Guidelines on Foreign Exchange Administration of Trade in Goods

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Chapter I — General Provisions

Article 1 — These Guidelines are formulated, in accordance with the Foreign Exchange Administration Regulations of the People’s Republic of China, for the purpose of improving the foreign exchange administration of trade in goods (hereinafter “trade”), promoting trade facilitation, and fostering the development of the foreign-related economy.

Article 2 — The state does not restrict international payments under trade.

Export proceeds may be repatriated to China or deposited abroad in accordance with the relevant provisions.

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Article 3 — The trade foreign exchange receipts and payments of a domestic institution (hereinafter “enterprise”) shall have a genuine and lawful transaction background and shall be consistent with the import and export of goods.

Article 4 — Financial institutions that conduct foreign exchange settlement and sale business (hereinafter “financial institutions”) shall conduct reasonable examination of the authenticity of the trade import and export transaction documents submitted by enterprises and the consistency of such documents with the trade foreign exchange receipts and payments.

Article 5 — The State Administration of Foreign Exchange and its branches (hereinafter the “foreign exchange authorities”) shall, in accordance with the law, supervise and inspect the matters specified in Articles 2, 3 and 4 of these Guidelines.

Article 6 — The foreign exchange authorities shall establish a verification mechanism for matching the flow of imported and exported goods with the flow of foreign exchange receipt and payment funds, conduct off-site aggregate verification and monitoring of the trade foreign exchange receipts and payments of enterprises, conduct on-site verification and investigation (hereinafter “on-site verification”) of enterprises with abnormal or suspicious circumstances, and implement off-site and on-site verification of the compliance of financial institutions in handling trade foreign exchange receipt and payment business and the timeliness, completeness and accuracy of the relevant information submitted by them.

Article 7 — The foreign exchange authorities shall, on the basis of the results of off-site or on-site verification and in combination with the compliance of enterprises with foreign exchange administration provisions, implement classified administration of enterprises.

Article 8 — The foreign exchange authorities shall conduct aggregate monitoring of the trade credit of enterprises and implement proportional administration of the scale of enterprise trade credit.

Enterprises shall report trade credit information to the foreign exchange authorities in accordance with the relevant provisions.

Article 9 — Where the balance of payments is, or is likely to be, in serious imbalance, the state may, in accordance with the law, take necessary safeguard, control and other measures with respect to trade foreign exchange receipts and payments.

Chapter II — Administration of the Enterprise Directory

Article 10 — The foreign exchange authorities shall implement registration administration of the “Directory of Enterprises with Trade Foreign Exchange Receipts and Payments” (hereinafter the “Directory”) and uniformly publish the Directory to financial institutions. Financial institutions shall not directly handle trade foreign exchange receipt and payment business for enterprises that are not listed in the Directory.

Article 11 — After obtaining the right to engage in foreign trade in accordance with the law, an enterprise shall, with the relevant materials, handle Directory registration procedures with the foreign exchange authority. Where the registration information of a Directory-listed enterprise changes, the enterprise shall handle alteration registration procedures with the foreign exchange authority. Where an enterprise terminates its operations or its right to engage in foreign trade is revoked, it shall handle deregistration procedures with the foreign exchange authority.

The foreign exchange authority may deregister an enterprise from the Directory on the basis of the enterprise’s trade foreign exchange receipt and payment business situation and its compliance status.

Article 12 — When handling trade foreign exchange receipts and payments, an enterprise shall sign a Confirmation for the Handling of Trade Foreign Exchange Receipt and Payment Business, undertaking to comply with the state’s foreign exchange administration provisions.

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The foreign exchange authority shall implement orientation-period administration of enterprises newly registered in the Directory.

