Measures for the Supervision and Administration of Anti-Money Laundering and Counter-Terrorist Financing of Financial Institutions of China (the PRC)

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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 — For the purpose of urging financial institutions to effectively perform their anti-money laundering and counter-terrorist financing obligations, and standardizing supervision and administration of anti-money laundering and counter-terrorist financing, these Measures are formulated in accordance with the Anti-Money Laundering Law of the People's Republic of China, the Law of the People's Republic of China on the People's Bank of China, the Counter-Terrorism Law of the People's Republic of China, and other laws and regulations.

Article 2 — These Measures apply to the following financial institutions lawfully established within the territory of the People's Republic of China:

(1) development financial institutions, policy banks, commercial banks, rural cooperative banks, rural credit cooperatives, and village and township banks;

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(2) securities companies, futures companies, and securities investment fund management companies;

(3) insurance companies and insurance asset management companies;

(4) trust companies, financial asset management companies, finance companies of enterprise groups, financial leasing companies, auto financing companies, consumer finance companies, money brokerage companies, loan companies, and bank wealth management subsidiaries; and

(5) other financial institutions determined and announced by the People's Bank of China as required to perform anti-money laundering and counter-terrorist financing obligations.

Non-bank payment institutions, bank card clearing institutions, fund clearing centers, internet micro-credit companies, and institutions engaged in currency exchange business, fund sales business, or professional insurance agency and insurance brokerage business are subject to the provisions of these Measures concerning supervision and administration of financial institutions.

Article 3 — The People's Bank of China and its branch offices shall, in accordance with the law, supervise and administer the anti-money laundering and counter-terrorist financing work of financial institutions.

Article 4 — Financial institutions shall, in accordance with regulations, establish and improve internal control systems for anti-money laundering and counter-terrorist financing, assess money laundering and terrorist financing risks, establish risk management mechanisms commensurate with their risk profile and business scale, build anti-money laundering information systems, establish or designate a department and staff it with appropriate personnel, and effectively perform anti-money laundering and counter-terrorist financing obligations.

Article 5 — Customer identity information and transaction information obtained through the performance of anti-money laundering and counter-terrorist financing duties or obligations shall be kept confidential and shall not be provided to outside parties except as required by law.

Chapter II — Internal Control and Risk Management of Financial Institutions for Anti-Money Laundering and Counter-Terrorist Financing

Article 6 — Financial institutions shall, in accordance with regulations and in light of their business scale and the state of money laundering and terrorist financing risks, establish and improve internal control systems for anti-money laundering and counter-terrorist financing.

Article 7 — Financial institutions shall establish, at the head-office level, a self-assessment system for money laundering and terrorist financing risks, assess such risks on a regular or irregular basis, and, within 10 working days after the assessment is reviewed and confirmed by the board of directors or senior management, submit the self-assessment to the People's Bank of China or its local branch office.

A financial institution's self-assessment of money laundering and terrorist financing risks shall be commensurate with its business scale and business characteristics, fully take into account the types and changes of risk factors in respect of customers, geography, business, and transaction channels, and absorb and apply national money laundering and terrorist financing risk assessment reports and the guidance of regulators and self-regulatory organizations. Before adopting new technology, launching new business, or providing new products or new services, or when the money laundering or terrorist financing risks it faces change significantly, a financial institution shall conduct a money laundering and terrorist financing risk assessment.

Financial institutions shall periodically review and continuously optimize their money laundering and terrorist financing risk assessment work processes and indicator systems.

Article 8 — Financial institutions shall, based on their business scale and identified money laundering and terrorist financing risk profile and upon approval by the board of directors or senior management, formulate

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corresponding risk management policies, and adjust them in a timely manner according to changes in the risk profile and the implementation of control measures.

Financial institutions shall incorporate money laundering and terrorist financing risk management into their comprehensive risk management system, covering all business activities and management processes; with respect to identified higher-risk situations, they shall adopt enhanced measures to manage and reduce risk; with respect to identified lower-risk situations, they may adopt simplified measures; where a situation exceeds the financial institution's risk control capacity, it shall not establish a business relationship or conduct transactions with the customer, and where a business relationship has already been established, it shall suspend the transaction and consider filing a suspicious transaction report, and terminate the business relationship where necessary.

Article 9 — Financial institutions shall establish a dedicated department or designate an internal department to take the lead in carrying out anti-money laundering and counter-terrorist financing management.

Financial institutions shall define the anti-money laundering and counter-terrorist financing duties of the board of directors, the board of supervisors, senior management, and relevant departments, and establish corresponding performance appraisal and reward-and-punishment mechanisms.

