Administrative Measures for Bank Foreign Exchange Risk Transaction Reporting of China (the PRC) (for Trial Implementation)

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

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(For Trial Implementation)

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Chapter I — General Provisions

Article 1 — For the purpose of better coordinating development and security, safeguarding the facilitation of cross-border trade and investment and financing, preventing and curbing foreign exchange-related illegal and non-compliant activities, and maintaining the order of the foreign exchange market, these Measures are formulated in accordance with the Regulations of the People’s Republic of China on Foreign Exchange Administration and other relevant laws and regulations.

Article 2 — These Measures apply to banks lawfully established within the territory of the People’s Republic of China that conduct foreign exchange business operations under the Administrative Measures for Bank Foreign Exchange Business Operations (for Trial Implementation).

Article 3 — Where a bank discovers or has reasonable grounds to suspect that its domestic and overseas institutional and individual customers (hereinafter collectively referred to as “transaction parties”) have engaged in foreign exchange risk transaction activities, it shall monitor foreign exchange risk transaction information and file foreign exchange risk transaction reports.

For the purposes of the preceding paragraph, “foreign exchange risk transaction activities” means activities involving suspected false trade, false investment and financing, underground banks, cross-border gambling, fraudulent export tax refunds, illegal cross-border financial activities involving virtual currencies, and other suspected illegal or non-compliant cross-border capital flow activities; and “foreign exchange risk transaction

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information” means information related to foreign exchange risk transaction activities.

Article 4 — A bank shall promptly file foreign exchange risk transaction reports with the State Administration of Foreign Exchange through its head office or an institution designated by its head office.

Article 5 — The State Administration of Foreign Exchange and its branches (hereinafter referred to as the “SAFE”) shall supervise and inspect the implementation of these Measures; banks shall cooperate with the SAFE’s supervision and inspection and truthfully, accurately, completely, and promptly provide relevant documents, materials, data, and information, and shall not refuse, obstruct, or conceal.

Chapter II — Foreign Exchange Risk Transaction Reports

Article 6 — A bank shall formulate and improve its monitoring standards for foreign exchange risk transaction information and shall be responsible for their effectiveness. The monitoring standards include, but are not limited to, circumstances where the identity and conduct of transaction parties, and the source, amount, frequency, direction, and nature of transaction funds, are abnormal, and shall take the following factors into account:

(1) laws and regulations, risk warnings, and foreign exchange risk transaction characteristics issued by the People’s Bank of China and its branch offices and the SAFE;

(2) analysis of criminal situations, risk warnings, criminal-type reports, and work reports related to cross-border business issued by public security organs, judicial organs, and others;

(3) the bank’s foreign exchange asset scale, geographical distribution, business characteristics, transaction party groups, transaction characteristics, and the state of its foreign exchange compliance risks; and

(4) other factors requiring attention.

Article 7 — Before filing a foreign exchange risk transaction report, a bank shall, in accordance with its internal management system, conduct manual analysis and identification of the transaction information screened out under the monitoring standards:

(1) where the information is confirmed to be foreign exchange risk transaction information, the bank shall completely record, in the foreign exchange risk transaction report, the analysis process of the customer’s identity characteristics, transaction characteristics, or behavioral characteristics;

(2) where the information is confirmed not to be foreign exchange risk transaction information, the bank need not file a foreign exchange risk transaction report, but shall record the reasons for exclusion on its own.

Article 8 — A foreign exchange risk transaction report shall describe the bank’s foreign exchange risk transaction information, and its main content includes the basic circumstances of the foreign exchange risk transaction activities, the analysis process, the analysis conclusions, and the disposition measures to be adopted.

For illegal cross-border financial activities, the State Administration of Foreign Exchange may, according to work needs, require the bank to directly submit the transaction information screened out under the monitoring standards.

Article 9 — A bank shall, after confirming the foreign exchange risk transaction information in accordance with its internal operating procedures for foreign exchange risk transaction reports, promptly file the foreign exchange risk transaction report by electronic means, no later than 5 working days.

