Regulations on Foreign Exchange Control of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are enacted for the purpose of strengthening foreign exchange control, maintaining the balance of international payments, and promoting the sound development of the national

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economy.

Article 2 — The foreign exchange administration authority of the State Council and its local branches (hereinafter referred to as "foreign exchange administration authorities") shall perform their foreign exchange control duties in accordance with law and shall be responsible for the implementation of these Regulations.

Article 3 — The term "foreign exchange" as used in these Regulations means the following means of payment and assets expressed in foreign currencies that may be used for international settlement: (1) foreign currency cash, including banknotes and coins; (2) foreign currency payment instruments, including bills, bank deposit certificates, and postal savings certificates; (3) foreign currency-denominated securities, including government bonds, corporate bonds, and stocks; (4) special drawing rights; (5) other foreign exchange-denominated assets.

Article 4 — Domestic institutions and individuals and foreign organizations and individuals present in China shall abide by these Regulations in conducting foreign exchange receipt and payment activities.

Article 5 — The State shall not restrict current account international payments and transfers.

Article 6 — The State shall implement a system of statistics and reporting on the international balance of payments. The foreign exchange administration authority of the State Council shall conduct statistics, monitor and publish the international balance of payments and foreign debt position.

Article 7 — Financial institutions conducting foreign exchange business shall open foreign exchange accounts with their clients in accordance with the regulations of the foreign exchange administration authority of the State Council and handle foreign exchange business through their foreign exchange accounts.

Article 8 — Foreign exchange receipts of domestic institutions and individuals may be repatriated to China or deposited overseas in accordance with relevant State regulations. The foreign exchange administration authority of the State Council shall formulate measures for the administration of the repatriation and depositing of foreign exchange according to changes in the international balance of payments.

Article 9 — The State shall implement a uniform legal system for foreign exchange control. The foreign exchange administration authority of the State Council shall exercise unified administration over foreign exchange control nationwide in accordance with law.

Chapter II — Current Account Foreign Exchange

Article 10 — Current account foreign exchange receipts of domestic institutions shall be repatriated to China in accordance with relevant State regulations or deposited in designated foreign exchange accounts. Current account foreign exchange payments of domestic institutions shall be made from their foreign exchange accounts with valid commercial documents in accordance with the regulations of the foreign exchange administration authority of the State Council on foreign exchange settlement, sale and payment.

Article 11 — Current account foreign exchange receipts of domestic institutions shall be settled in accordance with the regulations of the foreign exchange administration authority of the State Council on the administration of designated foreign exchange accounts and quota limits.

Article 12 — Foreign exchange required for the current account transactions of foreign-invested enterprises within China shall be paid from their foreign exchange account balances; where the balance is insufficient, they may purchase foreign exchange from designated foreign exchange banks with valid commercial documents and proof.

Article 13 — All current account foreign exchange income of individuals within China may be retained by individuals or deposited in banks; foreign exchange may also be sold to designated foreign exchange banks; payments may be made from their foreign exchange accounts or purchased from designated foreign exchange banks with valid documents in accordance with regulations.

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Article 14 — For current account foreign exchange income and expenditure, financial institutions shall examine the authenticity of the transaction documents and the consistency of such documents with the foreign exchange receipts and payments in accordance with the regulations of the foreign exchange administration authority of the State Council. The foreign exchange administration authorities shall have the right to conduct supervision and inspection thereof.

Article 15 — The amount of foreign currency cash carried out of the country by individuals shall be subject to the limit prescribed by the foreign exchange administration authority of the State Council.

Article 16 — The entry of foreign currency cash into the country shall be without limit, but a declaration shall be submitted to the customs authorities; the exit of foreign currency cash shall be subject to the relevant State regulations.

Chapter III — Capital Account Foreign Exchange

Article 17 — Capital account foreign exchange receipts of domestic institutions shall be repatriated to China in accordance with relevant State regulations, deposited in designated foreign exchange accounts, or sold to designated foreign exchange banks upon approval by the foreign exchange administration authority.

Article 18 — Foreign exchange required for capital account payments of domestic institutions shall be paid from their foreign exchange account balances or purchased from designated foreign exchange banks with valid documents upon approval by the foreign exchange administration authority in accordance with relevant State regulations.

Article 19 — The State shall implement a registration system for foreign debt. Domestic institutions shall register their foreign debt with the foreign exchange administration authority in accordance with the regulations of the foreign exchange administration authority of the State Council. The foreign exchange administration authority of the State Council shall be responsible for the statistics and monitoring of the national foreign debt and periodically publish foreign debt information.

Article 20 — Where domestic institutions provide external guarantees, they shall obtain approval from the foreign exchange administration authority and carry out registration in accordance with relevant State regulations.

Article 21 — Where domestic institutions issue foreign currency-denominated bonds overseas, the issuance shall be approved by the foreign exchange administration authority of the State Council and handled in accordance with relevant State regulations.