Chapter III — Administration of Trade Foreign Exchange Receipts and Payments

Article 13 — The trade foreign exchange receipts and payments of an enterprise referred to in these Guidelines include:

(1) export proceeds recovered from abroad or from bonded supervision zones within China, and import payments made to abroad or to bonded supervision zones within China;

(2) export proceeds recovered from offshore accounts or domestic accounts of overseas institutions, and import payments made to offshore accounts or domestic accounts of overseas institutions;

(3) domestic receipts and payments under deep-processing transfer;

(4) receipts and payments under entrepot trade; and

(5) other trade-related receipts and payments.

Article 14 — Enterprises shall handle trade foreign exchange receipt and payment business in accordance with the principle of “whoever exports collects the foreign exchange and whoever imports pays the foreign exchange,” except for circumstances such as import and export business under donation where the foreign exchange authorities provide otherwise.

For agency import and export business, the agent shall make the payment or receive the foreign exchange. Under agency import business, the principal may, with the agency agreement, transfer foreign exchange to the agent, or the agent may purchase the foreign exchange. Under agency export business, the agent may, after collecting the foreign exchange, transfer the foreign exchange to the principal with the agency agreement, or settle the foreign exchange and transfer the Renminbi to the principal.

Article 15 — Enterprises shall, in accordance with the mode of trade, the mode of settlement and the source or flow of funds, handle trade foreign exchange receipts and payments with financial institutions against the relevant documents, and declare the trade foreign exchange receipt and payment information in accordance with the relevant provisions.

Financial institutions shall inquire into the Directory and classification status of enterprises, conduct reasonable examination in accordance with the relevant provisions, and submit the trade foreign exchange receipt and payment information referred to in the preceding paragraph to the foreign exchange authorities.

Article 16 — Enterprises shall, within the prescribed time limit, report to the foreign exchange authorities the following information that affects the consistency between trade foreign exchange receipts and payments and the import and export of goods:

(1) advance receipts, advance payments, deferred receipts and deferred payments that exceed the prescribed time limit; and

(2) other matters required to be reported.

An enterprise may, on its own initiative, report to the foreign exchange authorities other trade foreign exchange receipt and payment information beyond that specified in the preceding paragraph.

Article 17 — The foreign exchange authorities shall implement registration administration of the deposit abroad of enterprise export proceeds. Enterprises shall periodically report to the foreign exchange authorities the receipts and payments of their overseas accounts and other relevant information.

Chapter IV — Off-Site Verification

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Article 18 — The foreign exchange authorities shall periodically or irregularly conduct aggregate comparison of the import and export data and the trade foreign exchange receipt and payment data of enterprises within a certain period, verifying the authenticity of enterprise trade foreign exchange receipts and payments and their consistency with the import and export of goods.

Article 19 — The foreign exchange authorities shall implement special monitoring of specific business such as trade credit and entrepot trade, and of specific entities such as enterprises in bonded supervision zones.

Article 20 — The foreign exchange authorities shall implement key monitoring of the following enterprises:

(1) enterprises whose consistency matching between trade foreign exchange receipts and payments and the import and export of goods exceeds a certain range;

(2) enterprises whose trade credit balance or medium- and long-term trade credit amount exceeds a certain proportion;

(3) enterprises found through special monitoring to have other abnormal or suspicious circumstances; and

(4) other enterprises requiring key monitoring.

Chapter V — On-Site Verification

Article 21 — The foreign exchange authorities may implement on-site verification of the abnormal or suspicious trade foreign exchange receipt and payment business of enterprises discovered in off-site verification.

The foreign exchange authorities may implement on-site verification of the compliance of financial institutions in handling trade foreign exchange receipt and payment business and the timeliness, completeness and accuracy of the information submitted by them.

Article 22 — The foreign exchange authorities may adopt the following methods in implementing on-site verification:

(1) requiring the verified enterprise or the handling financial institution to submit relevant written materials;

(2) interviewing the legal representative of the verified enterprise or his or her authorized person, or the person in charge of the handling financial institution or his or her authorized person;

(3) inspecting and duplicating on-site the relevant materials of the verified enterprise or the handling financial institution; and

(4) other necessary on-site verification methods.