Financial institutions shall appoint or authorize a senior management officer to take the lead in and be responsible for anti-money laundering and counter-terrorist financing management, and adopt reasonable measures to ensure that such officer carries out the work independently and fully obtains the authority and resources needed to perform the duties.

Financial institutions shall, according to their business scale, money laundering and terrorist financing risk profile, and business development trends, staff an adequate number of anti-money laundering positions, adopt appropriate measures to ensure that the qualifications, experience, professional quality, and professional ethics of anti-money laundering staff meet the requirements, and formulate continuous anti-money laundering and counter-terrorist financing training plans.

Article 10 — Financial institutions shall, according to the needs of anti-money laundering and counter-terrorist financing work, establish and improve relevant information systems, and optimize and upgrade them in a timely manner according to changes in the risk profile and work needs.

Article 11 — Financial institutions shall establish an anti-money laundering and counter-terrorist financing audit mechanism, and review the formulation and implementation of anti-money laundering and counter-terrorist financing internal control systems through internal audit or independent audit. The audit shall follow the principle of independence, comprehensively cover domestic and overseas branches and controlled subsidiaries, and its scope, methods, and frequency shall be commensurate with the financial institution's business scale and money laundering and terrorist financing risk profile. The audit report shall be submitted to the board of directors or a special committee authorized by it.

Article 12 — Financial institutions shall formulate, at the head-office level, unified anti-money laundering and counter-terrorist financing institutional arrangements, including systems and procedures for sharing anti-money laundering and counter-terrorist financing information for the purpose of carrying out customer due diligence and money laundering and terrorist financing risk management, and ensure that all their branches and controlled subsidiaries effectively implement them in light of their own business characteristics.

Financial institutions shall, in sharing and using anti-money laundering and counter-terrorist financing information, provide information in accordance with the law and prevent information leakage.

Article 13 — Financial institutions shall require their overseas branches and controlled subsidiaries to implement these Measures to the extent permitted by the laws and regulations of the host country or region; where the host country or region has more stringent requirements, those requirements shall be observed.

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Where the requirements of these Measures are more stringent than the relevant provisions of the host country or region, but the laws of the host country or region prohibit or restrict the overseas branches and controlled subsidiaries from implementing these Measures, the financial institution shall adopt appropriate supplementary measures to address money laundering and terrorist financing risks and report to the People's Bank of China.

Article 14 — Financial institutions shall, in accordance with regulations and in light of the relevant requirements of their internal control systems and risk management mechanisms, perform obligations such as customer due diligence, retention of customer identity information and transaction records, and reporting of large-value and suspicious transactions.

Article 15 — Financial institutions shall, in accordance with the regulations of the People's Bank of China, submit anti-money laundering and counter-terrorist financing work information, and shall be responsible for the authenticity, completeness, and validity of the relevant information.

Article 16 — Where a financial institution has overseas branches or controlled subsidiaries, its domestic head office shall report to the People's Bank of China or its local branch office, on an annual basis, the situation of the overseas branches or controlled subsidiaries being subject to anti-money laundering and counter-terrorist financing supervision by the host country or region.

Article 17 — Upon the occurrence of any of the following circumstances, financial institutions shall promptly report to the People's Bank of China or its local branch office in accordance with regulations:

(1) formulating or revising major anti-money laundering and counter-terrorist financing internal control systems;

(2) changes to the senior management officer taking the lead in and responsible for anti-money laundering and counter-terrorist financing work, or to the lead management department or the principal responsible person of a department;

(3) the occurrence of major risk events involving anti-money laundering and counter-terrorist financing work;

(4) overseas branches and controlled subsidiaries being subject to law enforcement inspections, administrative penalties, or criminal investigations related to anti-money laundering and counter-terrorist financing conducted by local regulatory authorities or judicial organs, or the occurrence of other major risk events; or

(5) other matters required to be reported by the People's Bank of China.

Chapter III — Supervision and Administration of Anti-Money Laundering and Counter-Terrorist Financing

Article 18 — The People's Bank of China and its branch offices shall follow the principles of risk-based supervision and supervision of legal entities, reasonably apply various supervisory methods, and achieve effective supervision over different types of financial institutions.

The People's Bank of China and its branch offices may notify the financial regulatory institutions of the State Council or their dispatched offices of the supervision of anti-money laundering and counter-terrorist financing of financial institutions.

Article 19 — Based on the needs of performing anti-money laundering and counter-terrorist financing duties, the People's Bank of China and its branch offices may, in accordance with prescribed procedures, carry out law enforcement inspections of the performance by financial institutions of their anti-money laundering and counter-terrorist financing obligations.

