the power limit of its functions and duties, and perform other duties and functions of anti-money laundering as prescribed by law or by the State Council.

A dispatched organ of the administrative department of anti-money laundering of the State Council shall, within the power limit as authorized by the administrative department of anti-money laundering of the State Council, conduct supervision and examination of the performance of anti-money laundering obligations by financial institutions.

Article 9 The relevant financial regulatory bodies under the State Council shall participate in the formulation of anti-money laundering regulations for the financial institutions under its supervision and administration, require them to establish and improve an internal control system of anti-money laundering and perform the other duties and functions of anti-money laundering as prescribed by law or by the State Council.

Article 10 The administrative department of anti-money laundering of the State Council shall establish an Anti-money Laundering Information Center to take charge of accepting and analyzing the reports on large sum transactions and doubtful transactions, report the result of analysis to the administrative department of anti-money laundering of the State Council according to the relevant provisions and perform any other functions and duties as prescribed by the administrative department of anti-money laundering of the State Council.

Article 11 The administrative department of anti-money laundering of the State Council may, in order to perform its duties and functions of supervising the anti-money laundering funds, collect the necessary information from the relevant departments and organs of the State Council, and the latter shall provide assistance.

The administrative department of anti-money laundering of the State Council shall circulate, on a periodic basis, the anti-money laundering work to the relevant departments and organs of the State Council.

Article 12 Where the customs finds that any cash or bearer securities that any person carries exceeds the prescribed sum, it shall report the case to the administrative department of anti-money laundering in a timely manner.

The standards of amount that shall be circulated in the preceding paragraph shall be prescribed by the administrative department of anti-money laundering of the State Council in collaboration with the General Administration of Customs.

Article 13 Where the administrative department of anti-money laundering or any other department or organ bearing the obligation of anti-money laundering supervision and administration according to law finds any transaction involved with the crime of money laundering, it shall report it to the investigation organ in a timely manner.

Article 14 Where the relevant financial regulatory body under the State Council conducts examination and approval of the establishment of a new financial institution or establishment of any sub-branch or branch of a financial institution, it shall examine the internal control system of anti-money laundering of the new institution and shall not approve any application for establishment that fails to satisfy the provisions of the present Law.

Chapter III Anti-money Laundering Obligations of Financial Institutions

Article 15 A financial institution shall, according to the provisions of the present Law, establish and improve its internal control system of anti-money laundering, and the principal thereof shall be responsible for the effective implementation of its internal control system of anti-money laundering.

A financial institution shall establish a special institution of anti-money laundering or designate an internal department to take charge of anti-money laundering.

Article 16 A financial institution shall establish a clients' identity identification system according to the relevant provisions.

Where a financial institution establishes any business relationship with a client or provides such one-off financial services as cash remittance, cash conversion and bill payment beyond the prescribed amount, it shall require the client to show its/his authentic and effective identity certificate or any other identity certification document and make relevant verification and registration.

Where a client entrusts an agent to handle the transaction on its/his behalf, the relevant financial institution shall make verification and registration of the identity certificates or any other identity certification documents of the agent and the principal thereof.

Where a financial institution establishes a business relationship of personal insurance or trust with his client yet if the contractual beneficiary is not the client himself, the financial institution shall make verification and registration of the identity certificate or any other identity certification document of the beneficiary as well.

A financial institution shall not provide any service to or have trade with any client who cannot clarify his identity or establish any anonymous or pseudonymous account therefor.

Where a financial institution has any doubt about the authenticity or effectiveness or completeness of any client's identity materials, it shall check out the client's identity again.

Where any entity or individual establishes any business relationship with any financial institution or requires a financial institution to provide a one-off financial service, it/he shall

provide its/his authentic and effective identity certificate or any other identity certification document.

Article 17 Where a financial institution identifies the identity of its clients through a third party, it shall be guaranteed that the third party has adopted the measures for clients' identity clarification as required by the present Law. Where any third party fails to adopt the measures for the clients' identity clarification as prescribed by the present Law, the financial institution shall bear the liabilities for its failure to perform the obligation of clarifying the client's identity.

Article 18 Where a financial institution conducts the clarification of its clients' identity, it may, where it so requires, verify the relevant identity information with such departments as the public security organ and the administrative department for industry and commerce.

Article 19 A financial institution shall establish a preservation system for its clients' identity materials and transactional records.

During the existence of business relationship, any client's identity material that changes shall be updated in a timely manner.

