

ANTI-MONEY LAUNDERING AND COMBATING TERRORIST FINANCING

Improving AML regulations in the financial sector The year 2007 is the first year in which the *Law of the People's Republic of China on Anti-money Laundering* (the *AML Law*) is implemented. To facilitate the implementation of the *AML Law*, the PBC issued the *Administrative Measures for the Reporting of Suspicious Transactions Related to Terrorist Financing by Financial Institutions* and jointly issued the *Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identification and Transaction Information* with the CBRC, the CSRC and the CIRC, following the amendment and issuance of the *Rules for Anti-money Laundering by Financial Institutions* and the *Administrative Measures for the Reporting of Large-value and Suspicious Transactions by Financial Institutions* in November 2006. All these rules with detailed requirements on financial institutions' AML obligations and further clarification of the responsibilities of supervisors are fundamental rules for financial institutions to follow when fulfilling their AML obligations, and together with the *AML Law*, compose a relatively comprehensive AML/CFT legislative and administrative system in the financial sector of China.

To better fulfill the responsibility of the Competent Authority in charge of anti-money laundering affairs following the principle of "administrate legally", the PBC drafted and issued the *Rules for Implementation of Anti-money Laundering Administrative Investigation of the People's Bank of China (in trial)*, *Administration Rules of Anti-money Laundering On-site Inspection (in trial)* and *Administration Rules of Anti-money Laundering Off-site Monitoring (in trial)*, which provide detailed operational procedures for the PBC to follow while conducting AML supervision and administrative investigation. These standardized procedures of AML regulations' implementation forms

the basis of PBC's operation of fulfilling its AML supervision responsibility.

In line with relevant provisions in the *AML Law* on responsibilities of different authorities in the AML work, and the decision of the 3rd Working Meeting of the AML Joint-ministerial Conference Mechanism (AMLJMCM), the PBC amended the *Joint-ministerial Meeting Conference Mechanism on Anti-money Laundering*. The amended document has been approved by the State Council and distributed to other ministries, the provincial, autonomous regional and municipal people's governments, which redetermined the members of the Joint-ministerial Conference, also with their respective responsibilities adjusted.

China becoming a full member of the Financial Action Task Force on Money Laundering (FATF) After FATF's on-site evaluation of China's AML/CFT system in November 2006, the PBC made significant efforts, including those diplomatic, to pursue membership of the FATF within the framework of AMLJMCM under the leadership of the State Council. A strong message was delivered to the FATF members to gain their support for China's full membership in the FATF. China's efforts got responses from major member countries including the US that they support China's full membership in the FATF. On June 28, 2007, China was finally accepted as a full member during the 3rd Plenary Meeting of the FATF-XVIII in Paris, which finished the process of China's application for full FATF membership that lasted 2 years and a half with a perfect end. From then on, a new era of China's AML work begins.

China is also an active player in the context of the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG). In December 2007, the PBC successfully organized the 7th Plenary Meeting of the EAG in Sanya, Hainan, China, attended by



delegates from more than 30 jurisdictions or international bodies, which helps significantly in enhancing the China's image in international AML/CFT community.

Comprehensive and in-depth AML supervision In 2007, the PBC extended the AML supervision and obligated entities from the banking institutions to securities, futures and insurance institutions. These financial institutions are then subject to requirements including conducting the Customer Due Diligence Obligation (CDD procedures) and reporting large-value and suspicious transactions, and also the compliance inspection conducted by the PBC on-site and off-site.

The PBC Improved AML supervision procedures, explored the establishment of AML off-site monitoring system. The AML off-site supervision reporting system was established by the PBC, which specifies obligations of the financial institutions to report relevant information by filling out designed tables. The PBC focuses its effort on efficiency of off-site inspection, and carries out on-site monitoring following detailed inspection plan. In the year of 2007, 4 533 financial institutions (with branches counted in), including 3 909 banking institutions, 96 securities and futures institutions and 528 insurance institutions, were examined by the 715 PBC local branches. As a result, 350 financial institutions that violated the AML provisions were sanctioned, including 341 banking institutions, 4 securities and futures institutions and 5 insurance institutions, with fines totaled RMB26.5793 million yuan. No administrative reconsideration or administrative lawsuit was triggered by these sanctions. The inspections and sanctions imposed accordingly has helped consolidate implementation of the AML/CFT obligation in the banking sector, and expanding the AML/CFT obligation to cover the securities sector and insurance sector.

Productive AML investigation operation The China AML Monitoring and Analysis center

(CAMLMAC) continued to enlarge the scope of AML fund monitoring. After a monitoring network that covers the banking sector across the country came into being in 2006, futures and securities institutions and insurance institutions report through connected network large-value and suspicious transactions data to the CAMLMAC directly after October 1, 2007. The scope of AML fund monitoring has thus been further enlarged. Furthermore, banking institutions report suspicious transactions directly to the CAMLMAC by their headquarters after November 1, 2007, while the CAMLMAC received all suspicious transactions from the provincial branches of the PBC before that.

