

FATF



Mutual Evaluation

8th Follow-up Report

Anti-Money Laundering and Combating
the Financing of Terrorism

China

17 February 2012



FINANCIAL ACTION TASK FORCE

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

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MUTUAL EVALUATION OF CHINA: 8TH FOLLOW-UP REPORT

Application to move from regular follow-up to biennial updates

Note by the Secretariat

I. INTRODUCTION

1. The first mutual evaluation report (MER) of China was adopted on 29 June 2007. At the same time, the Plenary agreed to grant China full member status in the Financial Action Task Force (FATF), and to place it on an enhanced follow-up process, whereby it would report back at each Plenary. China subsequently made its first four follow-up reports (FUR) on the basis of an enhanced follow-up process: October 2007 (1st FUR), February 2008 (2nd FUR), June 2008 (3rd FUR), and October 2008 (4th FUR).

2. In October 2008, in light of the progress which had been made, the Plenary agreed to place China on a revised procedure (regular follow-up) whereby it would submit to the FATF annual follow-up reports that are focused on progress with respect to Recommendations 1, 5, 6, 13, 15, 23, and Special Recommendations II and IV. Since then, China has reported back three times pursuant to the regular follow-up process: June 2009 (5th FUR), June 2010 (6th FUR) and June 2011 (7th FUR).

3. In June 2011 (7th FUR), China applied to the Plenary for removal from the regular follow-up process. The Plenary decided that China has taken sufficient action to have brought its level of compliance up to a level essentially equivalent to LC on four core Recommendations (R1, R5, R13 and SRIV), two key Recommendations (R23 and R35), and eight other Recommendations (R2, R6, R7, R9, R11, R15, R21 and R22). Additionally, China has taken some action to enhance its implementation of the remaining eight Recommendations, albeit not yet up to a sufficient level of compliance. Nevertheless, there remained concerns about one core (SRII) and two key Recommendations (SRI and SRIII), although China also reported that draft legislation was being prepared to address issues related to its implementation of these Recommendations. On that basis, China's request for removal from the regular follow-up process was deferred. China was directed to report back in October 2011 on its progress to address the deficiencies which had been identified in relation to SRI, SRII and SRIII, provided that its draft legislation had come into force before the October FATF Plenary. Otherwise, China was directed to report back to the Plenary in February 2012.

4. On 29 October 2011 (during the FATF Plenary week), China enacted new legislation which is aimed at addressing the deficiencies identified in relation to SRI, SRII and SRIII. This new legislation is set out in Annex 2: see the *Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work* (adopted at the 23rd meeting of the Standing Committee of the Eleventh National People's Congress on 29 October 2011) and the accompanying *Statement of Decision on Strengthening Counter-Terrorism Work*.

5. As directed, China is now reporting back to the Plenary on its progress to address the deficiencies identified in relation to SRI, SRII and SRIII, and is reopening its application for removal from the regular follow-up process.

6. This paper is based on the procedure for removal from the regular follow-up, as agreed by the FATF Plenary in October 2008¹. The paper contains: a detailed description and analysis of the actions taken by China in respect of the core and key Recommendations rated partially compliant (PC) or non-compliant (NC) in the mutual evaluation; a description and analysis of the other Recommendations rated PC or NC; and, for information, a set of laws and other materials relevant to its anti-money laundering (AML)/counter-terrorist financing (CFT) regime (Annexes 1 and 2). The procedure requires that a country “has taken sufficient action to be considered for removal from the process – to have taken sufficient action in the opinion of the Plenary, it is necessary that the country has an effective AML/CFT system in force, under which the country has implemented the core² and key³ Recommendations at a level essentially equivalent to a C (compliant) or LC (largely compliant), taking into consideration that there would be no re-rating”.

7. China was rated PC or NC on 25 Recommendations, as indicated in the chart below. It should be noted that these ratings were based on an assessment of the measures that China had implemented up to mid-January 2007 (*i.e.*, two months following the on-site visit).

5 Core Recommendations rated NC or PC
R1 (PC), R5 (PC), R13 (PC), SRII (PC), SRIV (NC)
4 Key Recommendations rated NC or PC
R23 (PC), R35 (PC), SRI (PC), SRIII (NC)
9 Other Recommendations rated PC
R2, R7, R9, R11, R15, R17, R18, R34, SRIX
7 Other Recommendations rated NC
R6, R12, R16, R21, R22, R24, R33

8. As prescribed by the mutual evaluation procedures, China provided the Secretariat with a full report on its progress. The Secretariat has drafted a detailed analysis of the progress made for: the five core Recommendations which were rated PC (R1, R5, R13 and SRII) or NC (SRIV); and the four key Recommendations which were rated PC (R23, R35 and SRI) or NC (SRIII). The Secretariat has also prepared an analysis of the other 16 Recommendations which were rated PC or NC. A draft analysis was provided to China (with a list of additional questions) for its review, and comments from China have been taken into account in the final draft. During the process, China has provided the Secretariat with all information requested.

9. As a general note on all applications for removal from regular follow-up: the procedure is described as a *paper based desk review*, and by its nature is less detailed and thorough than a

¹ *Third Round of Anti-Money Laundering (AML)/Counter-Terrorist Financing (CFT) Evaluations Processes and Procedures*, paragraphs 39(c) and 40.

² The core Recommendations as defined in the FATF procedures are R1, R5, R10, R13, SRII and SRIV.

³ The key Recommendations are R3, R4, R26, R23, R35, R36, R40, SRI, SRIII, and SRV. Such Recommendations are carefully reviewed when considering removal from the follow-up process.

mutual evaluation report. The analysis focuses on the Recommendations that were rated PC/NC, which means that only a part of the AML/CFT system is reviewed. Such analysis essentially consists of looking into the main laws, regulations and other material to verify the technical compliance of domestic legislation with the FATF standards. In assessing whether sufficient progress had been made, effectiveness is taken into account to the extent possible in a paper-based desk review and primarily through a consideration of data provided by the country. It is also important to note that these conclusions do not prejudge the results of future assessments, as they are based on information which was not verified through an on-site process and was not, in every case, as comprehensive as would exist during a mutual evaluation.

10. Section II sets out the main conclusion of the June 2011 Plenary on the progress which had been made by China on all core, key and other Recommendations rated NC/PC, up to and including June 2011.

11. Section III summarises the progress which has been made by China on SRI, SRII and SRIII since June 2011, including recommendations to the Plenary.

12. Section IV sets out an overview of China's progress to date.

13. Section V sets out the Secretariat's detailed analysis of the progress which China has made in relation to the core Recommendations rated NC/PC. SRII is the only core Recommendation that remains to be considered by the Plenary in the context of China's application for removal from the regular follow-up process. For SRII, the text has been updated to reflect the progress that China has made since June 2011. For the other core Recommendations (R1, R5, R10, R13 and SRIV), the June Plenary decided that China had made sufficient progress to have raised its compliance to a level essentially equivalent to LC. For those Recommendations, the text of the report is identical to the text which was tabled at the June 2011 Plenary.

14. Section VI sets out the Secretariat's detailed analysis of the progress which China has made in relation to the key Recommendations rated NC/PC. SRI and SRIII are the only key Recommendation that remains to be considered by the Plenary in the context of China's application for removal from the regular follow-up process. For SRI and SRIII, the text has been updated to reflect the progress that China has made since June 2011. For the other core Recommendations (R23 and R35), the June Plenary decided that China had made sufficient progress to have raised its compliance to a level essentially equivalent to LC. For those Recommendations, the text of the report is identical to the text which was tabled at the June 2011 Plenary.

15. Section VII sets out the Secretariat's detailed analysis of the progress which China has made in relation to the other Recommendations rated NC/PC. The June Plenary decided that China had made sufficient progress to have raised its compliance on R4, R6, R7, R9, R11, R15, R21 and R22 to a level essentially equivalent to LC. The text of the report relating to the other Recommendations is identical to the text which was tabled at the June 2011 Plenary.

16. Section VIII contains a summary of other action which China has been taken (*i.e.*, in relation to Recommendations that were not rated NC/PC). The text of this section is the same as that which was tabled at the June 2011 Plenary.

II. MAIN CONCLUSIONS ADOPTED BY THE JUNE 2011 PLENARY

CORE RECOMMENDATIONS

17. For R1 (Criminalisation of money laundering), China has resolved many of the technical deficiencies identified in the MER. The only remaining concerns are that self-laundering is not independently criminalised, and the scope of one designated category of predicate offence (terrorism, including terrorist financing) is not yet sufficient—although it has been broadened since the on-site visit. China has also provided statistics and information which suggests that the overall effectiveness of the system has been significantly enhanced, although it is difficult to measure effectiveness through a paper-based, off-site desk review.

18. For R5 (Customer due diligence), China has resolved all seven of the technical deficiencies which were identified in the MER. China has also provided information to suggest that the effectiveness of implementation has been enhanced, although this is difficult to confirm through a paper-based, off-site desk review.

19. For R13 (Suspicious transaction reporting), China has resolved all four technical deficiencies which were identified in the MER. As well, China has taken concrete steps to enhance the effectiveness of implementation, although a paper-based, off-site desk review is limited in its ability to assess effectiveness.

20. For SRIV (Suspicious transaction reporting related to terrorist financing), China has resolved all of the technical deficiencies which were identified in the MER, and has taken steps to enhance the effectiveness of implementation. However, a paper-based, off-site desk review is limited in its ability to assess effectiveness.

21. Overall, China has brought the level of compliance with R1, R5, R13 and SRIV up to a level essentially equivalent to LC.

22. For SRII (Criminalisation of terrorist financing), China has resolved two of the three technical deficiencies which were identified in the MER. However, the remaining deficiency is an important one. Not all of the *terrorist activities* identified in the international conventions and protocols that are listed in the annex to the *International Convention for the Suppression of Terrorist Financing* (the *Terrorist Financing Convention*) are covered. Consequently, even though only one deficiency remains, it is suggested that China has not yet brought the level of compliance with SRII up to a sufficient level.

KEY RECOMMENDATIONS

23. For R23 (Supervision and monitoring), China has corrected the one deficiency which was identified in the MER by implementing a supervisory programme for the securities and insurance sectors. China has also taken steps to enhance the effectiveness of its supervisory framework in all sectors, and has provided statistics which indicate that some positive results are being generated. However, a paper-based, off-site desk review is limited in its ability to assess effectiveness.

24. For R35 (Implementation of international instruments), China has substantially addressed both deficiencies which were identified in the MER, although a few shortcomings remain.

25. Overall, China has brought the level of compliance with R23 and R35 up to a level essentially equivalent to LC.

26. For SRI (Implementation of international instruments related to terrorist financing), China has substantially addressed the concerns relating to its implementation of the *Terrorist Financing Convention*, although one shortcoming remains. However, there remain serious concerns about its implementation of S/RES/1267(1999) and S/RES/1373(2001).

27. For SRIII (Freezing of terrorist-related assets), China has taken steps to enhance its implementation of S/RES/1267(1999) and S/RES/1373(2001). However, none of the seven deficiencies identified in the MER have been fully resolved.

28. Overall, and mainly for the same reasons (*i.e.*, insufficient implementation of S/RES/1267(1999) and S/RES/1373(2001)), China has not yet brought the level of compliance with SRI and SRIII up to a sufficient level.

OTHER RECOMMENDATIONS

29. Overall, China has brought the level of compliance with eight other Recommendations up to a level essentially equivalent to LC: R2, R6, R7, R9, R11, R15, R21 and R22. China has also made some progress in addressing the deficiencies identified in relation to the remaining eight Recommendations (R12, R16, R17, R18, R24, R33, R34 and SRIX), although it has not yet brought the level of compliance with these Recommendations up to a sufficient level.

CONCLUSION

30. China has made significant overall progress since the MER. Twenty-five Recommendations were assessed as PC or NC in 2007.

31. On SRII (a core Recommendation), even though China has corrected two out of the three technical deficiencies identified in the MER, the progress is deemed to be insufficient because of the relative importance of the remaining deficiency (not all of the required *terrorist activities* are covered). Consequently, it suggested that China has not yet brought the level of compliance with SRII up to a sufficient level.

32. On SRI (a key Recommendation), the main concern is that China has not made sufficient progress to improve its implementation of S/RES/1267(1999) and S/RES/1373(2001). Additionally, one shortcoming remains in relation to its implementation of the *Terrorist Financing Convention*. This means that China has not yet brought the level of compliance with SRI up to a sufficient level.

33. On SRIII (a key Recommendation), China has not made sufficient progress to improve its implementation of S/RES/1267(1999) and S/RES/1373(2001), and bring its level of compliance with SRIII up to a sufficient level.

34. As sufficient progress had not yet been made in relation to SRI, SRII and SRIII, the Plenary recommended in June 2011 that China remain on the regular follow-up process. Under the regular follow-up process, China would ordinarily be asked to report back in June 2012. However, China has indicated that significant legislative changes to improve compliance with SRI, SRII and SRIII may be enacted within the next few months. China was strongly encouraged to complete this

legislative process as soon as possible. In these circumstances, it was recommended that China be asked to report back in October 2011, provided that this new legislation is brought into force by 30 September 2011, with a view to discussing whether sufficient progress has been made on SRI, SRII and SRIII so as to justify removing China from regular follow-up and moving to biennial reporting.

III. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THIS PLENARY ON PROGRESS MADE SINCE JUNE 2011

CORE RECOMMENDATIONS

35. On SRII (Criminalisation of terrorist financing), China has satisfactorily addressed two deficiencies which were identified in the MER, and addressed the majority of aspects in the remaining deficiency.

36. Overall, since June 2011, China has brought the level of compliance with SRII up to a level essentially equivalent to LC.

