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

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of preventing money laundering activities, safeguarding financial order, and curbing money laundering crimes and related crimes.

Article 2 — For the purposes of this Law, money laundering means the act of disguising or concealing, by any means, the source or nature of the proceeds and gains derived from predicate offenses of drug trafficking, organized crime, terrorist activities, smuggling, corruption and bribery, disruption of the financial management order, financial fraud, or any other crimes, in order to make such proceeds and gains appear legitimate.

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Article 3 — Financial institutions established within the territory of the People's Republic of China, and specific non-financial institutions prescribed by regulations, shall, in accordance with the law, adopt preventive and monitoring measures, establish systems for client identity identification, client identity data and transaction record preservation, and reporting of large-value transactions and suspicious transactions, and perform their anti-money laundering obligations.

Article 4 — The administrative department for anti-money laundering under the State Council shall be responsible for the supervision and administration of anti-money laundering nationwide. The relevant departments and institutions under the State Council shall, within the scope of their respective duties, perform their anti-money laundering supervision and administration duties. The administrative department for anti-money laundering under the State Council, the relevant departments and institutions under the State Council, judicial organs, and law enforcement organs shall cooperate with each other in anti-money laundering work.

Article 5 — State secrets, trade secrets, and personal privacy that come to the knowledge of any institution or individual performing anti-money laundering duties in accordance with the law shall be kept confidential. The identity data and transaction information of clients obtained by institutions and individuals performing anti-money laundering duties in accordance with the law shall be kept confidential, and shall not be provided to any institution or individual except as provided for by law.

Article 6 — Any institution or individual that discovers suspected money laundering activities shall have the right to report such activities to the administrative department for anti-money laundering under the State Council or to the public security organs. The department or organ receiving the report shall keep the identity of the reporter and the contents of the report confidential.

Article 7 — When performing anti-money laundering duties, the relevant departments of the State Council and the local people's governments at all levels shall, in accordance with the provisions of laws and administrative regulations, preserve the order of payment and settlement, and prevent and combat money laundering activities.

Chapter II — Anti-Money Laundering Supervision and Administration

Article 8 — The administrative department for anti-money laundering under the State Council shall organize and coordinate anti-money laundering work nationwide, be responsible for anti-money laundering fund monitoring, formulate or jointly formulate with the relevant financial regulatory authorities under the State Council the anti-money laundering rules for financial institutions, supervise and inspect the performance of anti-money laundering obligations by financial institutions, investigate suspected money laundering transactions within the scope of its duties, and perform other anti-money laundering duties as prescribed by laws and administrative regulations. The anti-money laundering information center under the administrative department for anti-money laundering under the State Council shall be responsible for receiving and analyzing reports on large-value transactions and suspicious transactions, reporting the analysis results to the administrative department for anti-money laundering under the State Council in accordance with regulations, and performing other duties as prescribed by the administrative department for anti-money laundering under the State Council.

Article 9 — The relevant financial regulatory authorities under the State Council shall participate in the formulation of anti-money laundering rules for the financial institutions under their respective supervision, and shall, when examining and approving the establishment of new financial institutions or the establishment of branches by financial institutions, examine the internal control system of the financial institution regarding anti-money laundering; where the internal control system does not comply with the provisions of laws or administrative regulations, approval shall not be granted.

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Article 10 — The administrative department for anti-money laundering under the State Council shall establish an anti-money laundering information center to be responsible for the receipt and analysis of large-value transaction reports and suspicious transaction reports, and to undertake other anti-money laundering work as determined by the administrative department for anti-money laundering under the State Council.

Article 11 — The administrative department for anti-money laundering under the State Council may, in order to perform its duties of fund monitoring, obtain necessary information from the relevant departments and institutions under the State Council, and the relevant departments and institutions under the State Council shall provide such information. The administrative department for anti-money laundering under the State Council shall provide anti-money laundering information to the relevant departments and institutions under the State Council on a regular basis.

Article 12 — Where the customs authorities discover that the amount of cash or negotiable bearer instruments carried by an individual entering or leaving the country exceeds the prescribed amount, they shall promptly report to the administrative department for anti-money laundering under the State Council. The specific standards for the amount subject to reporting shall be prescribed by the administrative department for anti-money laundering under the State Council in conjunction with the General Administration of Customs.

Article 13 — The administrative department for anti-money laundering under the State Council shall, when discovering suspected money laundering transactions, conduct investigations, and may, when necessary, consult with and copy the relevant account information, transaction records, and other relevant data of the institution or individual under investigation. Where the institution or individual under investigation refuses to cooperate, or where the suspected money laundering crime requires further investigation, the case shall be referred to the public security organ for handling.