The year 2007 is the first year for the PBC formally conducts AML investigations. While fulfilling its duty on AML investigation, the PBC discovered and received a large number of clues for suspicious transactions, among which 1534 were determined by preliminary analysis to be important, and then followed up by 2 052 administrative AML investigation operations. As a result, 554 cases were disseminated to the law enforcement organs with a total of RMB229.5 billion yuan involved, and 94 cases were then put in file. Investigations carried out by the local branches of the PBC have entered the right path, which have served as an important source of law enforcement organs to discover criminal activities.

To improve the information sharing mechanism among agencies, a network was established to allow the PBC to access to the National Citizen Identity Information Inquiring System of the Ministry of Public Security. Intelligence exchange mechanism was improved continuously. In the year 2007, 15 intelligence exchange meetings were held among the PBC, the Ministry of Public Security (MPS), and the General Administration of Customs (GAC). During these meetings, 97 suspicious clues were analysed and transferred to the MPS or the GAC with RMB362.8 billion yuan and US\$0.6 billion involved.

In the year 2007, the PBC assisted the law enforcement organs in the investigations of 328 suspicious cases related to money laundering with RMB53.72 billion yuan involved, among which 89 were solved with RMB28.8 billion yuan involved. The number of cases solved with the assistance of the PBC was as 2.2 times of that in 2006.

To push for convictions of money laundering (ML) offences and strike on underground banking, two

programs were initiated by the PBC from September 2007, and lead to significant result. By the end of 2007, two convictions of ML offences had been finished, 17 cases related to underground banks had been solved with the assistance of the PBC with RMB8.42 billion yuan involved. The AML working mechanism of the PBC has shown its important role in discovering suspicious clues as well as assisting in investigations of law enforcement organs.

Box

Two New AML/CFT Regulations Issued

1. Administrative Measures for the Reporting of Suspicious Transactions Related to Terrorist Financing by Financial Institutions with a view to establishing specialized system of the financial institutions' reporting of suspicious transactions related to terrorist financing, the PBC issued the *Administrative Measures for the Reporting of Suspicious Transactions Related to Terrorist Financing by Financial Institutions (the PBC decree [2007] NO. 1*, "the TF STR Rules" hereafter) on June 11, 2007, which is the first specialized regulation addressing combating terrorist financing and anti-terrorism in China. On the basis of the provisions on the methods, paths, time limits and elements of transaction reporting stipulated by the *Administrative Measures for the Reporting of Large-value and Suspicious Transactions by Financial Institutions (the PBC decree [2006] NO. 2*), taking into account the significant differences between terrorist financing and money laundering activities in object, motivation and operational methods, the PBC provides in the TF STR Rules that suspicious transactions related to terrorist financing can be concretely divided into two kinds. Firstly, financial

institutions and their staff that suspect certain customer, transaction or fund have relationship with terrorist groups, terrorists or terrorist financiers should file suspicious transaction reports. The TF STR Rules do not provide specific features of suspicious transactions, but it does describe six forms of terrorist financing activities to help financial institutions identify such transactions. Secondly, as for customers that are listed in the terrorists/terrorist group lists issued by relevant authorities of the State Council, the law enforcement departments and the Security Council of the United Nations, or as required by the PBC, financial institutions are also obliged to take appropriate measures and simultaneously report to the CAMLMAC and the PBC local branches.

2. The Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identification and Transaction Information The PBC, jointly with the CBRC, the CSRC and the CIRC, issued the *Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identification and Transaction Information (Decree of the PBC,*



the CBRC, the CSRC, the CIRC, [2007] NO.2, “the CDD Rules” hereafter) on June 21, 2007, which came into force on August 1, 2007. The CDD Rules provide in detail systems concerning customer identification and record keeping of customer identification and transaction information required by the AML Law, constitutes a basic national AML/CFT regime together with the AML Law and other three AML/CFT regulations issued before.

The CDD Rules oblige financial institutions to conduct customer identification in due diligence to follow the “Know Your Customer” principle with a view of risk-based management. When establishing new business relationship with customers in the way of opening accounts, or providing customers without account in the institution self with casual service with the transaction volume exceeding RMB10 thousand yuan or US\$1 thousand equivalent, financial institutions shall verify valid identity cards or documents of customers, register basic identity information of customers and keep copies and photocopies of valid identity cards or documents.

During the period with business relationship, financial institutions shall conduct ongoing customer due diligence based on risk of customers and their transactions. Financial institutions shall understand the aim and nature of transactions, strengthen monitoring and analysis on transactions of customers who pose high risk, and report on time suspicious activities related to money laundering or terrorist financing as required.

The CDD Rules also provides that, financial institutions keep records of customer identity and transactions properly, and ensure the security, accuracy, integrity and confidentiality of these information. These records should be kept in a way that would facilitate reporting of suspicious transaction reports, AML investigation and case pursuing. Each financial institution shall preserve customer identity data and transaction records in line with the following term requirements: At least five years for identity information following the termination of business relationship or the date of the book entries of the occasional transaction; at least five years for transactions records since the date of the book entries of the transaction.