KEY RECOMMENDATIONS

37. On SRI (Implementation of international instruments related to terrorist financing), China has substantially addressed one of the deficiencies which were identified in the MER, and made substantial progress to address the other. However, a few shortcomings remain which means that China has not yet brought the level of compliance with SRI up to a sufficient level

38. On SRIII (Freezing of terrorist-related assets), China has made significant progress since June 2011 to improve its implementation of S/RES/1267(1999) and S/RES/1373(2001). In particular, China has implemented legislation establishing a legislative framework and administrative authority for enforcing designations and updates to the lists, and responding to foreign freezing requests. Nevertheless, some deficiencies remain, and China has not yet brought its level of compliance with SRIII up to a sufficient level.

39. Overall, since June 2011, China has made substantial improvements to its legislative framework to implement SRI and SRIII, albeit not yet to a level essentially equivalent to LC.

CONCLUSION

40. Since June 2011, China has made significant progress to address the deficiencies identified in SRI, SRII and SRIII.

41. Overall, taking into account the decisions made by the June 2011 Plenary, China has reached a satisfactory level of compliance with all six core Recommendations and eight of the key Recommendations, but has not reached a satisfactory level of compliance with two of the key Recommendations—SRIII and SRI. It is, however, somewhat mitigating that the main concerns relating to SRI are with regard to the insufficient implementation of SRIII, and so the underlying issues are the same.

42. The mutual evaluation follow-up procedures indicate that, for a country to have taken sufficient action to be considered for removal from the process, it must have an effective AML/CFT system in force, under which it has implemented all core and key Recommendations at a level

essentially equivalent to C or LC, taking into account that there would be no re-rating. The Plenary does, however, retain some limited flexibility with regard to the key Recommendations if substantial progress has also been made on the overall set of Recommendations that have been rated PC or NC.

43. China has made substantial progress on the overall set of 25 Recommendations that were rated PC or NC. In particular, China has taken sufficient action to bring its compliance to a level essentially equivalent to at least an LC in relation to 16 of the Recommendations that were rated PC/NC: five core Recommendations (R1, R5, R13, SRII and SRIV), two key Recommendations (R23 and R35), and eight other Recommendations (R2, R6, R7, R9, R11, R15, R21 and R22). China has also made some progress in addressing the deficiencies identified in relation to the remaining eight Recommendations (R12, R16, R17, R18, R24, R33, R34 and SRIX), although it has not yet brought the level of compliance with these Recommendations up to a sufficient level.

44. Overall, however, China has made considerable efforts to strengthen its AML/CFT regime since 2007, including by making legislative amendments, and strengthening supervisory routines and practices. Consequently, it is recommended that this would be an appropriate circumstance for the Plenary to exercise its flexibility and remove China from the regular follow up process, with a view to having it present its first biennial update in February 2014.

IV. OVERVIEW OF CHINA'S PROGRESS

OVERVIEW OF THE MAIN CHANGES SINCE THE ADOPTION OF THE MER

45. Since its MER was adopted, China has made significant progress to strengthen preventative measures in the financial sector and improve its implementation of the ML offence. The updated legal framework addresses many of the legal shortcomings described in this report, particularly in relation to preventative measures in the financial sector, and China has taken concrete steps to enhance the effectiveness of their implementation.

46. In June 2011, the Plenary decided that China had made sufficient progress to bring its compliance to a level essentially equivalent to LC on 14 Recommendations (four core Recommendations, two key Recommendations, and eight other Recommendations). Additionally, China has taken some action to enhance its implementation of the remaining eight other Recommendations, albeit not yet up to a sufficient level of compliance. However, the Plenary concluded that further legislative amendments were needed to address deficiencies identified in relation to SRII, SRIII, and related deficiencies in relation to SRI.

47. Since June 2011, China has enacted further legislation which enhances its implementation of SRI, SRII and SRIII.

48. Annex 1 provides a list of all the supporting material provided in support of this application, including amendments to the legal system that have been made by China in order to address the identified shortcomings. In the course of the drafting of this follow-up report, China also provided a copy of all new laws and regulations. The key laws, regulations and other supporting material are contained in Annex 2.

THE LEGAL AND REGULATORY FRAMEWORK

49. At the time of the mutual evaluation, China's legislative framework for preventative measures in the financial sector was based on the *Anti-Money Laundering Law* (the *AML Law*) and *Rules for Anti-Money Laundering by Financial Institutions* (the *AML Rules*), and the *Administrative Rules for the Reporting by Financial Institutions of Large-Value and Suspicious Foreign Exchange Transactions* (the *FX-LVT/STR Rules*) and *Administrative Rules for the Reporting of Large-value and Suspicious Renminbi Payment Transactions* (the *RMB-LVT/STR Rules*) (both in force as of March 2003). At the time of the on-site visit, the *AML Law* and *AML Rules* had been only recently enacted and, consequently, it was too early to draw any conclusions about the effectiveness of their implementation. As well, the obligation to report suspicious transactions, as set out in the *FX-LVT/STR Rules* and the *RMB-LVT/STR Rules*, only applied to the banking sector. The insurance and securities sectors were not yet covered.

50. Since its mutual evaluation, China has significantly improved the legislative framework of preventative measures in the financial sector. China has repealed the old *RMB-LVT/STR Rules* and *FX-LVT/STR Rules*, and adopted new regulations which extend the reporting obligation to the insurance and securities sectors. It has also enacted more specific customer due diligence (CDD) requirements in all sectors. Currently, the legislative framework for preventative measures in the financial sector consists of the following law and regulations⁴:

- the *AML Law* (in force as of 31 October 2006);
- the *AML Rules* (in force as of 1 January 2007);
- the *Administrative Rules for the Reporting of Large-Value and Suspicious Transaction by Financial Institutions* (the *LVT/STR Rules*) (in force as of 1 March 2007, but not fully implemented until 1 November 2007);
- the *Administrative Rules for the Reporting of Suspicious Transactions related to the Financing of Terrorism by Financial Institutions* (the *FT/STR Rules*) (in force as of 21 June 2007); and
- the *Administrative Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identity and Transaction Information* (the *CDD Rules*) (in force as of 1 August 2007).

51. Additionally, the legal framework of preventative measures has been expanded to include the following regulatory instruments which fall within the FATF definition of *other enforceable means*⁵.

⁴ Under the Chinese system, Regulations, Rules and Measures all constitute secondary legislation and fall within the FATF definition of *regulation* (MER, paragraph 300).

⁵ Circulars issued by the PBC fall within the FATF definition of *other enforceable means*. PBC circulars come into force once signed by either the Governor of the Central Bank (who is the equivalent of a Minister within the structure of the Chinese government: see FATF-XVI/PLEN30 at paragraph 9) or one of the Deputy Governors who is responsible for the area covered by the circular.

- the *Circular of the People's Bank of China on Further Strengthening AML work of Financial Institutions*, People's Bank of China (PBC) Doc. No.[2008]391 (*PBC Circular 391*) (in force as of 31 December 2008); and
- the *Circular of the People's Bank of China on Clarifying Implementation Issues of Suspicious Transaction Reporting Regime*, PBC Doc. No.[2010]48 (*PBC Circular 48*) (in force as of February 2010).

52. Any of the above provisions which came into force from March 2007 onwards could not be taken into account in the MER, as they came into force more than two months after the on-site visit. Nevertheless, these provisions address many of the technical deficiencies that were identified in the MER in relation to preventative measures, as described in more detail below.

53. Since its mutual evaluation, China has also enacted the following legislation to enhance its criminalisation of money laundering and terrorist financing, and its implementation of targeted financial sanctions in the terrorist financing context:

- *The Interpretation of the Supreme People's Court on Several Issues Pertaining to the Specific Application of Law in the Trial of Money Laundering and Other Criminal Cases*, (Judicial Interpretation No.15 [2009] of the Supreme People's Court) (*Judicial Interpretation 15*);
- the *Circular of the People's Bank of China on Implementing the Circular of Ministry of Foreign Affairs on Implementing Relevant Resolutions of UN Security Council*, PBC Doc. No.[2010] 165 (*PBC Circular 165*) (26 May 2010);
- the *Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work*, Adopted at the 23rd Meeting of the Standing Committee of the Eleventh National People's Congress (29 October 2011) and the accompanying *Statement of Decision on Strengthening Counter-Terrorism Work*. The *Statement* is a legally binding explanation by the National People's Congress on the *Decision*, and constitutes the basis for interpreting it and for drafting any related implementation rules.

V. REVIEW OF THE MEASURES TAKEN IN RELATION TO THE CORE RECOMMENDATIONS

54. This section sets out the Secretariat's detailed analysis of the progress which China has made in relation to the core Recommendations rated NC/PC.

55. It should be noted that the text for R1, R5, R10, R13 and SRIV is the same as that which was tabled at the June 2011 Plenary and for which the Plenary decided that China had made sufficient progress to have raised its compliance to a level essentially equivalent to LC.

56. The analysis of the core Recommendation (SR11) which remains to be considered in the context of China's application for removal from the regular follow-up process has been updated to reflect the progress that China has made since June 2011.

RECOMMENDATION 1 – RATING PC

R1 (Deficiency 1): The money laundering provisions are not effectively implemented, as witnessed by the low number of convictions for money laundering.

57. At the time of the onsite visit in November 2006, the number of convictions for money laundering (ML) was extremely low. Only 150 convictions for ML had been obtained pursuant to article 191 and article 349 in the five-year period from 2002 to 2006. China has three ML offences. Article 191 criminalises the laundering of proceeds from seven categories of listed predicate offence: drug-related crime, terrorist crime, organised crime, smuggling, corruption or bribery, financial fraud, and disrupting the order of financial administration. Article 349 criminalises the laundering of proceeds of drug offences. Article 312, which was originally introduced as a classic receiving offence, was amended in June 2006 to become an all-crimes ML offence. However, the statistics provided during the on-site visit related only to its use as a receiving stolen goods offence, not as a ML offence.

58. In the four-year period since the onsite visit, the number of ML convictions has increased substantially. From 2008 to 2010, a total of 32 510 convictions for ML have been obtained, involving 53 562 persons being sentenced, as is indicated in the chart below.

ML offence	Year	Number of convictions	Number of persons sentenced
Article 312 (all-crimes ML offence)	2008	10 318	17 650
	2009	10 613	17 617
	2010	11 383	18 031
Article 191 (ML proceeds of 7 categories of predicate offences)	2008	3	4
	2009	5	9
	2010	12	14
Article 349 (ML proceeds of drug offences)	2008	59	69
	2009	56	78
	2010	61	90
TOTALS		32 510	53 562

59. The increase in ML convictions may be attributed to a number of factors.

1. The law enforcement and judicial authorities have improved their awareness of and competence in using the ML provisions effectively.

2. The range of predicate offences was significantly expanded, just prior to the onsite visit, with the introduction of the all-crimes ML offence (article 312). This has greatly broadened China's capacity to investigate and prosecute ML activity.
3. The authorities have increased their focus on pursuing ML activity from all types of predicate offences, including drug-related crime, smuggling, corruption, bribery, etcetera.
4. Subsequent clarifications of the law have increased the capacity of the authorities to investigate and prosecute a broader range of ML activities, including sole and knowing acquisition and use, and ML by gatekeepers.⁶
5. Since the onsite visit, China has amended its legislation to provide for corporate criminal liability, which enhances the effectiveness of its ML offence by enabling it to prosecute legal persons which commit ML activity (see the below discussion of R2 for further details).

R1 (Deficiency 2): Self-laundering is not criminalised, although no fundamental principle in Chinese law is prohibitive.

60. Since the onsite visit, the PBC has submitted to the legislative body a legislative proposal to criminalise self-laundering. This proposal was subsequently researched and discussed among the relevant authorities, including the Commission of Legislative Affairs of the Standing Committee of the National People's Congress (the NPC Standing Committee), the Supreme People's Court (SPC), the Supreme People's Procuratorate (SPP), the Ministry of Public Security (MPS), the Ministry of Foreign Affairs (MFA), the Ministry of Justice (MOJ), the Ministry of Supervision (MOS), the PBC, the Office of Legislative Affairs of the State Council, the General Administration of Customs (GAC), and the National Bureau of Corruption Prevention (NBCP). In May 2009, a legislative symposium was held in Beijing, with participation from foreign experts, to further discuss these issues. However, there remains no consensus on whether the ML offence shall be applied to predicate criminals, given that this issue would require significant adjustments to the relationship between the existing provisions of laws, the law-enforcement system, and the judicial tradition.⁷ In the meantime, the authorities state that, in practice, the absence of an independent self-laundering

⁶ For example, in *The bribe accepting and ML case involving Fu in Chongqing (2008)*, the wife of a predicate offender who accepted bribes was convicted for ML as a principal offender (not an accomplice), pursuant to article 191, because she used the proceeds to buy real estate, knowing that they were the proceeds of bribery. In *bribe accepting and ML case involving Deng in Fujian (2009)*, a gatekeeper was convicted for ML pursuant to article 191 for keeping bank books of large deposits for the predicate offender (who had been accepting bribes), knowing that this amount of money was not in conformity with the occupation or property status of the bribee.

⁷ For example, the judicial view is that, in terms of traditional Chinese judicial practice, the act of ML remains an extension and derivative of the predicate crime, regardless of whether the space-time environment has changed significantly. Seen from the angle of judicial practice, *The Principle of Crimes and Punishment Stipulated by Law* and *The Principle of Suiting Punishment to Crime* require the conviction of the predicate criminal who commits self-laundering, according to the application of the principle of *inclusive offence* or *implicated offence*, taking the ML act into consideration for the purposes of determining the severity of the penalty.

offence does not negatively impact the overall effectiveness because self-laundering activity is addressed through the prosecution and punishment for the predicate crime. Nevertheless, the authorities are continuing to explore this issue, and the legislative body has asked the PBC, the MPS and other related authorities to carry out specific study on the issue of self-laundering. However, given the specific condition and unique legal culture of China, it is anticipated that improvement on this issue will take a long time. This deficiency has not yet been addressed.