The verified entity shall cooperate with the foreign exchange authority in on-site verification, truthfully explain the circumstances, and provide the relevant documents and materials, and shall not refuse, obstruct or conceal.

Article 23 — Where the foreign exchange authorities implement on-site verification by the method specified in item (3) of the first paragraph of Article 22 of these Guidelines, there shall be no fewer than two on-site verification personnel, who shall present their credentials. Where there are fewer than two on-site verification personnel or they fail to present their credentials, the verified entity shall have the right to refuse.

Chapter VI — Classified Administration

Article 24 — The foreign exchange authorities shall, on the basis of the results of off-site or on-site verification and in combination with the compliance of enterprises with foreign exchange administration provisions, classify enterprises into categories A, B and C.

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Article 25 — Before publishing the list of Category B and Category C enterprises, the foreign exchange authorities shall notify the relevant enterprises of the classification results. An enterprise may, within seven working days from the date of receipt of the notification of the classification conclusion issued by the foreign exchange authority, raise an objection with the foreign exchange authority. The foreign exchange authority shall re-examine the classification status of enterprises that raise objections.

Article 26 — For enterprises that do not raise an objection within the prescribed time limit, or whose classification results are determined after re-examination by the foreign exchange authority following an objection, the foreign exchange authority shall publish the enterprise classification administration information to financial institutions.

The foreign exchange authority may notify the relevant administrative departments of the enterprise classification administration information and, where necessary, may publicly disclose it to the public.

Article 27 — The foreign exchange authority shall dynamically adjust the classification results and establish a validity period of classified administration for Category B and Category C enterprises.

Article 28 — During the validity period of classified administration, facilitation administration measures shall apply to the trade foreign exchange receipts and payments of Category A enterprises. For the trade foreign exchange receipts and payments of Category B and Category C enterprises, prudential supervision shall be implemented in respect of document examination, business types and handling procedures, settlement methods and other aspects.

Article 29 — The foreign exchange authorities shall establish an electronic data verification mechanism for trade foreign exchange receipts and payments, and implement electronic data verification administration of the trade foreign exchange receipts and payments of Category B enterprises.

Article 30 — The trade foreign exchange receipt and payment business of Category C enterprises and other business determined by the foreign exchange authorities shall be subject to advance registration on a transaction-by-transaction basis by the foreign exchange authorities, and financial institutions shall handle the relevant procedures for enterprises against the registration certificate issued by the foreign exchange authorities.

Chapter VII — Supplementary Provisions

Article 31 — Where enterprises and financial institutions violate these Guidelines and other foreign exchange administration provisions, the foreign exchange authorities shall impose penalties in accordance with the Foreign Exchange Administration Regulations of the People’s Republic of China and other relevant laws and regulations.

Article 32 — The foreign exchange authorities may, in light of the balance-of-payments situation and the needs of foreign exchange administration, adjust the specific contents of trade credit administration, reporting and registration administration, administration of the deposit abroad of export proceeds, off-site verification and classified administration.

Article 33 — The non-bonded trade foreign exchange receipts and payments of enterprises in bonded supervision zones shall in principle be governed by these Guidelines; the bonded trade foreign exchange receipts and payments of enterprises in bonded supervision zones shall be governed by reference to these Guidelines, and where the foreign exchange administration policies for bonded supervision zones provide otherwise, such provisions shall prevail.

Article 34 — The trade foreign exchange receipts and payments of individual foreign trade operators shall be governed by these Guidelines.

Article 35 — The State Administration of Foreign Exchange shall formulate the corresponding implementation rules in accordance with these Guidelines.

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Article 36 — These Guidelines shall be interpreted by the State Administration of Foreign Exchange.

Article 37 — These Guidelines shall take effect on August 1, 2012. Where previous regulations conflict with these Guidelines, these Guidelines shall prevail.

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