Article 14 — The administrative department for anti-money laundering under the State Council and its dispatched offices may, when performing their supervisory and inspection duties, take the following measures: (1) entering the financial institution for inspection; (2) interviewing members of the board of directors, senior management personnel, and other staff of the financial institution, and requiring them to provide explanations on matters subject to inspection; (3) consulting with and copying documents and data related to the inspected matters of the financial institution, and sealing up documents and data that may be transferred, destroyed, concealed, or tampered with; and (4) inspecting the computer system for managing business data of the financial institution.

Chapter III — Anti-Money Laundering Obligations of Financial Institutions

Article 15 — Financial institutions shall, in accordance with the law, establish and improve their internal control systems for anti-money laundering. The responsible person of the financial institution shall be responsible for the effective implementation of the internal control system for anti-money laundering. Financial institutions shall establish special anti-money laundering departments or designate internal functional departments to be responsible for anti-money laundering work.

Article 16 — Financial institutions shall, in accordance with regulations, establish a client identification system. When a financial institution establishes a business relationship with a client or provides a one-off financial service for a client of a prescribed amount or above, it shall require the client to present its true and valid identity document or other identification document and verify and register the same. Financial institutions shall not provide services to, or conduct transactions with, clients whose identities are unclear. When a financial institution provides a one-off financial service such as remittance, exchange, or bill acceptance and payment below the prescribed amount for a client, it shall verify and register the client's identity document or other identification document. Where a financial institution provides custody, safe-deposit box, or other services for a client, it shall verify and register the identity of the actual beneficiary.

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Article 17 — Where a financial institution handles business through a third party, it shall verify the client identification measures taken by the third party. Where the third party fails to take client identification measures in accordance with the regulations, the financial institution shall take such measures itself or shall not handle the business through that third party.

Article 18 — When conducting client identification, financial institutions may, when necessary, verify the relevant identity information with the public security organ and the administrative department for industry and commerce. Financial institutions shall, in accordance with regulations, keep client identity data and transaction records. Client identity data shall be kept for at least five years after the business relationship ends; and client transaction records shall be kept for at least five years after the transaction is recorded. Where any institution performs its anti-money laundering duties in accordance with the law and needs to consult the relevant data and records kept by a financial institution, the financial institution shall truthfully provide the same.

Article 19 — Financial institutions shall, in accordance with regulations, implement a reporting system for large-value transactions and suspicious transactions. Where any transaction amount handled by a financial institution reaches the standard for large-value transactions, or where any transaction is suspected of being related to money laundering, the financial institution shall promptly report to the anti-money laundering information center. Where the anti-money laundering information center discovers, through analysis, that a transaction is suspected of money laundering and needs to verify the same, it may consult the relevant account information and transaction records with the relevant financial institution, and the financial institution shall provide cooperation.

Article 20 — Financial institutions shall, in accordance with regulations, guard against the risk of money laundering arising from the application of new technologies and new businesses, and shall assess and report on the anti-money laundering risks of new technologies and new businesses.

Article 21 — Financial institutions shall establish a unified reporting system for client identity data and transaction records, improve the mechanism for anti-money laundering risk assessment and client risk classification, adopt targeted risk management measures, and strengthen the monitoring of high-risk clients and businesses.

Article 22 — Where a financial institution conducts a merger or division, or is dissolved or declared bankrupt, it shall properly handle the preservation and transfer of client identity data and transaction records. Where a financial institution terminates part or all of its business, it shall continue to keep client identity data and transaction records for at least five years. The specific measures for the identification and reporting of suspicious transactions shall be formulated by the administrative department for anti-money laundering under the State Council in conjunction with the relevant financial regulatory authorities under the State Council.

Chapter IV — Anti-Money Laundering Investigation

Article 23 — Where the administrative department for anti-money laundering under the State Council or its dispatched office at the provincial level discovers suspected money laundering transactions and considers it necessary to conduct investigation and verification, it may conduct an investigation into the relevant financial institution, and the financial institution shall provide cooperation and truthfully provide relevant documents and data. Where the investigation involves a matter for which an investigation shall not have been initiated, it shall not have been initiated; and where it should not have been investigated, it shall not have been investigated.

Article 24 — When conducting an investigation, the administrative department for anti-money laundering under the State Council or its dispatched office at the provincial level may take the following measures: (1) consulting with and copying the relevant account information, transaction records, and other relevant data of

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the institution or individual under investigation; (2) sealing up documents and data that may be transferred, destroyed, concealed, or tampered with; and (3) requiring the financial institution to temporarily freeze the funds in the relevant account of the client under investigation, provided that the freeze period shall not exceed 48 hours. Where, upon the expiry of the temporary freeze, the administrative department for anti-money laundering under the State Council or its dispatched office at the provincial level has not issued a notice of continued freeze, the financial institution shall immediately lift the temporary freeze.

Article 25 — Investigators of the administrative department for anti-money laundering under the State Council or its dispatched office at the provincial level shall, when conducting an investigation, produce their investigation certificates and the investigation notice. Where there are fewer than two investigators, the investigation shall not be conducted. The investigators shall keep confidential any State secrets, trade secrets, and personal privacy that come to their knowledge during the investigation.