R1 (Deficiency 3): The relevant offences, taken together or separately, do not fully cover the sole and knowing acquisition and use.

61. Since the onsite visit, China has issued The Interpretation of the Supreme People's Court on Several Issues Pertaining to the Specific Application of Law in the Trial of Money Laundering and Other Criminal Cases, (Judicial Interpretation No.15 [2009] of the Supreme People's Court) (Judicial Interpretation 15). It clarifies that the all-crimes ML offence of article 312 and the ML offence of article 191 apply to the knowing acquisition and use of proceeds, without the prosecution having to prove any particular purposive element. This judicial interpretation is binding on all Chinese courts. Additionally, subsequent jurisprudence has demonstrated that the sole and knowing acquisition and use of proceeds is covered by the ML offence, without the prosecution having to prove any subjective purposive element. See, for example, the bribe accepting and money laundering case involving Deng in Fujian (2009). This deficiency has been satisfactorily addressed.

R1 (Deficiency 4): One designated category of predicate offence ("terrorism, including terrorist financing") is not adequately covered for the reasons set out in section 2.2 of this report.

62. China has broadened the scope of the following designated category of predicate offence (terrorism, including terrorist financing). Since the onsite visit, the authorities have issued *Judicial Interpretation 15* which clarifies that: (i) the terrorist financing (FT) offence extends to the sole collection of funds, even if the funds have not been handed over to the terrorist or terrorist organisation; (ii) the term *funds* in the FT offence (article 120bis) should be interpreted consistent with the definition in the *Terrorist Financing Convention*; and (iii) the FT offence applies to persons who commit, prepare to commit, or actually commit terrorist activities. This judicial interpretation is binding on all Chinese courts. The only remaining concern is that there is no definition or list of what should be considered to be *terrorist activities*. This deficiency has been substantially addressed.

RECOMMENDATION 1, OVERALL CONCLUSION

63. China has amended its legislation to resolve many of the technical deficiencies which were identified in the MER in relation to R1. It has been clarified that the ML activity of sole acquisition and use is now fully criminalised. Although a concern remain in relation to the scope of one of the 20 designated categories of predicate offence (terrorism, including terrorist financing), three out of the four relevant technical deficiencies have been addressed through the issuance of a judicial interpretation which is binding on Chinese courts. The only technical deficiency which

remains fully unaddressed is that self-laundering is not independently criminalised; however, work to achieve consensus on this issue is continuing.

64. Additionally, the information and statistics provided by the authorities suggest that effectiveness has significantly improved. The statistics show that the average annual number of ML convictions has increased rapidly. The law enforcement and judicial authorities have improved their awareness of and competence in using the ML offences. The authorities have increased their focus on pursuing ML. The expanded range of predicate offences has enhanced the ability of the authorities to pursue the laundering of proceeds of all types of crime. The law has been clarified to enhance the prosecution of a broader range of ML activities, including the sole and knowing acquisition and use of proceeds, and ML by gatekeepers. One limitation in this analysis is that a paper-based, off-site desk review can never fully confirm the existence (or lack) of effectiveness. However, on the basis of the information provided by China, it would appear that the authorities have taken concrete steps to enhance the effectiveness of implementation of the ML offence, and that these steps are generating positive results. Overall, China has brought the level of compliance with R1 up to a level essentially equivalent to LC.

RECOMMENDATION 5 – RATING PC

R5 (Deficiency 1): No legal obligation to identify and verify the beneficial owner.

65. Financial institutions (FIs) are now legally required to identify and verify the beneficial owner, according to the *CDD Rules*, as clarified by *PBC Circular 391*. The *CDD Rules* require FIs to ascertain “the natural person who ultimately controls a customer and the actual beneficiary of the transaction” (articles 3 and 7). The *PBC Circular 391* clarifies that this term means the natural person(s) who ultimately owns or controls the company, and any person(s) who are not disclosed by customer, but are actually controlling the financial transaction process or who ultimately own the relevant economic interest (excluding the principal) (section II(III)). Article 33 of the *CDD Rules* specifies the customer identification information which is to be collected and recorded for both natural and legal persons. This deficiency has been satisfactorily addressed.

R5 (Deficiency 2): Only the banking sector (which includes foreign exchange and MVT services) is subject to specific requirements relating to the identification of legal persons (e.g. requirements to verify their legal status by obtaining proof of incorporation, names of directors, etcetera).

66. Specific requirements relating to the identification of legal persons have been extended to all FIs, including those in the securities and insurance sectors. In particular, such FIs are required to identify and verify corporate customers and register the “basic identity information” as specified by article 33, including by obtaining proof of incorporation, taxation registration code, holding shareholders or actual controllers, etc. (*CDD Rules*, articles 7, 11-12, 14-16 and 33). This deficiency has been satisfactorily addressed.

R5 (Deficiency 3): No specific and comprehensive legal requirement to conduct ongoing due diligence (e.g. financial institutions are not obligated to develop a risk profile of the customer or determine the source of his/her funds; no obligation in the insurance sector to monitor

transactions or business relationships even in limited cases, or to keep documents, data or information collected under the CDD process up-to-date and relevant by undertaking reviews of existing records).

67. Specific legal requirements to conduct ongoing due diligence have been extended to all FIs. All FIs are required to determine the risk profile of the customer based on the customer characteristics, account, geography, business and industry, whether the customer is a politically exposed person (PEP), etcetera. Financial institutions are required to keep ongoing notice of the customer risk profile, and adjust the risk level as needed. (*CDD Rules*, article 18). During the course of a business relationship's existence, all FIs are required to adopt ongoing CDD measures, pay attention to the customer and his/her daily operations and financial transactions, and remind customers to update relevant material and information in a timely fashion (*CDD Rules*, article 19). Additionally, all FIs are to review their established business relationships, to undertake reviews of the existing records to verify that all CDD information is current, particularly for higher risk categories of customers or business relationships (*CDD Rules*, article 22; *PBC Circular 391*, Item II). The *CDD Rules* also require that the customer identification records be reviewed at least annually, and that transactions be suspended immediately if an identification document expires and a new one has not been presented. This deficiency has been satisfactorily addressed.

R5 (Deficiency 4): No enhanced due diligence requirements or guidelines for high risk categories of customers.

68. Enhanced due diligence requirements for high risk categories of customers have been implemented. All FIs are now required to determine and monitor the risk level according to features such as the customer, account, geography, business, industry, and whether the customer is a foreign PEP (*CDD Rules*, articles 18-19). Financial institutions are required to carry out the verification of customer identity on a risk-sensitive basis, and accounts with the highest risk level must be subject to re-verification at least every six months. Institutions must understand the source and purpose of the funds, and the financial or business status of high risk customers, and strengthen the monitoring and analysis of their financial transactions. These requirements contain a specific reference to the high risk situations involving: "foreign PEPs" (which is defined in *PBC Circular 391* consistent with R6); non-face-to-face transactions (*PBC Circular 48*, Item III); and business relationships being conducted by agents who act on behalf or under the control of another person (*PBC Circular 48*, Item III). This deficiency has been satisfactorily addressed.

R5 (Deficiency 5): No requirement to consider filing an STR when CDD requirements cannot be complied with.

69. Financial institutions are required to consider filing a suspicious transaction report (STR) when customer identification cannot be fulfilled, because the customer refuses to provide valid identification (ID) documents, the originator of a wire transfer cannot be fully obtained, the customer refuses to update his basic customer information without reasonable reason, the authenticity of customer identification records is in doubt, or when any other suspicious activities have been discovered when the CDD obligations are being fulfilled (*CDD Rules*, article 26; *PBC Circular 48*, Item I). By virtue of the clarifications provided in *PBC Circular 391*, this includes the

inability to be reasonably certain about the identification of the beneficial owner(s). This deficiency has been satisfactorily addressed.

R5 (Deficiency 6): Concerns relating to the continuing acceptance of first generation ID cards which are prone to forgery and the duplication of numbers on about five million manually issued first generation ID cards.

70. At the time of the on-site visit, the identity verification procedures relied heavily on the use of the national ID card, of which the first generation had been subject to problems of duplication and forgery. The transition to second generation ID cards is now completed, and they so far have been subject to very limited forgery. To date, more than one billion second generation ID cards have been issued, with the majority of citizens above 16-years of age now being covered, and the MPS is undertaking further work to phase out the first generation ID cards completely. In addition, all the banks now have online access to the central registration system so that they can verify the validity of the cards prior to opening an account. This deficiency has been substantially addressed.

R5 (Deficiency 7): There is no explicit obligation on financial institutions to determine whether the customer is acting on behalf of (i.e. representing) another person.

71. There is now an explicit obligation on all FIs to take reasonable steps to: determine whether the customer is conducting business on behalf of others; verify the identity of the representative; and register the name, points of contact, and type and number of the ID document of the representative (*CDD Rules*, article 20). Financial institutions are required to pay special attention to identifying ML/FT by means of another person to commission business and engage in transactions on behalf of another person, and to report any transactions where ML/FT is suspected (*PBC Circular 48*, Item III). In the securities sector, China has implemented a prohibition on persons entrusting an agent for the opening of an individual account (*CSRC Notice on Further Strengthening the Real Name Administration in Opening Accounts in Futures Companies*). This deficiency has been satisfactorily addressed.

R5 (Deficiency 8): While the AML Law requires a threshold and rules for handling occasional transactions, such threshold itself has not been determined.

72. The *CDD Rules* now specify the thresholds and obligations for banks to identify and verify customers when carrying out occasional transactions such as cash remittance, cash exchange or note cashing exceeding RMB 10 000 or USD 1 000 equivalent, or when providing cash deposit or cash withdrawal services exceeding RMB 50 000 or USD 10 000 equivalent (articles 7-8). There are similar provisions relating to a range of cash and other transactions relevant to the insurance sector (articles 12-14). There are no equivalent requirements for cash transactions in the securities sector, but separate regulations now require that all securities transactions must be funded through a custodian bank account. This procedure requires that there be a perfect match between the key identification data held, respectively, by the bank and the broker before a securities transaction can be undertaken. This deficiency has been satisfactorily addressed.

R5 (Deficiency 9): Effectiveness of implementation cannot be assessed due to the recent enactment of the law.

73. At the time of the onsite visit, the effectiveness of implementation could not be assessed because the CDD requirements were recently enacted—the *AML Law* and *CDD Rules* had come into force only eight and six months before, respectively—and only the banking sector⁸ was being supervised for compliance with them. Since the on-site visit, China has taken concrete steps to enhance the effectiveness of implementation of R5.

74. First, the CDD requirements have been extensively elaborated—first in the *CDD Rules* and then in *PBC Circular 391* (which came into force in August 2007 and December 2008, respectively). In addition to adding new CDD requirements (such as the obligation to conduct ongoing due diligence), *PBC Circular 391* clarifies some of the ambiguity which previously existed concerning the obligation to identify beneficial owners. The additional clarifications in *PBC Circular 391* should be useful in assisting FIs to better understand the obligation to identify beneficial owners and conduct ongoing due diligence, in a manner that is consistent with the *FATF Recommendations*.

75. Second, AML/CFT supervision has been extended all FIs, including those in the insurance and securities sectors.

76. Third, the PBC has been supervising all sectors for compliance with the newly-elaborated CDD requirements since 2009—immediately after *PBC Circular 391* came into force. Since 2009, the PBC has conducted 4,850 inspections of which 3,776 were in banking institutions, 248 were in securities and futures institutions, and 826 were in insurance institutions.

77. Fourth, the results of these inspections, as reported by the Chinese authorities, provide some indication that FIs better understand the new requirements, and are seeking to implement them. The PBC reports that most of the breaches detected in relation to the CDD requirements were minor ones, and may originate from a lack of experience with the new requirements. Only a few breaches of a systematic nature (*e.g.*, basic CDD procedures not established, as required), or of a serious nature were found (*e.g.*, one bank was abused by fraud as a result of having failed to verify the identity of a beneficial owner). Overall, compliance with the CDD requirements has been steadily improving. The following chart indicates the number of customers which the PBC detected as not having been properly identified by FIs in 2008 (the first year after the *CDD Rules* took effect) and 2009.

Type of Financial Institution	2008	2009
Banking FIs	1 013 000	656 400
Securities and Futures FIs	456 300	25 700
Insurance FIs	64 300	45 100
TOTALS	1 531 600	727 200

78. These statistics show a 52.59% decrease in the number of customers being improperly identified by FIs, in the second year after the *CDD Rules* came into force. The authorities report

⁸ The banking sector includes money remitters and foreign exchange bureaus.

that, at present, the main problem with implementing the CDD requirements is the extremely large number of existing customers (*i.e.*, customers who had established business relationships with FIs before the *CDD Rules* took effect). However, the FIs are following detailed work plans to re-conduct CDD on existing customers and beneficial owners, and confirm their customer risk classification. The PBC is continuing to strengthen its AML supervision in this area, and estimates that this work will be completed before the end of 2011.