The People's Bank of China and its branch offices may conduct anti-money laundering and counter-terrorist financing law enforcement inspections of financial institutions under the supervision of their subordinate

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institutions, and may authorize their subordinate institutions to inspect financial institutions under the supervision of superior institutions.

Article 20 — When carrying out anti-money laundering and counter-terrorist financing law enforcement inspections, the People's Bank of China and its branch offices shall organize and implement them in accordance with the current anti-money laundering and counter-terrorist financing provisions and the relevant procedural provisions for law enforcement inspections of the People's Bank of China.

Article 21 — The People's Bank of China and its branch offices shall, in accordance with the relevant procedural provisions for law enforcement inspections, carry out law enforcement inspections in a standardized and effective manner, and focus on strengthening supervision and administration of the following institutions:

(1) institutions involved in money laundering and terrorist financing cases;

(2) institutions with a relatively high money laundering and terrorist financing risk;

(3) institutions found, through routine supervision or the acceptance of reports and complaints, to have major clues of illegal or non-compliant conduct; and

(4) other institutions that should be subject to key supervision.

Article 22 — When entering the premises of a financial institution to conduct on-site anti-money laundering and counter-terrorist financing inspections, the People's Bank of China and its branch offices may, in accordance with regulations, question the staff of the financial institution and require them to explain supervisory matters; consult and duplicate documents and materials, and seal documents and materials that may be transferred, concealed, or destroyed; and examine the systems used by the financial institution to manage business data through information technology and digitization and to carry out money laundering and terrorist financing risk management.

Article 23 — The People's Bank of China and its branch offices shall, based on the anti-money laundering and counter-terrorist financing work information submitted by financial institutions and in light of other information obtained through routine supervision, evaluate the establishment, improvement, and implementation of the anti-money laundering and counter-terrorist financing systems of financial institutions.

Article 24 — In order to effectively implement risk-based supervision, the People's Bank of China and its branch offices shall, in light of national, regional, and industry money laundering and terrorist financing risk assessments and on the basis of collecting anti-money laundering and counter-terrorist financing information of financial institutions, carry out risk assessments of financial institutions and grasp the money laundering and terrorist financing risk profile of financial institutions in a timely and accurate manner.

Article 25 — In order to understand the money laundering and terrorist financing risk profile of financial institutions, the People's Bank of China and its branch offices may conduct on-site money laundering and terrorist financing risk assessments of financial institutions.

When conducting on-site risk assessments, the People's Bank of China and its branch offices shall fill in the Anti-Money Laundering Supervision Examination and Approval Form (Annex 1) and the Anti-Money Laundering Supervision Notice (Annex 2); after approval by the president (director) or the deputy president (deputy director) in charge of the bank (operations management department), they shall serve the Anti-Money Laundering Supervision Notice on the financial institution to be assessed at least 5 working days in advance.

The People's Bank of China and its branch offices may require the financial institution to be assessed to provide necessary materials and data, and may also collect information needed for the assessment on site.

When conducting on-site risk assessments, no fewer than two anti-money laundering staff members of the People's Bank of China or its branch offices shall be present, and they shall present valid credentials.

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After the on-site risk assessment is completed, the People's Bank of China and its branch offices shall issue an Anti-Money Laundering Supervision Opinion (Annex 3) and feed back the risk assessment conclusions and identified issues to the assessed financial institution.

Article 26 — Based on the compliance situation and risk profile of financial institutions, the People's Bank of China and its branch offices may adopt measures such as supervisory reminders, interviews, and supervisory visits. Where, in the course of supervision, a financial institution is found to have a relatively high money laundering and terrorist financing risk or is suspected of violating anti-money laundering and counter-terrorist financing provisions, the People's Bank of China and its branch offices shall promptly carry out a law enforcement inspection.

Article 27 — Where a financial institution has potential money laundering and terrorist financing risks, or there are obvious loopholes in its anti-money laundering and counter-terrorist financing work that need to be brought to the institution's attention, the People's Bank of China or its branch office may, upon approval by the person in charge of its anti-money laundering department, issue an Anti-Money Laundering Supervision Reminder (Annex 4) to the financial institution, requiring it to adopt necessary control measures and urging it to rectify.

A financial institution shall, within 20 working days after receiving the Anti-Money Laundering Supervision Reminder, give a written reply after the reply is signed by the person in charge of anti-money laundering and counter-terrorist financing work at the institution; where a timely reply cannot be made, it shall give the reply within an extended time limit upon consent of the People's Bank of China or its local branch office.

Article 28 — Based on the needs of performing anti-money laundering and counter-terrorist financing duties, and with respect to important issues such as inadequate performance by a financial institution of its anti-money laundering and counter-terrorist financing obligations and prominent risk events, the People's Bank of China and its branch offices may interview the directors, supervisors, senior management officers, or department heads of the financial institution.