Upon conclusion of any business relationship or transaction, the relevant client's identity materials or client's transaction information shall be kept for at least 5 years.

Where a financial institution goes bankrupt or is dissolved, it shall transfer the relevant clients' identity materials and clients' transactional records to the institution designated by the relevant department of the State Council.

Article 20 A financial institution shall, according to the relevant provisions, implement the reporting system of large sum transactions and doubtful transactions.

Where any single transaction handled by a financial institution or the accumulated transaction within a prescribed time limit goes beyond the prescribed sum or where any doubtful transaction is found, it shall be reported to the Anti-money Laundering Information Center in a timely manner.

Article 21 The specific measures for a financial institution to establish a clients' identity clarification system and a preservation system for its clients' identity materials and transactional records shall be formulated by the administrative department of anti-money laundering of the State Council in collaboration with the relevant financial regulatory bodies under the State Council. The specific measures for reporting the large sum transactions and doubtful transactions by financial institutions shall be formulated by the administrative department of anti-money laundering of the State Council.

Article 22 A financial institution shall, according to the requirements for anti-money laundering prevention and supervision, conduct anti-money laundering trainings and publicity.

Chapter IV Anti-money Laundering Investigation

Article 23 Where the administrative department of anti-money laundering of the State Council or its dispatched organ at the provincial level finds any doubtful transaction and if an investigation and verification is therefore required, it may conduct an investigation into the related financial institutions, and the latter shall provide assistance and faithfully provide the relevant documents and materials.

In the investigation into any doubtful transaction, there shall be no fewer than 2 investigators, who shall show their legal certificates as well as the investigation notice produced by the administrative department of anti-money laundering of the State Council or by its dispatched organ at the provincial level. In the case of fewer than 2 investigators or in case the relevant legal certificate or investigation notice fails to be shown, the financial institution under investigation has the right to refuse the investigation.

Article 24 In the investigation into any doubtful transaction, the relevant investigators may inquire of relevant personnel of the related financial institutions about relevant information. A Transcript shall be made for an inquiry and shall be checked against the person being interrogated. In the case of any omission or mistake in a transcript, the person being interrogated may request for supplementation or correction. After a person being interrogated confirms a transcript, he shall render his signature or seal thereto and the relevant investigators shall render their signatures onto the transcript as well.

Article 25 Where a further examination is required in an investigation, the investigator may, upon the approval of the principal of the administrative department of anti-money laundering of the State Council or its dispatched organ at the provincial level, consult and photocopy the relevant account information, transactional records and any other relevant materials of the investigated institution or persons, and may seal up any document or material that may be transferred, concealed, tampered or destroyed.

Where an investigator seals up any documents or materials, he shall, in collaboration with the relevant personnel of the investigated financial institution on the spot, sort them out and produce a checklist in duplicate, to which the signatures or seal of investigators and personnel of the financial institutions on the spot shall be rendered. One copy shall be delivered to the financial institution and the other shall be attached to the relevant file for reference.

Article 26 Where any suspicion of money laundering cannot be cleared off upon investigation, a case shall be reported to the competent investigation organ immediately. Where a client requests to transfer the account capital as involved in the investigation to a foreign country, temporary freezing measures may be adopted, subject to approval of the principal of the administrative department of anti-money laundering of the State Council.

After the investigation organ receives a case, it shall decide, in a timely manner, whether or not to further freeze the capital as temporarily frozen up according to the provisions of the preceding paragraph. Where it deems it necessary to continue freezing the capital, freezing measures shall be adopted according to the provisions of the Criminal Litigation Law. Where it deems it unnecessary to freeze the capital any more, it shall immediately notify the administrative department of anti-money laundering of the State Council, and the latter shall immediately notify the relevant financial institution to lift the freeze.

A temporary freeze shall not exceed 48 hours. Where a financial institution does not receive any notice on continuing freezing from the investigation organ within 48 hours after it adopts temporary freezing measures according to the requirements of the administrative department of anti-money laundering of the State Council, it shall immediately lift the freeze.

Chapter V International Anti-money Laundering Cooperation

Article 27 The People's Republic of China shall, according to the international treaties that China has concluded or acceded to or according to the principles of equality and reciprocity, carry out international anti-money laundering cooperation.

Article 28 The administrative department of anti-money laundering of the State Council shall, according to the authorization of the State Council, represent the Chinese government to make anti-money laundering cooperation with foreign governments and relevant international organizations, exchange the relevant information and materials related to anti-money laundering with overseas anti-money laundering institutions according to law.