RECOMMENDATION 5, OVERALL CONCLUSION

79. China has made significant progress, since the onsite visit, to improve its compliance with R5. China has amended its legislation to resolve all seven technical deficiencies which were identified in the MER. Additionally, the authorities have provided information on the effectiveness of implementation which suggests that FIs better understand the new requirements, and are working to improve their level of implementation, although some issues remain. The requirements to identify beneficial owners and conduct ongoing due diligence are better articulated in the legislation, which should make it easier for FIs to understand and implement the requirements. AML/CFT supervision has been extended to the securities and insurance sectors, and all FIs are being supervised for compliance with the new CDD requirements. So far, inspection results are showing that most of the breaches are of a minor nature, although a few cases of systematic or serious breaches have been detected. Moreover, the transition from first generation ID cards (which were very prone to forgery) to second generation ID cards (which have been subject to very limited forgery) is finished, and work is underway to phase out the first generation ID cards completely. Although a paper-based, off-site desk analysis cannot adequately assess effectiveness, on the basis of the information provided, it would appear that the authorities have taken concrete steps to enhance the effectiveness of implementation of R5, and that these steps are generating some positive results so far. Overall, China has brought the level of compliance with R5 up to a level essentially equivalent to LC.

RECOMMENDATION 13 – RATING PC

R13 (Deficiency 1): No RMB reporting obligation for the securities and insurance sectors.

80. At the time of the on-site visit, the obligation to report suspicious transactions only applied to the banking sector (which includes money remitters and bureau de change). The *LVT/STR Rules* and the *FT/STR Rules* which came into force in 2007 extend the reporting obligation to the securities and insurance sectors. This deficiency has been satisfactorily addressed.

R13 (Deficiency 2): No explicit obligation to report suspicions of terrorist financing.

81. The *FT/STR Rules*, which came into force in 2007, set out an explicit obligation on all FIs to report suspicious transactions related to FT. This deficiency has been satisfactorily addressed.

R13 (Deficiency 3): No obligation to report attempted transactions.

82. Financial institutions are prohibited from performing any transactions where the customer refuses to provide valid identification documents or to update essential information (*AML Law*, article 16). Since the onsite visit, China has enacted legislation which requires FIs to report such

attempted transactions to the financial intelligence unit (FIU) (*CDD Rules*, article 26). Additionally, FIs are required to report any suspicions related to ongoing transactions or “transactions to be opened by customers” (*i.e.*, attempted transactions) (*PBC Circular 48*, item I). This deficiency has been satisfactorily addressed.

R13 (Deficiency 4): The rules do not define the basis upon which suspicion should be founded (i.e. to include, at least, the required list of predicate offences).

83. At the time of the onsite visit, banks (the reporting obligation had not yet been extended to the insurance and securities sectors) were required to report suspicious transactions on a subjective basis. However, the term “suspicion” was undefined, and there was no clear indication as to whether the intention was that the subjective suspicion should relate to all crimes, to a subset, or to some other criteria. Since the onsite visit, China has amended its legislation to define the basis upon which suspicion should be founded, in the case of subjectively suspicious transactions. This basis includes any criminal activity, including ML and terrorist activity. In particular, FIs are required to report as suspicious transactions: (i) transactions where there is “abnormality of the transaction amount, frequency, flow, nature, etc and the transaction is considered to be suspicious after analysis” (*LVT/STR Rules*, article 14); and (ii) transactions where “there are proper reasons to believe that the customer or transaction is relating to money laundering, terrorist activities and other law-violating and criminal activities”, but is not otherwise unusual (*LVT/STR Rules*, article 15). This deficiency has been satisfactorily addressed.

R13 (Deficiency 5): Significant concerns about the overall effectiveness of the system, and the lack of subjective assessment by reporting institutions.

84. At the time of the onsite visit, banks (the reporting obligation had not yet been extended to the insurance and securities sectors) were required to report: (i) 31 specific types of “suspicious” transactions on a monthly basis (most of which were large value transactions); (ii) 23 types of unusual transactions which matched defined typologies (to be reported on a prompt basis); and (iii) a final category of undefined suspicions transactions which was identified for reporting on a subjective basis. The system had generated over 8 million reports in just two years—the majority (87%) of which related to defined types of transactions lacking in any subjective element of suspicion. No statistics were available to demonstrate how many of these reports related to subjectively suspicious transactions. This raised serious effectiveness concerns because it appeared that the system operated principally as a rules-based unusual transactions reporting regime (based on defined typologies), with only a very limited degree of discretion being given to the FIs to determine what might be genuinely suspicious. Since the onsite visit, China has made significant progress to enhance the overall effectiveness of the STR reporting system.

85. First, China has amended its legislation to clearly define the obligation to report subjectively suspicious transactions, including the basis upon which a suspicion should be founded (as described above in relation to Deficiency 4). This clarification in the legislation should assist FIs in better understanding when the threshold for reporting a subjectively suspicious transaction has been reached, thereby improving implementation of the reporting obligation.

86. Second, China has amended its legislation to streamline the reporting system. The *LVT/STR Rules* (which came into force in March 2007) have significantly reduced the number of categories of transactions to be reported. Instead of 60 separate categories for the banking sector, the *LVT/STR Rules* now set out a range of 13 to 18 categories of objectively large/unusual transactions for each sector (*LVT/STR Rules*, articles 11-13). These “objective” categories are supplemented by two, more general, obligations with respect to transactions where there is “abnormality of the transaction amount, frequency, flow, nature, etc and the transaction is considered to be suspicious after analysis” (article 14), and where “there are proper reasons to believe that the customer or transaction is relating to ML, terrorist activities and other law-violating and criminal activities” (article 15). Reducing the number of objective categories in articles 11-13 should help FIs to increase their focus on reporting subjectively suspicious transactions pursuant to articles 14 and 15.

87. Third, China has further clarified its legislation, with a view to addressing confusion that some FIs initially had about what was expected in relation to the reporting obligation and which was resulting in defensive reporting, and an insufficient focus on subjectively suspicious transactions in the ML context. To address these issues, the PBC has issued *PBC Circular 391* and *PBC Circular 48*. These circulars clarify that articles 11-13 of the *LVT/STR Rules* are requirements to report unusual transactions (*i.e.*, transactions which have unusual characteristics, but for which FIs have rational reasons to obviate these unusual elements or have no rational reasons to suspect the transaction or customer may be involved in illegal or criminal activities). However, if such unusual characteristics cannot be rationally dismissed, then the transaction must be reported as being suspicious under article 14 (*PBC Circular 391*, Item III(I)). Article 15 covers transactions which are suspicious, but lacking the otherwise unusual characteristics specified in article 14. Reporting institutions are required to focus their analysis on detecting real and subjective suspicions. Where subjectively suspicious transactions are detected, reporting institutions are to file an STR, and to indicate on the STR reporting form whether the report is being filed pursuant to article 14 or 15 of the *LVT/STR Rules* (*Circular of the PBC on Further Improving Requirements of Filling out Large-Value and Suspicious Transaction Reports* (PBC Doc. No.[2009] 123) (*PBC Circular 123*). These clarifications should help to ensure that FIs have a common and correct understanding of what is expected of them. This issue does not arise in the FT context, as FT-related STRs are filed pursuant to the *FT/STR Rules* which do not set out any objective rules-based reporting obligations. Instead, the reporting obligation is strictly confined to the reporting transactions which may be related to FT on the basis of a subjective suspicion.

88. Fourth, since 2008, the PBC has held consultations with FIs by means of face-to-face meetings and through the use of a questionnaire, with a view to ensuring that institutions have a correct and common understanding of the difference between the requirement to report unusual transactions (pursuant to articles 11-13) and the requirement to report suspicious transactions (pursuant to articles 14-15). This should also help to avoid confusion among FIs concerning what is expected of them in fulfilling these requirements.

89. Fifth, the PBC has clarified, in the legislation, the supervisory approach which will be taken by the PBC in monitoring for compliance with the reporting obligations (*PBC Circular 48*, Item V).

This should help to ensure that all branches of the PBC are taking the same position and approach when undertaking the monitoring and supervision of the financial sector.

90. Sixth, China has fully implemented an electronic reporting system in all financial sectors, as of 1 January 2009: *The Notice of the People's Bank of China on Issuing Regulations of Data Reporting Interface of Large-Value and Suspicious Transactions Reports of Banking Industry, Securities and Futures Industry, and Insurance Industry* (PBC Doc. No.[2008]248) (*PBC Circular 248*). This enhances the ability of the PBC to provide timely feedback to reporting institutions on whether information in a report needs to be corrected or whether missing information needs to be added. Such feedback should, in turn, enhance the quality of STRs being filed by reporting institutions. (Also see the discussion of R26 below for further details on the electronic reporting system and further enhancements to the FIU's analytical capabilities.)

91. Seventh, China has amended its legislation to require FIs to improve their automatic screening systems, with a view to enhancing their ability to detect unusual transactions, and to subject unusual transactions to manual and subjective analysis, with a view to better detecting suspicious transactions (*PBC Circular 48*, Item I).

92. Eighth, since the new requirements have come into effect, the PBC has issued more than 20 documents providing guidance on the reporting obligations or responses to frequently-asked questions (FAQs).

93. These measures demonstrate that the authorities are working to move the system from being overly focused on the regulatory reporting of unusual transactions, to a much stronger focus on the reporting of subjectively suspicious transactions. The following chart sets out a breakdown, by sector, of the number of unusual transactions reports (UTRs) and STRs filed, and the number of STRs which involved a suspicion of FT.

Gross Unusual /Suspicious Transaction Reports and STRs involving TF received in 2007 to 2010

Year	Banking Institutions		Securities & Futures Institutions		Insurance Institutions		Total UTRs/STRs filed (Total FT-related STRs)
	UTRs & STRs filed	FT-related STRs	UTRs & STRs filed	FT-related STRs	UTRs & STRs filed	FT-related STRs	
2007	6 450 106	1 880	34 786	0	4 139	0	6 489 031 (FT-1 880)
2008	68 596 792	15 061	147 482	0	200 576	0	68 944 950 (FT-15 061)
2009	42 513 169	6 286	185 181	0	234 876	5	42 933 226 (FT-6 291)
2010	61 642 091	19 822	124 288	4	85 639	5	61 852 018 (FT-19,831)

Note: 1. The FT-related STRs are filed in accordance with the *FT STR Rules*.

2. The figure for the banking institutions in 2007 is counted under the new technical criterion, while the old criterion was also working during the transitional period (the year of 2007).

94. The following chart shows the number of STRs filed in 2009 and 2010 under article 14 (*i.e.*, where there is a suspicion, and the transaction is otherwise abnormal by virtue of its amount, frequency, direction or nature) and article 15 (*i.e.*, where there is a suspicion, but the transaction is not otherwise abnormal).

STRs filed in line with Article 14 & 15 of the LVT/STR Rules in 2009 and 2010

Type of financial institution	2009		2010	
	STRs filed under Art.14	STRs filed under Art.15	STRs filed under Art.14	STRs filed under Art.15
Banking FIs	2 301	3 096	449 853	5 351
Securities & Futures FIs	118	0	29	0
Insurance FIs	0	0	1	0
TOTALS	2 419	3 096	449 883	5 351

95. At the time of the onsite visit, there was concern that the system was generating only rules-based UTRs (*i.e.*, where there was no subjective suspicion). However, the statistics confirm that subjective STRs are being generated. Nevertheless, concerns about effectiveness remain because the reporting of subjectively suspicious STRs related to ML remains very low outside of the banking sector. Reporting levels in the insurance sector are of particular concern; only one subjective ML-related STR was filed in the 2009/2010 period.

96. Statistics on implementation of the STR reporting obligation are more positive in the FT context, as all sectors (banking, securities and insurance) have filed FT-related STRs. The *FT/STR Rules* (which came into force in June 2007) do not prescribe any objective or unusual categories of transactions. Therefore, all reports filed pursuant to the *FT/STR Rules* are made on the basis of a subjective suspicion of FT. Interestingly, the securities and insurance sectors only began filing FT-related STRs after *PBC Circular 391* came into force at the end of 2008. As noted above *PBC Circular 391* and *PBC Circular 48* (which came into force in February 2010) clarify the difference between objective rules-based reporting and subjectively suspicious transaction reporting. The clarification of these key concepts at the end of 2008 (with further clarifications in 2010) may explain why securities and insurance institutions subsequently began reporting subjectively suspicious transactions in the FT context.

RECOMMENDATION 13, OVERALL CONCLUSION

97. Since the on-site visit, China has made significant progress to improve compliance with R13. The legislation has been amended to correct all four technical deficiencies which were identified in the MER. As well, China has taken concrete steps to enhance the effectiveness of implementation. The legislation has been clarified concerning the basis for reporting suspicious transactions, the difference between unusual and suspicious transactions, and the expectations of the supervisor in monitoring for compliance with these requirements. The reporting system has been streamlined by significantly reducing the number of objective rules-based reporting categories. The PBC has held consultations with FIs and issued additional guidance, including FAQs and is providing real-

time feedback on reports filed, with a view to ensuring that reporting institutions have a correct and common understanding of the requirements. Nevertheless, some concerns remain, particularly in relation to the low levels of reporting subjectively suspicious ML-related transactions in the securities and insurance sectors. Nevertheless, it should be noted that a paper-based, off-site desk review is limited in its ability to assess effectiveness (or the lack thereof). Overall, China has brought the level of compliance with R13 up to a level essentially equivalent to LC.

SPECIAL RECOMMENDATION II – RATING PC

SR II (Deficiency 1): The sole collection of funds in a terrorist financing context is not criminalised (i.e. where the funds have not been handed over to the terrorist or terrorist organisation), also affecting the utility of article 120bis PC as a predicate offence.

98. Since the onsite visit, the authorities have issued *Judicial Interpretation 15* (in force as of November 2009) which clarifies that the term *financial support*, as used in article 120bis of the *Penal Code* refers to “the collection or provision of funds or materials or the provision of premises or any other material facilities for a terrorist organization or an individual who commits terrorist activities”. The term *individuals who commit terrorist activities* refers to any individuals who attempt to commit, prepare to commit or actually commit terrorist activities. This clarification extends the FT offence to the sole collection of funds, including where the funds have not been handed over to the terrorist or terrorist organisation. This judicial interpretation is binding on all Chinese courts. This deficiency has been satisfactorily addressed.