Article 29 — Before conducting an interview, the People's Bank of China and its branch offices shall fill in the Anti-Money Laundering Supervision Examination and Approval Form and the Anti-Money Laundering Supervision Notice. Interviews of directors, supervisors, or senior management officers of a financial institution shall be subject to approval by the president (director) or the deputy president (deputy director) in charge of the bank (operations management department); interviews of department heads of a financial institution shall be subject to approval by the person in charge of the anti-money laundering department of the bank (operations management department).

The Anti-Money Laundering Supervision Notice shall be served on the institution to be interviewed at least 2 working days in advance. Where the special circumstances require an immediate interview, the Anti-Money Laundering Supervision Notice shall be served at the interview site.

During an interview, no fewer than two anti-money laundering staff members of the People's Bank of China or its branch offices shall be present. After the interview, an Anti-Money Laundering Interview Record (Annex 5) shall be completed and signed by the interviewee for confirmation.

Article 30 — In order to understand and verify the implementation of anti-money laundering and counter-terrorist financing policies by financial institutions and the rectification of supervisory opinions, the People's Bank of China and its branch offices may conduct supervisory visits to financial institutions.

Article 31 — Before conducting a supervisory visit, the People's Bank of China and its branch offices shall fill in the Anti-Money Laundering Supervision Examination and Approval Form and the Anti-Money Laundering Supervision Notice, subject to approval by the president (director) or the deputy president (deputy director) in charge of the bank (operations management department).

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The Anti-Money Laundering Supervision Notice shall be served on the financial institution at least 5 working days in advance. Where the special circumstances require an immediate supervisory visit, the Anti-Money Laundering Supervision Notice shall be served when entering the premises of the financial institution.

During a supervisory visit, no fewer than two anti-money laundering staff members of the People's Bank of China or its branch offices shall be present, and they shall present valid credentials.

The People's Bank of China and its branch offices shall keep proper records of supervisory visits and may, where necessary, issue an Anti-Money Laundering Supervision Opinion.

Article 32 — The People's Bank of China and its branch offices shall continuously follow up on the rectification by financial institutions of issues identified in supervision, and where a financial institution fails to reasonably formulate a rectification plan or effectively implement rectification, they may initiate a law enforcement inspection or further adopt other supervisory measures.

Article 33 — Where a branch office of the People's Bank of China imposes an administrative penalty on a branch of a financial institution in accordance with the law, or discovers, in the course of supervision, major problems or systemic deficiencies involving the head office of a financial institution, it shall promptly send a copy of the penalty decision or supervisory opinion to the People's Bank of China or the branch office of the People's Bank of China at the place where the head office of the financial institution is located.

Article 34 — Where supervisory personnel of the People's Bank of China and its branch offices conduct supervision in violation of prescribed procedures or beyond their authority, the financial institution shall have the right to refuse or raise objections. A financial institution shall have the right to plead with respect to any illegal or non-compliant issues raised by the People's Bank of China and its branch offices; where the financial institution has reasonable grounds, the People's Bank of China and its branch offices shall adopt them.

Chapter IV — Legal Liability

Article 35 — Where personnel of the People's Bank of China and its branch offices engaged in anti-money laundering work violate the relevant provisions of these Measures, they shall be subject to sanctions in accordance with Article 30 of the Anti-Money Laundering Law of the People's Republic of China.

Article 36 — Where a financial institution violates the relevant provisions of these Measures, it shall be handled by the People's Bank of China or its branch offices at or above the level of a central sub-branch in accordance with Articles 31 and 32 of the Anti-Money Laundering Law of the People's Republic of China; depending on the circumstances, the financial regulatory institutions of the State Council shall be advised to handle the matter in accordance with the law.

Where a county-level (city-level) sub-branch of the People's Bank of China discovers that a financial institution has violated these Measures, it shall report to its superior branch office, which shall handle the matter or make recommendations in accordance with the preceding paragraph.

Chapter V — Supplementary Provisions

Article 37 — Financial groups are subject to the provisions of paragraph 4 of Article 9 and Articles 11 through 13 of these Measures.

Article 38 — These Measures shall be interpreted by the People's Bank of China.

Article 39 — These Measures shall take effect on August 1, 2021. Where anti-money laundering and counter-terrorist financing provisions existing before the implementation of these Measures are inconsistent with these Measures, these Measures shall prevail. The Measures for the Supervision and Administration of Anti-Money Laundering of Financial Institutions (for Trial Implementation) (issued by Yin Fa [2014] No. 344) shall be repealed simultaneously.

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