Article 26 — Where, upon investigation, the administrative department for anti-money laundering under the State Council determines that any transaction is suspected of constituting a money laundering crime, it shall promptly refer the case to the public security organ for filing and investigation. Where the case is referred, the administrative department for anti-money laundering under the State Council shall simultaneously transfer the relevant investigation materials, and may, upon the request of the public security organ, provide consultation on relevant professional matters.

Chapter V — International Cooperation in Anti-Money Laundering

Article 27 — The People's Republic of China shall, in accordance with the international treaties that it has concluded or acceded to, or on the basis of the principles of equality and reciprocity, engage in international cooperation in anti-money laundering.

Article 28 — The administrative department for anti-money laundering under the State Council shall, in accordance with the authorization of the State Council, carry out exchanges and cooperation with the anti-money laundering institutions of foreign countries and international organizations on anti-money laundering information, and represent the Chinese government in participating in international anti-money laundering organizations.

Article 29 — Where judicial assistance is involved in money laundering crimes, it shall be handled by the judicial organs in accordance with the provisions of relevant laws and international treaties.

Chapter VI — Legal Liability

Article 30 — Where a financial institution violates the provisions of this Law by failing to establish an internal control system for anti-money laundering, failing to establish a special anti-money laundering department or designate an internal functional department to be responsible for anti-money laundering work, failing to conduct anti-money laundering training for its staff as required, or committing any other act in violation of the provisions on internal control for anti-money laundering, the administrative department for anti-money laundering under the State Council or its dispatched office at or above the level of a city divided into districts shall order it to make corrections within a prescribed time limit; where the circumstances are serious, it shall recommend that the relevant financial regulatory authority order the financial institution to take disciplinary action against the directly responsible member of the board of directors, senior management personnel, or other directly responsible persons in accordance with the law.

Article 31 — Where a financial institution is under any of the following circumstances, the administrative department for anti-money laundering under the State Council or its dispatched office at or above the level of a city divided into districts shall order it to make corrections within a prescribed time limit; where the circumstances are serious, a fine of not less than RMB 200,000 yuan but not more than RMB 500,000 yuan shall be imposed, and a fine of not less than RMB 10,000 yuan but not more than RMB 50,000 yuan shall be

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imposed on the directly responsible member of the board of directors, senior management personnel, or other directly responsible persons: (1) failing to establish a client identification system in accordance with regulations; (2) failing to preserve client identity data and transaction records in accordance with regulations; or (3) failing to implement the reporting system for large-value transactions and suspicious transactions in accordance with regulations. Where a financial institution fails to submit reports on large-value transactions or suspicious transactions in accordance with regulations, thereby causing serious consequences for money laundering, a fine of not less than RMB 500,000 yuan but not more than RMB 5,000,000 yuan shall be imposed, and a fine of not less than RMB 50,000 yuan but not more than RMB 500,000 yuan shall be imposed on the directly responsible member of the board of directors, senior management personnel, or other directly responsible persons. Where the violation is particularly serious, the administrative department for anti-money laundering under the State Council may recommend that the relevant financial regulatory authority order the financial institution to suspend business for internal rectification or revoke its business license in accordance with the law.

Article 32 — Where a financial institution violates the provisions of this Law by disclosing any State secret, trade secret, or personal privacy that comes to its knowledge during the performance of anti-money laundering duties, or by providing reports on large-value transactions and suspicious transactions or other anti-money laundering information to any institution or individual not entitled to such information in accordance with the law, the administrative department for anti-money laundering under the State Council or its dispatched office at or above the level of a city divided into districts shall order it to make corrections within a prescribed time limit; where the circumstances are serious, a fine of not less than RMB 200,000 yuan but not more than RMB 500,000 yuan shall be imposed, and a fine of not less than RMB 10,000 yuan but not more than RMB 50,000 yuan shall be imposed on the directly responsible member of the board of directors, senior management personnel, or other directly responsible persons.

Article 33 — Where any institution or individual violates the provisions of this Law and a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 34 — For the purposes of this Law, financial institutions means policy banks, commercial banks, urban credit cooperatives, rural credit cooperatives, postal savings institutions, trust and investment companies, securities companies, futures brokerage companies, insurance companies, and other institutions determined by the administrative department for anti-money laundering under the State Council to be financial institutions for the purposes of performing anti-money laundering obligations and announced as such.

Article 35 — Specific non-financial institutions that shall perform anti-money laundering obligations shall be prescribed by the administrative department for anti-money laundering under the State Council in conjunction with the relevant departments under the State Council. The specific measures for the supervision and administration of specific non-financial institutions in performing their anti-money laundering obligations shall be separately formulated by the State Council.

Article 36 — The provisions of this Law shall apply, mutatis mutandis, to the monitoring of suspected terrorist financing activities conducted by financial institutions and specific non-financial institutions. Where laws and administrative regulations provide otherwise, such provisions shall prevail.

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

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