SR II (Deficiency 2): There is no definition or list of what should be considered to be “terrorist activities”.

99. Article 120bis criminalises the financing of terrorist acts, regardless of whether the terrorist act is committed in China or abroad. However, the term *terrorist activities* is not expressly defined in the legislation. The mutual evaluation report notes that this leads to concern over whether the financing of all the terrorist activities set out in articles 2(a) and 2(b) the *Terrorist Financing Convention* are covered.

100. Since the onsite visit, the Chinese authorities have been working to clarify the scope of the term *terrorist activities* within the legislation. On 29 October 2011, China enacted special legislation—the *Decision of the Standing Committee of the National People’s Congress on Strengthening Counter-Terrorism Work* (the *Decision*), Article II—which specifically defines the term *terrorist activities* as follows:

The term “terrorist activity” refers to any act intended to cause public panic, endanger public safety or coerce state organs or international organizations, by means of, among others, violence, destruction and/or blackmail, that has caused or intends to cause human injury or death, significant property losses, destruction of public facilities, social

chaos or other serious social harm, and any act of inciting, financing or facilitating by other means the above-mentioned activities.⁹

101. China's *Penal Code* contains offences which correspond to some of the terrorist offences referred to in article 2(a) of the *Terrorist Financing Convention* (see Annex 3)¹⁰. The new legislation further enhances implementation of article 2(a) by also covering those offences that are set out in the relevant international conventions/protocols and which require proof of one or more of the purposive elements specified in the new definition of *terrorist activity* (i.e., the intention to cause public panic, endanger public safety or coerce state organs or international organizations). Overall, China's legislation now covers almost half of the offences referred to in article 2(a) of the *Terrorist Financing Convention*. However, the remaining half of article 2(a) offences are not adequately covered because the only *mens rea* to be proven is that the activity was performed knowingly. There is no requirement to also prove that the terrorist activity was performed for the purpose of making public panic or coercing State organs or international organizations—which is a key element of the new definition of *terrorist activity*. The Chinese authorities argue that such wording is to reveal the essence of terrorist activities and guide the counter-terrorism work. Here, the “purposive elements” involve three situations, including causing public panic, endangering public safety or coercing state organs or international organizations, and are sufficiently expansive to cover various terrorist acts. In practice, there is no need for the prosecution to prove the “purposive elements” as the “purposive elements” are broad enough and the criminal purpose is sufficiently demonstrated by criminal acts. On this basis, the Chinese authorities state that the term *terrorist activities*, as defined by the *Decision*, covers the essential requirements of the Article 2(a) of Terrorist Financing Convention. Nevertheless, it should be noted that the new definition has not yet been tested in the Chinese courts. Consequently, it has not yet been demonstrated that, in practice, there is no need for the prosecution to prove the purposive elements of the offence which, on a plain reading of the legislation, would appear to be required. Annex 4 sets out the list of terrorist acts which are required by article 2(a) of the *Terrorist Financing Convention*, but which are not clearly covered by China's legislation¹¹.

102. Overall, the new definition of *terrorist activity* fully covers the types of offences specified in Article 2(b) of the *Terrorist Financing Convention*. Additionally, almost half of the offences specified in Article 2(a) of the *Terrorist Financing Convention* are now also covered. Since June 2011, substantial progress has been made to address this deficiency.

⁹ Article II of the *Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work* (Adopted at the 23rd Meeting of the Standing Committee of the Eleventh National People's Congress on October 29, 2011).

¹⁰ Annex 3 has not obtained the official confirmation of the Chinese legislative body or judicial authorities, and are used only as the basis of the initial outcomes by the FATF Secretariat.

¹¹ Annex 4 has not obtained the official confirmation of the Chinese legislative body or judicial authorities, and are used only as the basis of the initial outcomes by the FATF Secretariat.

SRII (Deficiency 3): The assessment team is not satisfied that the terrorist financing offence extends to a sufficiently broad and clear definition of “funds” as that term is defined in the TF Convention.

103. Since the onsite visit, the authorities have issued *Judicial Interpretation 15* which clarifies that the term funds in article 120bis should be interpreted consistent with the definition in the *Terrorist Financing Convention*. This judicial interpretation is binding on all Chinese courts. This deficiency has been satisfactorily addressed.

SPECIAL RECOMMENDATION II, OVERALL CONCLUSION

104. China has made good progress in corrected the deficiencies identified in the MER in relation to SRII. A judicial interpretation, which is binding on all Chinese courts, has further clarified the scope of the FT offence, and addressed two out of the three technical deficiencies. Only one technical deficiency remains in relation to the scope of the definition of *terrorist activities*. However, since the on-site visit, China has enacted new legislation which expressly defines the term *terrorist activities*. Although this definition does not cover all of the offences required by the *Terrorist Financing Convention*, it covers a majority of the offences (almost 75%). Of the three technical deficiencies which were identified during the mutual evaluation, two have been satisfactorily addressed, and the majority of aspects in the remaining deficiency have also been addressed. In these circumstances, China has brought the level of compliance with SRII up to a level essentially equivalent to LC.

SPECIAL RECOMMENDATION IV – RATING NC

SRIV (Deficiency 1): No explicit obligation to report suspicions of terrorist financing.

105. China has amended its legislation to explicitly require FIs to report suspicions of FT. See the *FT/STR Rules* (in force as of 21 June 2007). This deficiency has been satisfactorily addressed.

SRIV (Deficiency 2): Concerns raised in relation to Recommendation 13 apply equally to SR IV:

- **No RMB reporting obligation for the securities and insurance sectors;**
- **No explicit obligation to report suspicions of terrorist financing;**
- **No obligation to report attempted transactions;**
- **The rules do not define the basis upon which suspicion should be founded (i.e. to include, at least, the required list of predicate offences); and**
- **Significant concerns about the overall effectiveness of the system, and the lack of subjective assessment by reporting institutions.**

106. As noted above, all of the technical deficiencies in relation to R13 have been addressed. Although some concerns about the effectiveness of the STR reporting regime overall remain, these concerns primarily relate to the reporting of subjectively suspicious transactions in the ML context.

Since 2009, all sectors have been reporting FT-related STRs—although the levels of reporting in the securities and insurance sector are very low.

SPECIAL RECOMMENDATION IV, OVERALL CONCLUSION

107. Since the on-site visit, China has made significant progress to improve compliance with SRIV. The legislation has been amended to correct all of the technical deficiencies identified in the MER in relation to SRIV. Additionally, China has taken steps to enhance the effectiveness of implementation, although some concerns remain about the low level of reporting in the securities and insurance sectors. Nevertheless, it should be noted that a paper-based, off-site desk review is limited in its ability to assess effectiveness. Overall, China has brought the level of compliance with SRIV up to a level essentially equivalent to LC.

VI. Review of the measures taken in relation to the Key Recommendations

108. This section sets out the Secretariat's detailed analysis of the progress which China has made in relation to the key Recommendations rated NC/PC. It should be noted that the text for R23 and R35 is the same as that which was tabled at the June 2011 Plenary and for which the Plenary decided that China had made sufficient progress to have raised its compliance to a level essentially equivalent to LC. The analysis of the key Recommendations which remain to be considered in the context of China's application for removal from the regular follow-up process—SRI and SRIII—has been updated to reflect the progress that China has made since June 2011.

RECOMMENDATION 23 – RATING PC

R23 (Deficiency 1): No supervisory programme yet implemented for the securities and insurance sectors following extension of law to these sectors.

109. Since the on-site visit, China has implemented a supervisory programme for the securities and insurance sectors, as is described below in more detail.

People's Bank of China (PBC)

110. The banking, securities and insurance sectors are now subject to daily off-site monitoring by the PBC. Additionally, they are subject to on-site inspections for compliance with the AML/CFT requirements. The following chart sets out the number of AML/CFT on-site inspections of FIs in the securities and insurance sectors.

Year	Securities sector		Insurance sector	
	Number of FIs inspected	Number of FIs sanctioned	Number of FIs inspected	Number of FIs sanctioned
2007	96	0	528	0
2008	288	17	1 765	51
2009	212	10	854	77
2010	193	18	671	74
TOTALS	789	45	3 818	202

111. Given the huge number of FIs operating in China on one hand and limited supervisory resources in another, off-site supervision is an important element in the regime. The PBC analyses the results of its off-site inspection process to gain a better understanding of the level of compliance in each sector, with a view to more effective allocation of its onsite inspection resources. Since 2008, the PBC has been working to refine this process. Under the current process for determining which financial institutions should be targeted for an on-site inspection in the coming year, the PBC analyses the ML/FT risks of each institution by assessing the following information: its AML/CFT internal control documents; the results of its STR filing work; its record of incompliance; the risks posed by certain businesses; information acquired through the institution's participation at meetings; the outcomes of the institution's internal auditing or self-inspections; the results of past on-site inspections conducted by the PBC; reports by the FI of corrective action taken following inspections; press articles; relevant information released by other government agencies; information acquired through other departments of the PBC; reports from the public, etcetera; and the results of a self-assessment which FIs are required to conduct and submit to the PBC within a certain timeframe.

112. All of the above information is analysed and taken into account to assess: *(i)* the institution's AML/CFT control system, including its AML/CFT policies, their evolution, organisational structure, AML/CFT positions and employees; *(ii)* the institution's fulfilment of its obligations to prevent, monitor and assist suppressing ML/FT, including CDD measures, record keeping, training, transaction reporting, assisting investigations, maintaining confidentiality, etcetera; *(iii)* the institution's monitoring and control of its departments and branches in their work related to AML/CFT, including internal auditing, self-assessment and relevant mechanisms; and *(iv)* the institution's responsiveness to the PBC local branches' instructions and guidance on AML/CFT, including filing off-site forms and reports, submitting regular AML/CFT reports, facilitating on-site inspections by the PBC, etcetera.

113. Financial institutions which are found to fall within the following circumstances are considered to be of the highest priority for supervision and on-site inspection: *(i)* non-compliance with AML/CFT obligations which leads to detected ML activities; *(ii)* employee(s) playing an active role or being passively involved in ML activities; *(iii)* failing to maintain confidentiality, which leads to a serious result; *(iv)* intentionally not disclosing a serious incident to the authorities, which leads

to a serious result; and (v) being found with other serious violations concerning AML/CFT. The PBC verifies all information acquired from off-site forms and other sources through inquiry by phone, letter, visit or meetings with senior management. The institution's risks are then evaluated comprehensively based on all of this information and its self-assessment reports, which may lead to notification of risk, administrative sanctions, and on-site inspections where appropriate.

114. Using these criteria, the PBC first divides all FIs into different groups in terms of sub-sector and headquarter/branch, and lists FIs of each group in the sequence of their assessment results (ratings). Financial institutions with different ratings will receive different types of supervision on an ongoing basis. Those with poor ratings are to be inspected on-site. Those with moderate ratings are subject to a combination of various supervisory activities including summoning senior management, an on-site visit (different from an inspection), written inquiry(ies), and special on-site inspections focusing on identified vulnerabilities where appropriate. Financial institutions with good ratings will receive mainly off-site supervisory instructions.

115. Since 2008, the head office of the PBC has been implementing an annual control plan of AML/CFT work, which has been giving greater attention to compliance of the FI as a whole, rather than being overly focused on the compliance of individual branches of FIs. The local PBC branches are responsible for submitting annual onsite inspection plans to the PBC head office. The head office is responsible for structuring the overall national onsite inspection plan and organising on-site inspections directly with the head offices of the FIs, so as to ensure that the overall on-site inspection plan has proper coverage in terms of each type of industry and organization, and includes overall inspections of both headquarters and individual branches of FIs.

116. The PBC has adopted a two-way approach in conducting on-site inspections. First, at the beginning of each year, each PBC local branch proposes its annual plan of on-site inspections, indicating which FIs in its jurisdiction should be subject to on-site inspections and seeking approval of the PBC headquarters. Upon approval by the PBC headquarters, the inspections are conducted by the local PBC branches, in line with the approved plan. Second, the local PBC branch can initiate special inspections whenever necessary to address emerging threats or risks that are identified and which might be linked to specific financial activity, ML/FT risk, or certain risky elements in the AML/CFT regime. To ensure the timeliness, the local PBC branches are allowed to conduct special inspections, without prior approval from PBC headquarters, and to the PBC headquarters on a quarterly basis.

117. With a view to gaining better understanding and control of systematic risks, the PBC has begun conducting on-site inspections on the headquarters of FIs. The PBC takes several approaches in this regard. First, the PBC headquarters may conduct the onsite inspection itself. Second, the PBC headquarters may direct its local PBC branch to conduct the on-site inspection. Third, the PBC local branches may pick up the FIs (headquarters) located in their jurisdiction according to the policy determined by the PBC headquarters, with the PBC local branches conducting inspections on these FIs (headquarters) upon approval by the PBC headquarters. The table below indicates that the number of FIs (headquarters) being subject to on-site inspection has been increasing over the past years:

Year	FIs (headquarters) being on-site inspected	All FIs (headquarters and branches) inspected	Percentage of FIs (headquarters) being on-site inspected in all FIs inspected
2006	193	3 378	5.71%
2007	201	4 533	4.43%
2008	1 245	3 364	37.01%
2009	914	2 424	37.71%
2010	935	2 426	38.54%

118. Additionally, the PBC collects information on the risks identified by its local PBC branches during the on-site inspections of a specific FI so as to better understand its overall risks. Where necessary, the PBC headquarters may apply the following supervisory measures to the FI headquarters: on-site inspections, summoning senior management, an on-site visit (different from inspection), a visit to other branches of this FI, specific supervisory advice, etcetera. In 2010, for instance, the PBC conducted on-site inspections of 8 FI headquarters.