Article 22 — The proceeds from the overseas issuance of foreign currency-denominated bonds by domestic institutions shall be repatriated to China in accordance with the approved plan and may not be deposited overseas without authorization. Where the proceeds need to be deposited overseas, approval from the foreign exchange administration authority shall be obtained.

Article 23 — Foreign exchange required for the principal and interest repayment of foreign debt of domestic institutions shall be handled with valid documents of the foreign exchange administration authority in accordance with relevant State regulations. Financial institutions shall examine the authenticity of the transaction documents in accordance with the regulations of the foreign exchange administration authority of the State Council.

Article 24 — Where foreign exchange funds under the capital account are converted into RMB, approval from the foreign exchange administration authority shall be obtained in accordance with relevant State regulations.

Chapter IV — Financial Institution Foreign Exchange Business

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Article 25 — Financial institutions shall obtain approval from the foreign exchange administration authority before conducting foreign exchange business and shall obtain a foreign exchange business operation permit. No unit or individual may conduct foreign exchange business without the approval of the foreign exchange administration authority. Financial institutions that have been approved to conduct foreign exchange business shall not conduct foreign exchange business beyond the approved scope.

Article 26 — Financial institutions conducting foreign exchange business shall open foreign exchange accounts with their clients in accordance with the relevant regulations of the foreign exchange administration authority of the State Council and shall handle foreign exchange business for their clients through the foreign exchange accounts.

Article 27 — Financial institutions conducting foreign exchange business shall maintain the prescribed foreign exchange asset-liability ratios in accordance with relevant State regulations and shall establish sound systems of foreign exchange risk management.

Article 28 — Financial institutions conducting foreign exchange business shall deposit a foreign exchange reserve fund with the foreign exchange administration authority in accordance with relevant State regulations and abide by the regulations on the administration of foreign exchange positions.

Article 29 — Financial institutions shall accept the inspection and supervision of the foreign exchange administration authorities and truthfully provide relevant materials on foreign exchange business operations.

Article 30 — Where a financial institution terminates its foreign exchange business, it shall apply to the foreign exchange administration authority. Only after the approval of the foreign exchange administration authority may it terminate its foreign exchange business or its foreign exchange business operation permit be cancelled in accordance with law.

Chapter V — RMB Exchange Rate and Foreign Exchange Market

Article 31 — The RMB 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 32 — The People's Bank of China shall publish the RMB exchange rate based on the prices formed by the interbank foreign exchange market.

Article 33 — Designated foreign exchange banks and other financial institutions conducting foreign exchange business shall be the market makers in the interbank foreign exchange market and shall, in accordance with the exchange rate published by the People's Bank of China and the prescribed range of movement, determine the exchange rate for foreign exchange transactions with their clients and handle foreign exchange settlement and sale business.

Article 34 — The foreign exchange market shall be subject to supervision and regulation by the foreign exchange administration authority of the State Council in accordance with law. The foreign exchange administration authority of the State Council may, in accordance with market changes, adjust the exchange rate movement range and take other necessary measures in the foreign exchange market.

Article 35 — Market makers in the foreign exchange market shall abide by the transaction rules of the foreign exchange market, maintain market order, and shall not engage in any of the following actions: (1) manipulating the foreign exchange market; (2) spreading false information about foreign exchange; (3) engaging in fraudulent transactions; or (4) engaging in other conduct prohibited by the foreign exchange administration authorities.

Article 36 — The foreign exchange administration authorities shall have the right to exercise supervision and inspection over the foreign exchange receipts, payments, and settlements of financial institutions and other units and individuals.

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Chapter VI — Supervision and Administration

Article 37 — The foreign exchange administration authorities shall perform their duties in accordance with law and shall have the right to take the following measures: (1) to conduct on-site inspections of financial institutions and other units and individuals conducting foreign exchange business; (2) to enter the premises suspected of illegal foreign exchange activities to conduct investigation and collect evidence; (3) to inquire of parties and other relevant units and individuals with a connection to the illegal foreign exchange activities and investigate the relevant circumstances; (4) to consult and copy the documentary evidence and other materials relating to the illegal foreign exchange activities; (5) to examine and seal up documentary evidence and other materials that are related to the illegal foreign exchange activities and may be subject to removal, concealment or destruction; and (6) to inquire into the RMB funds and foreign exchange accounts of the parties and relevant units and individuals with approval in accordance with prescribed procedures.

Article 38 — Where any unit or individual has committed an act in violation of the foreign exchange control regulations, the foreign exchange administration authorities may take corresponding measures in accordance with their functions and duties or issue a notice of investigation.

Article 39 — The foreign exchange administration authorities shall establish a reporting system. Any unit or individual shall have the right to report acts in violation of foreign exchange control regulations. The foreign exchange administration authorities shall keep the identity of the reporting person confidential and shall reward the reporting person as appropriate.