Article 10 — A bank shall, according to the actual circumstances, adopt measures commensurate with the degree of risk against the transaction parties involved in foreign exchange risk transaction reports to prevent foreign exchange compliance risks, and shall, where necessary, provide explanations to the transaction parties:

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(1) raising the transaction party's foreign exchange compliance risk grade;

(2) adopting enhanced examination measures for the transaction party's subsequent foreign exchange business;

(3) clarifying that establishing or maintaining a foreign exchange business relationship with the transaction party, or handling subsequent foreign exchange business for it, requires escalation of the approval level;

(4) restricting the establishment of a new foreign exchange business relationship with the transaction party, refusing to handle subsequent foreign exchange business for it, or terminating an established foreign exchange business relationship;

(5) reasonably restricting the amount, frequency, and business types of the transaction party's foreign exchange business handled through non-face-to-face means; and

(6) other foreign exchange compliance risk prevention measures.

Article 11 — Where the SAFE discovers that the content elements of a foreign exchange risk transaction report filed by a bank are incomplete or contain errors, it shall issue a correction notice to the bank, and the bank shall make the correction within 5 working days after receiving the correction notice.

Where a bank discovers that the content elements of a foreign exchange risk transaction report already filed are incomplete or contain errors, or that new circumstances have arisen, it shall promptly and proactively make a corrective filing.

Article 12 — A bank shall periodically evaluate its foreign exchange risk transaction monitoring standards and optimize them based on the evaluation results; where the reference factors listed in Article 6 of these Measures change or other circumstances requiring attention arise, the bank shall promptly conduct evaluation and optimization.

Article 13 — The State Administration of Foreign Exchange shall issue reference information such as risk warnings and foreign exchange risk transaction characteristics to banks from time to time. Where a bank considers that a foreign exchange risk transaction characteristic it has discovered is strongly representative and universal, and is indicative of a specific type of foreign exchange risk transaction, it may promptly submit such information to the State Administration of Foreign Exchange.

Chapter III — Internal Management Measures

Article 14 — A bank shall, in accordance with these Measures, formulate internal management systems for foreign exchange risk transaction reports, standardize its foreign exchange risk transaction reporting work, and supervise and manage the implementation by its branches.

Article 15 — A bank shall provide the necessary personnel, systems, information, and other resource support for its foreign exchange risk transaction reporting work.

Article 16 — A bank shall establish and improve a foreign exchange risk transaction information monitoring system, conduct transaction monitoring and analysis with the transaction party as the basic unit, comprehensively, completely, and accurately collect the transaction party identity information and transaction information from its various business systems, and provide support for the operation of foreign exchange risk transaction information monitoring standards, manual analysis and identification, and filing.

Article 17 — A bank shall realize internal information sharing, and reasonably determine the extent and scope of information sharing according to the sensitivity of the information and its relevance to foreign exchange risk transaction management.

Article 18 — A bank shall retain materials such as foreign exchange risk transaction reports and work records reflecting transaction analysis and internal handling for at least 5 years from the date of generation,

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and the retention of information shall be complete, accurate, and tamper-proof.

Where the retained information and materials relate to suspected non-compliant conduct under investigation by foreign exchange administrative authorities, and the investigation is still not concluded upon the expiry of the minimum retention period prescribed in the preceding paragraph, the bank shall retain them until the conclusion of the investigation.

Article 19 — A bank and its staff shall, in accordance with the law, keep confidential the information on transaction parties' identity, transactions, and risk analysis and handling obtained through the implementation of these Measures, and shall not disclose it or illegally provide it to others.

Chapter IV — Supplementary Provisions

Article 20 — Where a bank violates these Measures, it shall be penalized in accordance with the Regulations of the People's Republic of China on Foreign Exchange Administration.

Where a bank fails to file, as a foreign exchange risk transaction report, the foreign exchange risk transaction information specified in Article 3 of these Measures, but there is evidence that it has diligently performed manual identification of such transaction information and that the reasons for non-filing are logical and reasonable, the relevant legal liability shall not be pursued.

Article 21 — The filing requirements and specific format of foreign exchange risk transaction reports shall be separately prescribed by the State Administration of Foreign Exchange.

Article 22 — These Measures shall be interpreted by the State Administration of Foreign Exchange.

Article 23 — These Measures shall take effect from the date of issuance.

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