119. In the years 2009 and 2010, the PBC conducted on-site inspections to determine the compliance of FIs with *PBC Circular 391* and *PBC Circular 48*, and has subsequently issued sanctions in some cases. It should be noted that inspections in 2009 focused solely on compliance with *PBC Circular 391*, as *PBC Circular 48* only came into force at the beginning of 2010.

Year	Number of FIs subject to special inspections for compliance with <i>PBC Circulars 391</i> and <i>48</i>	Number of FIs subject to regular inspections for compliance with AML/CFT measures generally
	FIs inspected	FIs inspected
2009	600	1 824
2010	313	2 113

120. The PBC reports that, in the past three years, the non-bank FIs have made great strides in implementing AML/CFT requirements, and the level of compliance has improved gradually. The PBC is of the view that the AML/CFT work in these sectors is on track, while the sector-specific regulators have been providing instructions respectively for the industry as well.

China Securities Regulatory Commission (CSRC)

121. The CSRC has incorporated AML/CFT into its general supervisory work, and has established an internal cooperative mechanism, led by its Enforcement Bureau with the involvement of other related departments. Under the new regime, the local CSRC branches are responsible for local AML/CFT supervision, following the instructions of CSRC headquarters. Self-regulatory bodies (SROs) also assist the CSRC to ensure AML/CFT compliance in securities and futures institutions.

122. Additionally, the CSRC undertook a nationwide investigation and study on the AML/CFT work of industrial organizations by holding meetings with the PBC and other financial regulators, visiting securities firms and distributing questionnaires. The CSRC analysed the information

gathered during this investigation, with a view to identifying the existing problems and challenges of implementing AML/CFT measures in the securities and futures sector, so as to provide real and precise data for strengthening compliance and the effectiveness of implementation in this sector. As an outcome of this initiative, the CSRC issued the *Measures for the Anti-money Laundering Work in the Securities and Futures Sectors* (the *Securities and Futures AML/CFT Measures*) which came into force on 1 October 2010.

123. The *Securities and Futures AML/CFT Measures* further clarify the responsibilities of the CSRC to: (i) work with the PBC on AML/CFT regulations and strategies for the securities and futures industry; (ii) impose on securities and futures institutions obligations to establish and improve their AML/CFT internal control systems; (iii) implement AML/CFT requirements in the context of market entry requirements and staff qualifications; (iv) assist the PBC with AML/CFT supervision in the sector; and (v) work with the PBC to provide instructions to the self-regulatory organisations (SROs) on the development of AML/CFT guidance, and the provision of AML/CFT training and awareness raising programs.

124. Additionally, acting under the instructions of the CSRC, the China Securities Association (CSA) and the China Future Association (CFA) have issued additional guidance, which is binding on their members, concerning how the AML/CFT measures are to be implemented in the industry. The CSA has issued: *Anti-money Laundering Guidelines to Members of China Securities Association (2008)*; the *Guidelines to Securities Companies on Customer Risk Classification Standards of Anti-money Laundering (Interim) (2009)*; and *Guidelines to Fund Management Companies on Customer Risk Classification Standards of Anti-money Laundering (Interim) (2009)*. The CFA has issued: *Anti-money Laundering Guidelines to Members of China Futures Association (2008)*; and *Guidelines to Futures Companies on Customer Risk Classification Standards of Anti-money Laundering (2009)*.

China Insurance Regulatory Commission (CIRC)

125. The China Insurance Regulatory Commission (CIRC), which is responsible for supervising the internal control systems of insurance institutions, has established an AML office under its internal department (Auditing Bureau), which is responsible for collaborating and co-ordinating with the PBC concerning the AML/CFT supervision of the sector.

126. The CIRC has issued the *Circular on Further Strengthening of the AML/CFT Work in the Insurance Industry* (the *CIRC AML/CFT Circular*), which sets out specific AML/CFT requirements for the industry relating to market entry and the qualifications of senior management. The CIRC Supervision Department is responsible for supervising for compliance with these requirements, through inspections¹² and auditing investigations¹³. Since April 2010, the CIRC has been working to

¹² As one of the core responsibilities of the Auditing Bureau, the comprehensive inspection is to conduct an overall and medical check-up inspection. The inspection content includes different aspects of company management, including administration of legal entity, finance business, personnel salary, etc.

¹³ The auditing investigation is to adopt supervisory methods in the investigation. Different from the inspection, the purpose of the auditing investigation is to know the situations and reveal risk, but not to punish inspection objectives, disclose the inspection results and give feedback to the inspection objectives.

develop additional AML/CFT guidelines for the insurance industry, which are expected to be finalised shortly and published upon agreement with the PBC.

Co-ordination and co-operation among the financial regulators

127. The PBC and the sector-specific financial regulators have also taken measures to enhance their co-operation in AML/CFT supervision. In April 2008, the PBC presided over a meeting with the China Banking Regulatory Commission (CBRC), the CSRC and the CIRC, during which the PBC informed the other regulators of outcome of its on-site inspection and off-site supervision processes, and other relevant supervisory information. The regulators subsequently established a regular information sharing mechanism, according to which the PBC holds annual meetings at the beginning of each year to inform the other financial regulators of its AML/CFT work, including the results of the off-site monitoring processes conducted in the previous year. In 2010, this meeting was held in August, so that the PBC could inform the other regulators of the results of its off-site and onsite supervision in 2009 and the first half of 2010, and to discuss the recent FSAP of China and additional specific means of cooperation among them in the future. The PBC also holds periodical or non-periodical, bilateral or multi-lateral, talks with the other financial regulators for the purpose of sharing supervisory information, and putting forward AML/CFT instructions for the FIs under their supervision.

128. In some economically and financially active regions, local branches of the PBC and other regulators have also established regular cooperation mechanisms, and some have initiated AML/CFT inspections on FIs jointly with the PBC. More general information sharing among the PBC and other regulators is also achieved through the distribution of AML/CFT annual reports and JMCMC documents. Additionally, consultation is underway on Memorandum of Understanding between the PBC and the three functional financial regulators, which is expected to be signed in the near future.

Results of the PBC inspection process

129. The following chart sets out the number of FIs which were found to be in breach of the CDD requirements relating to beneficial ownership, and the identification of customers depositing or withdrawing large amounts of cash. For the first round of inspections conducted in 2009, the PBC reports that it focused more on educating FIs on how to adapt to the new requirements, rather than imposing sanctions. However, in the 2010 inspection cycle, the PBC adopted a tougher stance in cases of non-compliance and, as a result, more sanctions (in the form of fines) were issued, as is indicated in the chart below.

NUMBER OF FINANCIAL INSTITUTIONS FINED FOR BREACHING THE CDD REQUIREMENTS RELATING TO BENEFICIAL OWNERSHIP				
Year	Banking institutions	Securities institutions	Insurance institutions	Total
2009	56	1	0	57
2010	70	3	0	73

NUMBER OF FINANCIAL INSTITUTIONS FINED FOR BREACHING THE CDD REQUIREMENTS APPLICABLE TO CUSTOMERS DEPOSITING/WITHDRAWING LARGE AMOUNTS OF CASH				
2009	108	0	0	108
2010	153	0	0	153
TOTALS	387	4	0	391

130. From 2009 to 2010, about 8% of the 4,850 inspections conducted resulted in a breach which was serious enough to warrant a fine. Of these, about 51% of fines levied, related to breaches of the CDD requirements.

RECOMMENDATION 23, OVERALL CONCLUSION

131. China has made significant progress to enhance its implementation of R23. Since the onsite visit, an AML/CFT supervisory programme has been implemented for the securities and insurance sectors, and the authorities have taken steps to enhance co-ordination and information sharing between the PBC and the sector-specific regulators. This was the only deficiency which was identified in the MER concerning R23. Although a paper-based, off-site desk review is limited in its ability to assess effectiveness (or lack thereof), the information provided by the Chinese authorities demonstrates that the supervisory system is generating some positive results. Overall, China has brought the level of compliance with R23 up to a level essentially equivalent to LC.

RECOMMENDATION 35 – RATING PC

R35 (Deficiency 1): Criminalisation of ML, the seizure/confiscation regime and preventative measures are not fully in line with the Vienna, Palermo and TF Conventions.

132. China has corrected many of the technical deficiencies which were identified in relation to the criminalisation of ML, such that it has brought its level of compliance with R1 up to a level essentially equivalent to LC. China has amended its legislation to provide for corporate criminal liability which further enhances its criminalisation of ML and its seizure/confiscation regime, consistent with the *Vienna Convention*, *Palermo Convention* and *Terrorist Financing Convention*. However, it is still not possible to seize/confiscate assets of equivalent value and self-laundering has not yet been independently criminalised. China has also substantially strengthened its preventative measures, with an emphasis on requiring FIs to collect and maintain beneficial ownership information, and to make the STR reporting regime more comprehensive. This deficiency has been substantially addressed.

R35 (Deficiency 2): Criminalisation of FT and ability to provide mutual legal assistance not fully in line with the TF Convention.

133. China has enhanced its criminalisation of FT by issuing a judicial interpretation, binding on all Chinese courts, which corrects two of the three technical deficiencies identified in the MER. This enhances its ability to provide mutual legal assistance (MLA), including in cases involving the sole collection of funds. China has also enhanced its ability to provide MLA in FT cases by entering into

a large number of bilateral treaties. As of the end of December 2010, China had entered into 110 legal assistance treaties with 57 countries, of which 84 have come into effect (53 legal assistance treaties, 26 extradition treaties and five treaties on the transfer of sentenced persons). All of these treaties apply to ML and FT. Additionally, China has joined the *Hague Service Convention* and the *Hague Evidence Convention*. Since 2007, China has received one MLA request relating to terrorist financing, and that request has been fulfilled. However, it remains an issue that the term *terrorist activities* remains undefined, and not all of the terrorist offences referred to in the international Conventions and protocols listed in the *Terrorist Financing Convention* are criminalised in China's domestic law. This may impede China's ability to provide MLA to countries which have not entered into an MLA treaty with China and where dual criminality is a requirement. However, it should also be noted that there have been instances where China has provided MLA, even when the request was based on facts that were not considered to be an offence in China. This deficiency has been substantially addressed.

RECOMMENDATION 35, OVERALL CONCLUSION

134. China has made progress in enhancing its implementation of R35. In particular, China has substantially enhanced its criminalisation of ML and system of preventative measures. However, it remains an issue that self-laundering is not criminalised and it is not possible to seize/confiscate assets of equivalent value. China has also enhanced its criminalisation of FT (particularly in relation to the sole collection of funds) and entered into a large number of MLA treaties which enable it to provide assistance in FT cases. Additionally, China has defined *terrorist activities*, such that the majority of offences referred to in the *Terrorist Financing Convention* are now criminalised under Chinese law. Some terrorist offences are not yet uncovered which may impede China's ability to provide MLA in FT cases where dual criminality is a requirement, although this is somewhat mitigated as there have been past instances in which China has provided MLA, even when the request was based on facts that were not considered to be an offence in China. Overall, China taken sufficient action to bring its level of compliance with R35 up to a level essentially equivalent to LC.

SPECIAL RECOMMENDATION I – RATING PC

SRI (Deficiency 1): Criminalisation of TF, preventative measures and ability to provide mutual legal assistance not fully in line with the TF Convention.

135. China has enhanced its criminalisation of FT by issuing a judicial interpretation, binding on all Chinese courts, which corrects two of the three technical deficiencies identified in the MER. This enhances its ability to provide mutual legal assistance (MLA), including in cases involving the sole collection of funds. China has also enhanced its ability to provide MLA in FT cases by entering into a large number of bilateral treaties (see the above discussion of Deficiency 2 in R35 for further details). Additionally, China has enacted new legislation which defines the term *terrorist activities* such that the majority (almost 75%) of the terrorist offences referred to in articles 2(a) and 2(b) of the *Terrorist Financing Convention* are covered. For the remaining 25% of offences which are not covered, China may be impeded in its ability to provide MLA to countries which have not entered

into an MLA treaty with China and where dual criminality is a requirement. However, it should also be noted that there have been instances where China has provided MLA, even when the request was based on facts that were not considered to be an offence in China. This deficiency has been substantially addressed.

SRI (Deficiency 2): Implementation of UNSCR 1267 and 1373 is inadequate.

136. Since June 2011, China has implemented new legislation that establishes a legislative framework and administrative authority for enforcing designations and updates to the lists, and provides an administrative mechanism through which China can respond to foreign freezing requests. This satisfactorily or substantially addresses four of the seven deficiencies which were identified in the MER. The remaining shortcomings relate to: guidance for DNFBPs; delisting and unfreezing procedures; and the rights of bona fide third parties. Although significant progress has been made, the remaining shortcomings mean that this deficiency has been partially addressed.

SPECIAL RECOMMENDATION I, OVERALL CONCLUSION

137. Since June 2011, China has made progress to enhance its implementation of SRI. The criminalisation of FT substantially meets the requirements of SRII and covers the majority of the offences referred to in the *Terrorist Financing Convention*. However, for those terrorist offences which are not yet covered, China may be impeded in its ability to provide MLA in FT cases where dual criminality is a requirement. This is somewhat mitigated as there have been past instances in which China has provided MLA, even when the request was based on facts that were not considered to be an offence in China. China has also substantially enhanced its implementation of S/RES/1267(1999) and S/RES/1373(2001) by establishing a legislative framework and administrative authority through which China is able to enforce designations and updates to the lists, and respond to foreign freezing requests. However, some shortcomings remain particularly in relation to: guidance for DNFBPs, delisting and unfreezing procedures, and the rights of bona fide third parties. Although substantial progress has been made, overall, China has not yet taken sufficient action to bring its level of compliance with SRI up to a satisfactory level.