Article 29 Legal assistance for investigation into any crime of money laundering shall be handled by the judicial organ according to the provisions of relevant laws.

Chapter VI Legal Liabilities

Article 30 Where any functionary of the administrative department of anti-money laundering or any other department or organ bearing the functions and duties of anti-money laundering supervision and administration has any of the following acts, an administrative sanction shall be given according to law:

- (1) Where anyone makes examination, investigation or adopts any temporary freezing measures in violation of the relevant provisions;
- (2) Where anyone divulges any state secret, commercial secret or individual privacy which he has access to in his anti-money laundering work;
- (3) Where anyone gives any administrative punishment to the relevant institution and

personnel in violation of the relevant provisions; or

(4) Where anyone has any act of failing to perform his duties and functions according to law.

Article 31 Where a financial institution has any of the following acts, the administrative department of anti-money laundering of the State Council or its authorized dispatched organ at or above the districted city level shall order it to correct within a time limit. In the case of serious circumstances, it shall advise the relevant financial regulatory body to order the relevant financial institution to give a disciplinary sanction to its directly liable chairperson, senior manager or any other person according to law:

(1) Where it fails to establish an internal control system of anti-money laundering according to the relevant provisions;

(2) Where it fails to establish a special institution of anti-money laundering or designates an internal department to take charge of anti-money laundering; or

(3) Where it fails to conduct anti-money laundering trainings to its employees according to the relevant provisions.

Article 32 Where a financial institution is under any of the following circumstances, the administrative department of anti-money laundering of the State Council or its authorized dispatched organ at or above the districted city level shall order it to correct. In the case of serious circumstances, a fine of 20, 000 yuan up to 50, 000 yuan shall be imposed on the financial institution and a fine of 10, 000 yuan up to 50, 000 yuan shall be imposed upon its directly liable chairman, senior manager or any other person:

(1) Where it fails to perform the obligation of clarifying any clients' identity according to the relevant provisions;

(2) Where it fails to preserve the clients' identity materials and transactional records according to the relevant provisions;

(3) Where it fails to report relevant reports on large sum transactions or doubtful transactions according to the relevant provisions;

(4) Where it trades with any client who fails to clarify its/his identity or establishes any anonymous account or pseudonymous account therefor;

(5) Where it violates the relevant confidential provisions or divulges any relevant information;

(6) Where it refuses or retards any anti-money laundering examination or investigation; or

(7) Where it refuses to provide any investigation material or provides any false material on purpose;

Where a financial institution has any of the aforesaid act and thus leads to the consequence of money laundering, a fine of 500, 000 yuan up to 5, 000, 000 yuan shall be imposed upon the financial institution and a fine of 50, 000 yuan up to 500, 000 yuan shall be imposed upon its directly liable chairman, senior manager or any other person. In the case of particularly serious circumstances, the administrative department of anti-money laundering may advise the relevant financial regulatory body to order the financial institution to suspend its business for rectification or to revoke its business license.

As to the directly liable chairman, senior manager or any other person of a financial institution as prescribed in the preceding two paragraphs, the administrative department of anti-money laundering may advise the relevant financial regulatory body to order the financial institution to give a disciplinary sanction thereto or revoke his qualification to hold a post and prohibit him from engaging in any financial work.

Article 33 Where anyone violates the provisions of the present Law and thus constitutes a crime, he shall be subject to criminal liabilities according to law.

Chapter VII Supplementary Provisions

Article 34 The term "financial institutions" as mentioned in the present Law refers to the policy banks, commercial banks, credit cooperatives, post savings institutions, trust investment companies, securities companies, futures brokerage companies, insurance companies as well as any other institutions that have been determined and publicized by the administrative department of anti-money laundering of the State Council to engage in the financial undertakings.

Article 35 The scope of the special non-financial institutions that shall perform the obligation of anti-money laundering, the specific anti-money laundering obligations thereof as well as the specific measures for supervision and administration on the special non-financial institutions shall be formulated by the administrative department of anti-money laundering of the State Council in collaboration with the relevant departments of the State Council.

Article 36 The supervision over any funds suspected of being involved in any terrorism activity shall be governed by the present Law. In the case of any different provision in any other law in this regard, such provision shall prevail.

Article 37 The present Measures shall come into force as of January 1, 2007.