Article 40 — When exercising their functions and duties, the staff members of the foreign exchange administration authorities shall present their credentials and maintain the confidentiality of the business secrets of the units under inspection.

Chapter VII — Legal Liability

Article 41 — Where any unit or individual commits any of the following acts in violation of these Regulations, the foreign exchange administration authority shall order rectification, issue a warning, confiscate the illegal gains, and impose a fine of not more than 30% of the amount of illegal foreign exchange; where the circumstances are serious, a fine of not less than 30% but not more than the equivalent value of the illegal foreign exchange shall be imposed: (1) using foreign currency within China for pricing or settlement; (2) purchasing foreign exchange by deceptive means; (3) failing to repatriate foreign exchange to China as required by the State; (4) failing to sell foreign exchange to designated foreign exchange banks as required by the State; (5) changing the use of foreign exchange or foreign exchange settlement funds without authorization; or (6) other acts of evading foreign exchange controls.

Article 42 — Where any unit or individual illegally introduces or purchases foreign exchange in the country, the foreign exchange administration authority shall order rectification, issue a warning, and impose a fine of not more than 30% of the amount of illegal foreign exchange; where the circumstances are serious, a fine of not less than 30% but not more than the equivalent value of the illegal foreign exchange shall be imposed; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 43 — Where any unit or individual engages in arbitrage activities, the foreign exchange administration authority shall order them to unwind the foreign exchange position and impose a fine of not more than 30% of the amount of foreign exchange under arbitrage; where the circumstances are serious, a fine of not less than 30% but not more than the equivalent value of the foreign exchange under arbitrage shall be imposed.

Article 44 — Where domestic institutions conduct any of the following acts in violation of the foreign debt administration regulations, the foreign exchange administration authority shall issue a warning and impose a fine of not more than 30% of the amount of illegal foreign exchange: (1) borrowing foreign debt without authorization; (2) issuing foreign currency-denominated bonds overseas in violation of relevant State regulations; (3) providing external guarantees in violation of relevant State regulations; (4) changing the use

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of foreign debt funds without authorization; or (5) other acts in violation of foreign debt administration regulations.

Article 45 — Where domestic institutions conduct any of the following acts in violation of the foreign exchange account administration regulations, the foreign exchange administration authority shall order rectification, issue a warning, and impose a fine of not more than 50,000 yuan; where the circumstances are serious, a fine of not less than 50,000 yuan but not more than 300,000 yuan shall be imposed: (1) opening foreign exchange accounts without authorization; (2) leasing, lending, or sharing foreign exchange accounts; or (3) opening foreign exchange accounts overseas without authorization.

Article 46 — Where financial institutions conducting foreign exchange business commit any of the following acts in violation of these Regulations, the foreign exchange administration authority shall order rectification, issue a warning, confiscate the illegal gains, and impose a fine of not less than 200,000 yuan but not more than 1,000,000 yuan; where the circumstances are serious or the violation is not rectified within the prescribed time period, the foreign exchange administration authority shall order suspension of business for rectification or revoke the foreign exchange business operation permit: (1) handling foreign exchange receipt and payment business without valid documents and commercial vouchers; (2) failing to conduct foreign exchange settlement and sale business in accordance with national regulations; (3) violating the provisions on the administration of RMB exchange rates, foreign exchange position administration, or foreign exchange reserve fund administration; (4) failing to perform international payment and foreign exchange declaration obligations in accordance with national regulations; or (5) other acts in violation of foreign exchange control regulations.

Article 47 — Where any unit or individual commits other acts in violation of foreign exchange control regulations, the foreign exchange administration authority shall impose punishment in accordance with the provisions of these Regulations. Where the relevant laws and administrative regulations impose more severe punishment, such provisions shall apply.

Article 48 — Where a party is dissatisfied with a specific administrative act of the foreign exchange administration authority, the party may apply for administrative reconsideration or bring an administrative lawsuit in accordance with law.

Article 49 — Any illegal gains and fines confiscated by the foreign exchange administration authorities shall be turned over to the State Treasury.

Article 50 — Where staff members of the foreign exchange administration authorities engage in malpractices for personal gain, abuse their powers, neglect their duties, or commit other acts in violation of law, they shall be subject to administrative sanctions in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter VIII — Supplementary Provisions

Article 51 — Measures for foreign exchange control in bonded areas shall be separately formulated by the foreign exchange administration authority of the State Council.

Article 52 — Measures for the administration of the foreign exchange business of border trade and border residents shall be separately formulated by the foreign exchange administration authority of the State Council.

Article 53 — These Regulations shall come into force as of April 1, 1996. The Interim Regulations on Foreign Exchange Control of the People's Republic of China promulgated by the State Council on December 18, 1980 and their implementing rules shall be repealed simultaneously.

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