SPECIAL RECOMMENDATION III – RATING NC

SRIII (Deficiency 1): The direct criminal procedure (seizure) approach is insufficient to adequately and effectively respond to the freezing designations in the context of the relevant UN resolutions.

138. At the time of the on-site visit, China implemented UNSCR 1267 and UNSCR 1373 through the use of its direct criminal procedures. This approach was deemed to be insufficient to adequately and effectively respond to the freezing designations in the context of the relevant UN resolutions.

139. On 29 October 2011, China enacted new legislation which enhances its implementation of SRIII by establishing a legislative framework and administrative authority for enforcing designations: the *Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work* (the *Decision*) and the accompanying *Statement of Decision*

on *Strengthening Counter-Terrorism Work* (the *Statement*). The *Statement* is a binding explanation of the National People's Congress on how to interpret the *Decision*.

140. The *Statement* elaborates that the *Decision* establishes “procedures other than the judicial ones that allow authorized administrative authority to designate and publish terrorist organisations and terrorists, so as to effectively prevent and combat terrorist activities, especially by means of monitoring and freezing terrorist-related assets.”

141. The Ministry of Foreign Affairs is the focal point for receiving updates to the United Nations list of designated persons and entities, or requests from other countries to take freezing action. The Ministry of Foreign Affairs refers such updates and requests to the State Counter-Terrorism Leading Institution which is responsible for designating terrorist groups and terrorists, and for updating the lists as appropriate (*Decision*, Article IV; *Statement*, Section 3).

142. It is the responsibility of the public security authority under the State Council (*i.e.*, the Ministry of Public Security) to publish the lists of designated persons and entities. Immediately upon publication of the lists, the Ministry of Public Security makes the decision to freeze the funds or other assets of the designated persons and entities, and financial institutions and DNFBP are required to carry out the freeze immediately (*Decision*, Article IV; *Statement*, Section 3). The *Decision* thereby requires freezing action to take place *without delay*, as that term is defined by the FATF.

143. The *Decision*, whose legal hierarchy is the highest in China's legal system, but for the Constitution, supercedes the *Circular of the People's Bank of China on Implementing the Circular of Ministry of Foreign Affairs on Implementing Relevant Resolutions of UN Security Council*, PBC Doc. No.[2010] 165 (*PBC Circular 165*) which was issued on 26 May 2010 as an interim measure to supplement China's implementation of SRIII, pending the introduction of further legislation. *PBC Circular 165* was deficient for two reasons. First, it only applied to FIs and institutions that engage in clearing and settlement; DNFBPs, for example, were not covered. Second, it did not require freezing action to be taken *without delay*, as that term is defined by the FATF¹⁴. Both of these concerns have been satisfactorily addressed by the new legislation.

144. Overall, this legislation provides an administrative process for updating the UN lists (UNSCR 1267), responding to foreign freezing requests or designating persons and entities (UNSCR 1373). This administrative process is completely separate from the powers of judicial authorities to designate and convict terrorist organisations in the course of an ordinary criminal procedure (*Decision*; *Statement*, Section 3). This deficiency has been satisfactorily addressed.

¹⁴ Pursuant to *PBC Circular 165*, the PBC local branches had up to 10 work days in which to notify FIs within their jurisdiction of freezing actions to be taken. Although FIs were able to take action to implement the sanctions lists before receiving the notification of the local PBC branch, the language of Item I could be interpreted to mean that the obligations under *PBC Circular 165* were not triggered until the list had been “relayed by [the] financial regulators” (*i.e.*, the local PBC branches). In other words, although the FIs could act under *PBC Circular 165* to implement the sanctions list before notification from the local PBC branch was received, they were not under any legal obligation to do so until such notification was received.

SRIII (Deficiency 2): The present regime does not address the non-regulated sector in a meaningful way.

145. The relevant UNSCRs require all natural and legal persons within the country to be covered. The *Decision* explicitly requires both financial institutions and DNFBPs to take freezing action in relation to designated persons and entities (Article V).¹⁵

146. Other natural and legal persons within the country (*i.e.*, those persons which are not FIs or DNFBPs) are also explicitly prohibited from “concealing, transferring, selling off, damaging or destroying any property detained, sealed up or frozen by any administrative law enforcement organ” (*Law of the People’s Republic of China on Public Security Administration Punishments*, Article 60). These provisions are independent from criminal proceedings, and operate as follows. In practice, the Ministry of Public Security posts the terrorist lists on its public website, along with a clear notification to the public in the form of a Press Release concerning the obligation to respect the lists and not provide any material facilities or services to listed persons or entities. Legally, once the Ministry of Public Security has made the decision to freeze the funds of designated persons and entities through the administrative process described above, all natural and legal persons within the country are prohibited from dealing in them.

147. As well, the provisions of Article 120bis of the *Penal Code* also apply to all natural and legal persons within the country, and explicitly prohibit the provision any material facilities or services to terrorists and terrorist organisations, or to conduct any transactions on their behalf. This deficiency has been satisfactorily addressed.

SRIII (Deficiency 3): No procedure is in place to ensure an adequate and qualitative screening of foreign freezing requests.

148. The *Decision* establishes the State Counter-Terrorism Leading Institution as being responsible for designating terrorist groups and terrorists, and for updating the lists as appropriate (Article IV). In making designations, the definitions of *terrorist* or *terrorist organisation*, as set out in Article II of the *Decision* are to be taken into account:

The term *terrorist* refers to any individual who organises, plots and commits terrorist activities, or who is a member of a terrorist organization.

The term *terrorist organisation* refers to criminal groups formed for the purpose of committing terrorist activities.

The term *terrorist activity* refers to any act intended to cause public panic, endanger public safety or coerce state organs or international organizations, by means of, among others, violence, destruction and/or blackmail, that has caused or intends to cause human injury or death, significant property losses, destruction of public facilities, social chaos or other serious social harm, and any act of inciting, financing or facilitating by other means the above-mentioned activities. (*Decision*, Articles II and IV; *Statement*, Section 3)

¹⁵ The *Decision* is much broader than *PBC Circular 165* which only applied to FIs and institutions that engage in settlement work.

149. Additionally, China has implemented legislation to require an FI which receives from a foreign government authority a request to take freezing action or provide customer information related to S/RES/1267(1999) and S/RES/1373(2001) to ask the foreign authority to contact China's diplomatic service. The FI is unable to take any measures without prior authorisation (*PBC Circular 165*, Item X). This deficiency has been satisfactorily addressed.

SRIII (Deficiency 4): Guidance for and monitoring of all implicated sectors is not effectively organised.

150. Since the onsite visit, China has made some progress to correct this deficiency. In particular, China is providing more guidance on these issues. Since November 2009, a new sub-item entitled *Financial Sanctions and Risk Warning* has been added to the item entitled *Anti-money Laundering* on the official website of PBC. This new item includes: the *Terrorist Sanctions List*, the *Weapons of Mass Destruction Sanctions List*, *Other Sanctions* and a *Risk Warning*. In this way, the PBC informs FIs and others of, among other things, persons and entities designated by the United Nations Security Council (UNSC) pursuant to S/RES/1267(1999), or those designated by China or other countries pursuant to S/RES/1373(2001). Second, the PBC has issued the *FT/STR Rules* (in force as of June 2007) which require FIs to report any transactions suspected of relating to FT. Additionally, the PBC has strengthened its guidance and FT-related supervision over FIs (see the above discussion of R13, SRIV and R23). As well, the supervision authorities now give case-by-case guidance for FIs with regard to implementing financial sanction measures. However, no guidance is provided to the DNFBP or unregulated sector on their obligations to take freezing action pursuant to S/RES/1267(1999) and S/RES/1373(2001).

151. China has also taken steps to strengthen its monitoring for compliance with these requirements. The PBC is responsible for supervising and inspecting FIs for the implementation of *PBC Circular 165*, and is actively doing so (Item X). However, there are no measures in place to monitor non-FIs (*e.g.*, DNFBPs) for compliance with these requirements.

152. Additionally, Article VII of the *Decision* provides that the State Council shall be responsible for developing Regulations concerning the designation of terrorist organisations and terrorists, and the competent authority in charge of AML under the State Council, together with the public security authority and state security authority under the State Council, shall be responsible for developing Rules concerning freezing terrorist-related assets. The Chinese authorities advise that, at present, the People's Bank of China, the Ministry of Public Security and the Ministry of State Security are drafting Rules relating to the freezing of terrorist-related assets. The aspects which are being addressed include, but are not limited to, the enforcement body, freezing period, funds or other assets, unfreezing, relief/remedy, protection of bona fide third-party rights and interests, supervision and implementation. This deficiency is partially addressed.

SRIII (Deficiency 5): There is no clear determination of the scope of the freezing obligations in respect of what assets need to be targeted and their link with the terrorist individuals and entities.

153. At the time of the onsite visit, direct criminal procedures were relied upon to freeze terrorist-related *funds*—a term which was undefined in the *Criminal Procedure Code*. Use of the

term *funds* raised concern that assets such as real estate, vehicles, jewellery, artwork, etcetera would not be covered. Additionally, there was concern that assets indirectly controlled or owned by designated persons and entities were not covered.

154. The *Decision* requires all financial institutions and DNFBP to immediately freeze the “funds or other assets related to terrorist organisations or terrorists on the published lists”. The term *funds or other assets* is broad enough to cover any type of asset or property.

155. *PBC Circular 165* further defines the assets to be frozen as “all forms of assets, tangible or intangible, movable or immovable, related to the FIs and owned or controlled in any way by the individuals and entities on the sanction list, including but not limited to: bank deposit, traveller’s check, postal money order, insurance policy, bill of lading, warehouse warrant, stocks, securities, bonds, money order and letter of credit, moveable and immovable assets with security interest, as well as legal documents or certificates proving property rights or benefits in electronic or numerical form.” The term “owned or controlled in any way” is broad enough to cover both direct and indirect ownership and control. However, because the scope of *PBC Circular 165* is restricted to assets “related to the FIs”, it remains a concern that the DNFBP sectors may not understand that the scope of the freezing obligation also related to any assets indirectly controlled or owned by designated persons and entities (although it should be noted that nothing in the legislation on its face would preclude such an interpretation).

156. This deficiency has been substantially addressed.

SRIII (Deficiency 6): No de-listing or (partial) unfreezing procedure is provided.

157. China has implemented an unfreezing procedure for listed persons who need to conduct capital receipt and payment, or other transactions due to basic living expenses or special reasons. Such procedures involve applying to the PBC which shall notify the FI if they can conduct financial transactions limited to a specified use, amount and account (*PBC Circular 165*, Item VI). In practice, the PBC can receive the application and the trans-department coordination mechanism of the implementation of UNSCRs has the authority to determine if the application complies with the requirements of S/RES/1267(1999). The MFA is responsible for giving notice to the UNSC or obtaining the approval of the UNSC, as is required by that resolution.

158. In the case of persons who are challenging the freeze, China has implemented a procedure whereby a customer of a FI can apply, via the FI, to the PBC headquarters for verification and confirmation of the freeze (*PBC Circular 165*, Item VI). In practice, the PBC can receive the application and the trans-department coordination mechanism of the implementation of UNSCRs has the authority to determine if the application complies with the requirements of S/RES/1267(1999). The MFA is responsible for submitting delisting or unfreezing requests to the UNSC, as required by that resolution. However, it remains necessary for China to put explicit procedures in place to address the deficiency.

159. The Chinese authorities advise that, at present, the People’s Bank of China, the Ministry of Public Security and the Ministry of State Security are drafting Rules relating to the freezing of terrorist-related assets, pursuant to the authority of Article VII of the *Decision*. The aspects which

are being addressed in these Rules include, but are not limited to, the unfreezing procedures, reliefs and remedies. This deficiency has been partially addressed.

SRIII (Deficiency 7): No adequate regulation on bona fide third party protection is provided.

160. The Chinese authorities advise that the People's Bank of China, the Ministry of Public Security and the Ministry of State Security are currently in the process of drafting Rules relating to the freezing of terrorist-related assets, pursuant to the authority of Article VII of the *Decision*. The aspects which are being addressed in the drafting of these Rules include, but are not limited to, establishing explicit and direct provisions and procedures that can be applied to the protection of bona fide third-party rights and interests in the specific circumstances of freezing terrorism-related assets. This deficiency has not yet been addressed.

SPECIAL RECOMMENDATION III, OVERALL CONCLUSION

161. Since the onsite visit, China has implemented new legislation that establishes a legislative framework and administrative authority for enforcing designations and updates to the lists, and provides an administrative mechanism through which China can respond to foreign freezing requests. Of the seven deficiencies which were identified in the MER, four have been satisfactorily or substantially addressed, two have been partially addressed, and one remains unaddressed. As this legal framework is very new (effective in October 2011), information concerning the effectiveness of implementation is not available. In any case, it should be noted that a paper-based, off-site desk review is limited in its ability to assess effectiveness. Overall, the new legal framework significantly enhances China's implementation of SRIII. However, its level of compliance with SRIII is not yet up to a level essentially equivalent to LC.

VII. REVIEW OF THE MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED NC OR PC

162. This section sets out the Secretariat's detailed analysis of the progress which China has made in relation to the other Recommendations rated NC/PC. It should be noted that this text is the same as that which was tabled at the June 2011 Plenary. In June, the Plenary decided that China had made sufficient progress to have raised its compliance to a level essentially equivalent to LC on the following Recommendations.

