Regulations of the People's Republic of China on Foreign Exchange Administration

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

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Chapter I — General Provisions

Article 1. These Regulations are formulated to strengthen the administration of foreign exchange, maintain a strong balance of international payments, and promote the healthy development of the national economy.

Article 2. The foreign exchange administration authority of the State Council and its branch offices shall perform the duties of foreign exchange administration in accordance with the law and shall be responsible for the implementation of these Regulations.

Article 3. "Foreign exchange" as used in these Regulations refers to the following means of payment and assets denominated in foreign currencies: foreign currency in cash, including banknotes and coins; foreign currency payment instruments, including negotiable instruments, bank deposit certificates, and postal savings certificates; foreign currency securities, including government bonds, corporate bonds, and stocks; Special Drawing Rights; and other foreign exchange assets.

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Article 4. Foreign exchange receipts and payments of domestic entities, foreign exchange operations of financial institutions, and foreign exchange transactions on the foreign exchange market shall be subject to the supervision and administration of the foreign exchange administration authority.

Article 5. The State shall not restrict current account international payments and transfers, except as otherwise provided by laws and administrative regulations.

Article 6. The State shall implement a system of foreign exchange registration and statistical reporting. Entities and individuals engaged in foreign exchange transactions shall report foreign exchange receipts and payments data truthfully to the foreign exchange administration authority.

Chapter II — Current Account Foreign Exchange Administration

Article 7. Current account foreign exchange receipts of domestic entities may be retained or sold to financial institutions designated to conduct foreign exchange operations in accordance with the relevant provisions of the State. Foreign exchange receipts that must be repatriated shall be brought back to China in accordance with State regulations.

Article 8. For current account payments, domestic entities shall, in accordance with the provisions of the foreign exchange administration authority, present valid documents and use their own foreign exchange funds or purchase foreign exchange from financial institutions designated to conduct foreign exchange operations to make payments.

Article 9. The foreign exchange required by domestic entities for current account transactions such as trade in goods and services shall be purchased from financial institutions designated to conduct foreign exchange operations upon presentation of valid documents such as commercial invoices, transport documents, and customs declaration forms.

Article 10. Foreign exchange receipts and payments under the trade in services and income accounts shall be made upon presentation of contracts or other valid documents verifying the authenticity and legality of the transactions.

Article 11. Foreign exchange required by individuals for private purposes may be purchased from financial institutions designated to conduct foreign exchange operations within the prescribed limits upon presentation of valid personal identification documents. For amounts exceeding the prescribed limits, additional documentation proving the purpose of the transaction shall be provided.

Article 12. Foreign exchange brought into or taken out of China by individuals shall be declared to the customs authorities in accordance with relevant provisions. The amount of foreign currency cash carried shall not exceed the limits prescribed by the State.

Article 13. Profits, dividends, and other lawful returns from foreign direct investment in China may be remitted abroad upon presentation of relevant resolutions of the board of directors, tax payment certificates, and other documents certifying the authenticity of the transactions to the foreign exchange administration authority.

Chapter III — Capital Account Foreign Exchange Administration

Article 14. Capital account foreign exchange receipts of domestic entities shall be retained or sold to financial institutions designated to conduct foreign exchange operations in accordance with the relevant provisions of the State. Foreign exchange under the capital account shall be repatriated to China as required by State regulations, unless otherwise approved by the foreign exchange administration authority.

Article 15. Capital account foreign exchange payments shall be made upon approval by the foreign exchange administration authority or with relevant documents presented to financial institutions designated to conduct foreign exchange operations in accordance with State regulations, unless otherwise provided by

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the State.

Article 16. Foreign investors who lawfully remit funds into China for direct investment shall register with the foreign exchange administration authority. Capital funds for foreign direct investment shall be used in accordance with the purposes approved or filed, and shall not be diverted to other uses without authorization.

Article 17. Domestic entities providing guarantees for foreign debts shall obtain approval from the foreign exchange administration authority in accordance with the relevant provisions of the State. Foreign debts incurred by domestic entities shall be registered with the foreign exchange administration authority.

Article 18. Foreign exchange required by domestic entities for making investments abroad shall be subject to approval by, or filing with, the foreign exchange administration authority in accordance with the relevant provisions of the State, upon presenting the approval or filing documents issued by the competent foreign investment administration authorities.

Article 19. Financial institutions designated to conduct foreign exchange operations shall, when providing foreign exchange loans to domestic entities, comply with the relevant provisions of the State on the administration of foreign debts and shall register with the foreign exchange administration authority.

Article 20. The offering of securities abroad by domestic entities, and the offering and listing of securities in China by foreign entities, shall be subject to approval by the foreign exchange administration authority in accordance with the relevant provisions of the State.

Article 21. The foreign exchange administration authority shall implement quota management for external debts, and the principal and interest repayments of foreign debts shall be made through foreign exchange purchases or self-owned foreign exchange upon presentation of valid documents.

Chapter IV — Foreign Exchange Operations by Financial Institutions

Article 22. Financial institutions engaging in foreign exchange operations shall obtain approval from the foreign exchange administration authority and obtain a license for foreign exchange operations. Financial institutions shall not conduct foreign exchange operations beyond the approved scope of business.

