Interim Provisions on the Statistical Monitoring of External Debt

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

Approved by the State Council on June 17, 1987; issued by the State Administration of Foreign Exchange on August 27, 1987; amended in accordance with the Decision of the State Council on Amending and Repealing Certain Administrative Regulations on November 29, 2020

Effective: August 27, 1987

Article 1 — These Provisions are formulated for the purpose of accurately, promptly and comprehensively collecting nationwide information on external debt, effectively controlling the scale of external borrowing, raising the efficiency in the utilization of foreign funds, and promoting the development of the national economy.

Article 2 — The state applies a registration administration system to external debt.

The State Administration of Foreign Exchange shall be responsible for establishing and improving the nationwide external debt statistical monitoring system, and for publishing external debt figures to the public.

Article 3 — For the purposes of these Provisions, "external debt" means all debts denominated in foreign currency that are undertaken with a contractual repayment obligation by organs, organizations, enterprises, public institutions, financial institutions or other institutions within the territory of China (hereinafter collectively referred to as borrowing entities) towards international financial organizations, foreign governments, financial institutions, enterprises or other institutions outside the territory of China, including:

(1) loans from international financial organizations;

(2) loans from foreign governments;

(3) loans from foreign banks and financial institutions;

(4) buyer's credit;

(5) loans from foreign enterprises;

(6) issuance of bonds denominated in foreign currency;

(7) international financial leasing;

(8) deferred payment;

(9) debts repaid directly in spot foreign exchange under compensation trade; and

(10) other forms of external debt.

Foreign exchange funds borrowed by a borrowing entity from a foreign-funded bank registered within the territory of China shall be deemed external debt.

Foreign exchange funds borrowed from outside by a foreign-funded bank registered within the territory of China shall not be deemed external debt.

Article 4 — External debt registration is divided into transaction-by-transaction registration and periodic registration.

The State Administration of Foreign Exchange shall uniformly formulate and issue the External Debt Registration Certificate.

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Article 5 — In respect of external borrowing by foreign-invested enterprises, the borrowing entity shall, within 15 days after the formal signing of the loan contract, present a copy of the loan contract to the local foreign exchange administration to complete the registration formalities and obtain an External Debt Registration Certificate for transaction-by-transaction registration.

In respect of loans from international financial organizations, loans from foreign governments, and external borrowing by the Bank of China or by other approved banks and financial institutions, the borrowing entity shall complete the registration formalities with the local foreign exchange administration and obtain an External Debt Registration Certificate for periodic registration. The aforesaid registration does not include on-lending.

Borrowing entities other than those specified in the preceding two paragraphs shall, within 15 days after the formal signing of the loan contract, present the external borrowing approval documents and a copy of the loan contract to the local foreign exchange administration to complete the registration formalities and obtain an External Debt Registration Certificate for transaction-by-transaction registration.

Article 6 — When transferring in an external loan, the borrowing entity shall, on the strength of the External Debt Registration Certificate, open a special spot foreign exchange account for external debt with the Bank of China or with another bank approved by the State Administration of Foreign Exchange (hereinafter referred to as the bank). A borrowing entity whose loan is approved to be deposited outside the territory, as well as borrowing entities with other external debts not transferred in, shall, on the strength of the External Debt Registration Certificate, open a special spot foreign exchange account with the bank for the repayment of principal and interest of the external debt.

With respect to a borrowing entity that has failed to obtain an External Debt Registration Certificate in accordance with the provisions, the bank may not open a special spot foreign exchange account for external debt or a special spot foreign exchange account for the repayment of principal and interest of the external debt for such entity, and the principal and interest of its external debt may not be remitted outside the territory.

Article 7 — When a borrowing entity subject to transaction-by-transaction registration repays principal and interest, the account-opening bank shall, on the strength of the verification documents issued by the foreign exchange administration provided by the borrowing entity and the External Debt Registration Certificate, handle the receipts and payments through the special spot foreign exchange account for external debt or the special spot foreign exchange account for the repayment of principal and interest of the external debt. The borrowing entity shall, on the basis of the bank's receipts and payment vouchers, record the receipts and payments in the External Debt Change Feedback Form and submit a copy of the form to the foreign exchange administration that issued the External Debt Registration Certificate.

A borrowing entity subject to periodic registration shall submit to the issuing foreign exchange administration, on a monthly basis, the particulars of the signing, drawing, use and repayment of principal and interest of its external debt.

A borrowing entity whose loan is approved to be deposited outside the territory shall periodically submit to the foreign exchange administration that originally granted the approval the particulars of changes in its deposits.

Article 8 — After a borrowing entity has repaid in full the external debt recorded in the External Debt Registration Certificate, the bank shall immediately close its special spot foreign exchange account for external debt or its special spot foreign exchange account for the repayment of principal and interest of the external debt, and the borrowing entity shall, within 15 days, surrender the External Debt Registration Certificate to the foreign exchange administration that issued it.

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Article 9 — Where any of the following acts is committed in violation of these Provisions, the local foreign exchange administration may, in light of the circumstances, impose a fine of up to 3% of the amount of the external debt involved:

(1) intentionally failing to complete, or delaying the completion of, the external debt registration formalities;

(2) refusing to submit to the foreign exchange administration, or concealing or falsely reporting, the External Debt Change Feedback Form, or repeatedly submitting it late without special reasons;

(3) forging or altering the External Debt Registration Certificate; or

(4) opening or retaining, without authorization, a special spot foreign exchange account for external debt or a special spot foreign exchange account for the repayment of principal and interest of the external debt.

Where a party refuses to accept the penalty decision of a foreign exchange administration, the party may lodge an appeal with the foreign exchange administration at the next higher level.

Article 10 — These Provisions shall be subject to interpretation by the State Administration of Foreign Exchange.

Article 11 — These Provisions shall come into force on the date of promulgation.

Where, at the time of the promulgation of these Provisions, a borrowing entity has external debt that has already been borrowed and has not yet been fully repaid, the borrowing entity shall, within 30 days after the promulgation of these Provisions, complete the external debt registration formalities with the local foreign exchange administration.

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