Article 23. Financial institutions conducting foreign exchange operations shall, in accordance with the relevant provisions of the State, open foreign exchange accounts for their clients and handle foreign exchange business. They shall verify the authenticity and legality of the transaction documents presented by their clients in accordance with regulations.

Article 24. Financial institutions conducting foreign exchange operations shall, in accordance with the relevant provisions, maintain a foreign exchange position within the limits prescribed by the foreign exchange administration authority, and shall purchase or sell foreign exchange through the foreign exchange market to square their positions.

Article 25. Financial institutions conducting foreign exchange operations shall truthfully report their foreign exchange balance sheets, income statements, and other financial and business data to the foreign exchange administration authority.

Article 26. Financial institutions shall establish and improve their internal control systems for foreign exchange operations and shall implement the requirement to know their customers and understand their businesses. Financial institutions shall report large-sum and suspicious foreign exchange transactions to the foreign exchange administration authority.

Chapter V — Renminbi Exchange Rate and Foreign Exchange Market

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Article 27. The Renminbi exchange rate shall be a managed floating exchange rate system based on market supply and demand and adjusted with reference to a basket of currencies.

Article 28. Financial institutions designated to conduct foreign exchange operations and other institutions approved by the foreign exchange administration authority may trade foreign exchange on the interbank foreign exchange market. The trading varieties, forms, and methods of the foreign exchange market shall be prescribed by the foreign exchange administration authority.

Article 29. Foreign exchange market transactions shall follow the principles of openness, fairness, impartiality, and good faith. Market makers shall perform their quotation obligations.

Article 30. The foreign exchange administration authority shall regulate the operation of the foreign exchange market in accordance with the law, maintain market order, and prevent market manipulation and other unfair trading practices.

Article 31. The State may take necessary measures to respond to severe balance of payments imbalances or where, due to abnormal cross-border capital flows, there exist or may exist systemic risks, to maintain financial stability and economic security.

Chapter VI — Supervision and Administration

Article 32. The foreign exchange administration authority shall exercise supervision and inspection over the foreign exchange receipts and payments of entities and individuals as well as the foreign exchange operations of financial institutions in accordance with the law.

Article 33. The foreign exchange administration authority may, when performing its duties of supervision and inspection, take the following measures: enter the place of business of the party under investigation to conduct on-site inspections; inquire of the legal representative, the person in charge, financial personnel, or other relevant persons; inspect and make copies of relevant documents and materials; investigate information on foreign exchange receipts and payments through financial institutions; apply to the People’s Court for freezing of foreign exchange funds in accounts suspected of illegal activities.

Article 34. The relevant departments of the State Council, such as commerce, customs, taxation, and industry and commerce administration, shall cooperate with the foreign exchange administration authority in providing necessary information and data for foreign exchange administration.

Article 35. The foreign exchange administration authority shall maintain the confidentiality of state secrets and the commercial secrets of parties under investigation that become known to it in the course of performing its duties in accordance with the law.

Chapter VII — Legal Liability

Article 36. Anyone who engages in foreign exchange transactions to evade foreign exchange controls by altering or forging documents or by other fraudulent means shall be ordered by the foreign exchange administration authority to repatriate the foreign exchange and may be subject to a fine of not more than 30 percent of the amount of foreign exchange evaded. Where the amount is relatively large, the fine shall be not less than 30 percent and not more than the equivalent of the amount involved.

Article 37. Anyone who illegally purchases foreign exchange by improper means shall be ordered by the foreign exchange administration authority to make corrections and may be fined not more than 30 percent of the amount illegally purchased.

Article 38. Anyone who, without authorization, engages in foreign exchange operations, engages in foreign exchange operations beyond the approved scope, or fails to comply with the provisions on foreign exchange position management shall be ordered by the foreign exchange administration authority to make corrections, the illegal proceeds shall be confiscated, and a fine of not less than the illegal proceeds and not more than

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five times the illegal proceeds shall be imposed. Where there are no illegal proceeds, a fine of not less than RMB 100,000 and not more than RMB 500,000 shall be imposed.

Article 39. Entities or individuals who receive foreign exchange and fail to repatriate it to China as required shall be ordered by the foreign exchange administration authority to repatriate the foreign exchange within a prescribed time limit and may be fined not less than 5 percent and not more than 30 percent of the amount involved.

Article 40. Anyone who makes or receives payments in foreign exchange in violation of the provisions on the administration of foreign exchange accounts shall be ordered by the foreign exchange administration authority to make corrections, given a warning, and may be fined not more than RMB 300,000.

Article 41. Where a financial institution fails to perform its obligation to verify the authenticity and legality of transaction documents, the foreign exchange administration authority shall order it to make corrections and impose a fine of not less than RMB 200,000 and not more than RMB 1,000,000. Where the circumstances are serious, its foreign exchange operations shall be suspended or its foreign exchange operations license shall be revoked.

Article 42. Any violation of these Regulations that also violates other laws or administrative regulations shall be subject to penalties under the relevant laws or administrative regulations. Where a violation is serious enough to constitute a crime, criminal liability shall be pursued in accordance with the law.

Article 43. Where a party refuses to accept an administrative penalty decision made by the foreign exchange administration authority, it may apply for administrative reconsideration or bring an administrative lawsuit in accordance with the law.

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