RECOMMENDATION 2 – RATING PC

R2 (Deficiency 1): Effectiveness: The money laundering provisions are not effectively implemented, as witnessed by the low number of convictions for money laundering.

163. As noted above in the discussion of R1, there has been a significant increase in ML convictions since the onsite visit. This increase may be attributed to a number of factors. First, the law enforcement and judicial authorities have improved their awareness of and competence in using the ML provisions effectively. Second, the introduction of the all-crimes ML offence (article 312) significantly expanded the range of predicate offences which greatly broadened China's capacity to investigate and prosecute ML activity. Third, the authorities have increased

their focus on pursuing ML activity from all types of predicate offences, including drug-related crime, smuggling, corruption, bribery, etcetera. Fourth, the clarifications of the law have increased the capacity of the authorities to investigate and prosecute a broader range of ML activities, including the sole and knowing acquisition and use of proceeds, and ML by gatekeepers.¹⁶ Fifth, by amending its legislation to provide for corporate criminal liability, China has enhanced the effectiveness of its ML offence by enabling it to prosecute legal persons which commit ML activity.

R2 (Deficiency 2): No corporate criminal liability is provided for the offences covered by article 312 and 349 PC.

164. China has amended its legislation to extend corporate criminal liability to the all-crimes ML offence set out in article 312 (see the *Amendment VII to the Criminal Law of the People's Republic of China*, which came into force in February 2008). Although corporate criminal liability has not been extended to article 349, article 312 is the more comprehensive all-crimes offence. Article 349 is restricted to the ML of the proceeds of drug crimes. As article 312 is an all-crimes ML offence, legal persons who commit any of the types of ML specified under article 349 can be prosecuted under article 312, and are therefore covered in this respect. This deficiency is substantially addressed.

RECOMMENDATION 2, OVERALL CONCLUSION

165. China has substantially corrected the technical deficiency identified in relation to R2 by extending corporate criminal liability to the all-crimes ML offence of article 312. Additionally, it has taken steps to enhance the effectiveness of implementation of the ML offences, as demonstrated by the significant increase in the number of ML convictions. Although a paper-based, off-site desk review is limited in its ability to assess effectiveness, the information provided by the authorities suggests that effectiveness has been enhanced. Overall, China has taken sufficient action to bring its level of compliance with R2 up to a level essentially equivalent to LC.

RECOMMENDATION 6 – RATING NC

R6 (Deficiency 1): No AML requirements in relation to foreign PEPs.

166. Since the onsite visit, China has extended AML/CFT requirements to foreign politically exposed persons (PEPs), although some technical deficiencies remain (*CDD Rules*, articles 7, 18 and 19). The *CDD Rules* extend the PEPs requirements to “foreign senior political persons”. The meaning of this term is clarified to apply to customers, customers’ controllers and beneficial owners who currently or previously carry on an important public function, including heads of state, heads of government, senior politicians, senior administrative, judicial, or military officials, senior management of state-owned companies, key members of political parties, and their family

¹⁶ For example, in *The bribe accepting and ML case involving Fu in Chongqing (2008)*, the wife of a predicate offender who accepted bribes was convicted for ML as a principal offender (not an accomplice), pursuant to article 191, because she used the proceeds to buy real estate, knowing that they were the proceeds of bribery. In *bribe accepting and ML case involving Deng in Fujian (2009)*, a gatekeeper was convicted for ML pursuant to article 191 for keeping bank books of large deposits for the predicate offender (who had been accepting bribes), knowing that this amount of money was not in conformity with the occupation or property status of the bribee.

members and other associates (*PBC Circular 391*, Item II(IV)). Financial institutions are required to establish appropriate risk management systems to determine whether a customer or beneficial owner is a PEP, and to perform enhanced due diligence in relation to foreign PEPs. Financial institutions are also required to obtain senior management approval for establishing business relationships with a PEP. Financial institutions are required to re-identify all existing customers. If in the course of that process, it is determined that an existing customer has become a PEP (*i.e.*, after the customer relationship is established), then senior management approval must be obtained in order to continue that relationship (*CDD Rules*, article 18). Financial institutions are required to understand the source of funds of PEPs; however, the legislation does not explicitly contain a requirement for FIs to also understand the source of wealth. This deficiency has been substantially addressed.

RECOMMENDATION 6, OVERALL CONCLUSION

167. Overall, China has significantly enhanced its implementation of R6. The definition of the term *foreign PEPs* has been clarified in a manner which is consistent with the R6, and the legislation now covers most of the required aspects. Only one technical deficiency remains. There is no explicit requirement for FIs to understand the source of wealth (although they are required to understand the source of funds). As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. China has taken sufficient action to bring its level of compliance with R6 up to a level essentially equivalent to LC.

RECOMMENDATION 7 – RATING PC

R7 (Deficiency 1): There is no requirement for banks to gather sufficient information about a respondent institution to understand fully the nature of the respondent’s business and to determine from publicly available information the reputation of the institution and the adequacy and quality of supervision and controls, in particular with regard to AML/CFT.

168. Financial institutions are now required to collect sufficient information about a respondent institution to be able to evaluate the integrity and effectiveness of its AML/CFT measures, and its AML/CFT regulation status (*CDD Rules*, article 6). This deficiency has been satisfactorily addressed.

R7 (Deficiency 2): It is no requirement to document the respective AML/CFT responsibilities within correspondent relationships.

169. When engaging in correspondent relationships, FIs are now required to confirm each institution’s responsibilities on paper, concerning CDD and record keeping requirements (*CDD Rules*, article 6). This deficiency has been satisfactorily addressed.

RECOMMENDATION 7, OVERALL CONCLUSION

170. China has significantly enhanced the legal framework in relation to correspondent banking, with the result that R7 is now substantially addressed in the legislation. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these

requirements are being implemented effectively. Overall, China has taken sufficient action to bring its level of compliance with R7 up to a level essentially equivalent to LC.

RECOMMENDATION 9 – RATING PC

R9 (Deficiency 1): No requirement to obtain core customer identification data from the third party.

171. China has amended its legislation to address circumstances in which an FI is relying on a third party to perform customer identification. An FI which is relying on another FI to perform CDD must ensure that the customer identification records can be effectively obtained and recorded (*CDD Rules*, article 24). Where the third party being relied upon is not an FI, the relying institution must be able to immediately obtain the customer identification information, and there must be no technical or legal obstacle to that third party providing it (*CDD Rules*, article 25). However, in neither case is there an explicit obligation for the relying FI to actually obtain the core customer identification data from the third party, as is required by R9; the obligation only extends to being sure that the third party may provide it immediately if so requested. This deficiency has been substantially addressed.

R9 (Deficiency 2): No requirement to ascertain the status of the third-party with respect to regulation and supervision for AML purposes.

172. China has amended its legislation to require FIs to ascertain whether a third party's CDD processes comply with the applicable AML/CFT requirements (*CDD Rules*, articles 24-25). However, there is no requirement to generally ascertain the status of a third party with respect to its AML/CFT regulation and supervision. This deficiency has been partially addressed.

R9 (Deficiency 3): No conditions introduced in relation to reliance on third-parties emanating from countries with inadequate AML regimes.

173. China has amended its legislation to require FIs pay particular attention to any transaction which has something to do with countries which have been identified by the Chinese authorities as having inadequate AML regimes. In such cases, FIs are required to file an STR. As this requirement is worded quite broadly (*i.e.*, it is not restricted to customers or the parties to such transactions), it would extend to third parties who have been relied upon to perform CDD and who emanate from a country with an inadequate AML regime (*PBC Circular 48*, Item IV). This deficiency has been satisfactorily addressed.

RECOMMENDATION 9, OVERALL CONCLUSION

174. China has enhanced its legal framework in relation to third parties and introduced business, such that many of the requirements of Recommendation 9 now are addressed in the legislation (*CDD Rules*, articles 24-25). Relying FIs are required to ensure that they may effectively obtain the CDD information from the third party. However, since there is no explicit obligation for the relying FI to do so immediately, this deficiency is considered to be substantially, but not completely, addressed. Relying FIs are also required to ensure that the third party has adequate processes to comply with the relevant AML/CFT rules. However, this requirement does not go so far as

requiring the relying FI to satisfy itself that the third party is regulated and supervised in accordance with Recommendations 23, 24 and 29. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. Overall, China has made sufficient progress to action to bring its level of compliance with R9 up to a level essentially equivalent to LC.

RECOMMENDATION 11 – RATING PC

R11 (Deficiency 1): There is no legal obligation for insurance companies and securities companies to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose except when the transactions are done in foreign currencies.

175. Since the on-site visit, China has extended to the insurance and securities sector a legal obligation to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions. The *LVT/STR Rules* which came into force in March 2007 apply, since November 2007, to all FIs in the banking, securities and insurance sector. Articles 11-13 of the *LVT/STR Rules* require all FIs to report any transaction (in domestic or foreign currency) in terms of specific criteria. Additionally, FIs are required to monitor for any transactions that is abnormal in terms of amount, frequency, flow, nature, etcetera (article 14). Those which are then considered to be suspicious after analysis, are to be reported as suspicious transactions (see R13 for further details). Under these requirements, the PBC requires the relevant documents relating to unusual transactions, and the analysis made by the FI to be incorporated into the customer identification documents (*CDD Rules*, articles 3 and 29). Financial institutions are also required to keep their analysis of unusual transactions for a minimum of five years (*PBC Circular 48*, Item V).

RECOMMENDATION 11, OVERALL CONCLUSION

176. Since the onsite visit, China has amended its legislation to extend the requirements of R11 to the securities and insurance sector. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. Overall, China has taken sufficient action to bring its level of compliance with R11 up to a level essentially equivalent to LC.

RECOMMENDATION 12 – RATING NC

R12 (Deficiency 1): Only very limited customer identification and record keeping requirements apply to dealers in precious metals and stones, lawyers, notaries, real estate agents and company service providers. However, none of these substantially meet Recommendations 5 and 10.

177. Since the onsite visit, China has strengthened CDD and record keeping requirements in the real estate sector through amendments to the *Law of the People's Republic of China on Urban Real Estate Administration* (revised on 30 August 2007), and the *Measures for Housing Registration* and the *Interim Measures for Housing Register Management* (both revised in July 2008). These amendments establish new requirements to ensure the authenticity of transactions and

registrations, and require contracts for home sales to be registered at a related government agency. However, they do not cover many of the detailed requirements of R5. The Ministry of Housing and Urban-Rural Development (MOHURD) also issued a circular in May 2008 that requires local housing administration authorities and house registration authorities to integrate their information resources, establish a uniform information platform, and realize real-time transfer and sharing of information on housing transactions and registrations. The MOHURD has committed to establishing the individual house registration information platform from 2010, and has organized two national meetings to arrange the platform. The MOHURD plans to connect individual house registration information systems of 40 cities, and establish a uniform national platform, and realize real-time transfer, sharing of such information as house transaction, registration, and long-distance inquiry of registration information, in order to facilitate the AML work in real estate sector.

178. As of December 2007, the authorities committed to implementing AML/CFT measures applicable to law firms, and dealers in precious metals and stones. However, China has not yet amended its legislation to strengthen the CDD and record keeping requirements applicable to these sectors. This deficiency has been partially addressed.

R12 (Deficiency 2): The customer identification and record keeping obligations that apply to trust service providers (i.e. trust investment companies) are deficient in the same ways as listed in section 3.2 and 3.5 of this report.

179. Since the on-site visit, China has made sufficient progress to strengthened the requirements of R5 applicable to trust service providers (TSPs) (*i.e.*, trust investment companies), so as to bring its level of compliance with R5, in the TSP sector, up to a level which is essentially equivalent to an LC (see the above discussion of R5). The record keeping obligations of R10 (which was rated LC during the mutual evaluation) also apply to TSPs. This deficiency has been satisfactorily addressed.

R12 (Deficiency 3): None of the DNFBP sectors legally authorised to operate in China are subject to obligations that relate to Recommendations 6, 8, 9 and 11.

180. Since the onsite visit, China has significantly strengthened the requirements applicable to TSPs relating to R6, R8, R9 and R11, so as to bring its level of compliance with these Recommendations, in the TSP sector, up to a level which is essentially equivalent to LC (see the above discussion of R6, R9 and 11). TSPs are also subject to requirements relating to the identification of non-face-to-face customers which substantially comply with R8 (*CDD Rules*, article 17). However, China has not yet extended the requirements of R6, 8, 9 and 11 to any other type of DNFBP. This deficiency has been partially addressed.

RECOMMENDATION 12, OVERALL CONCLUSION

181. Since the onsite visit, China has significantly strengthened the AML/CFT requirements applicable to TSPs, such that compliance with R12 is generally satisfactory. China has also taken some action to strengthen CDD and record keeping requirements in the real estate sector—albeit not to an extent which substantially meets the requirements of R5 and R10. Moreover, China has not yet extended comprehensive requirements on R6, R8, R9-11 to dealers in precious metals and

stones, lawyers, notaries, and company service providers. Overall, China has not yet taken sufficient action to bring its level of compliance with R12 up to a satisfactory level.

RECOMMENDATION 15 – RATING PC

R15 (Deficiency 1): The internal control environment is not set up to address terrorist financing risk.

182. China has amended its legislation to ensure that the internal control environment addresses FT risk (*FT/STR Rules*, article 13; *CDD Rules*, article 4). This deficiency has been satisfactorily addressed.

R15 (Deficiency 2): There is no explicit requirement to communicate such policies and procedures to the employees of the financial institution.

183. China has amended its legislation to require FIs to communicate AML/CFT legislation, related regulatory policy, and internal control arrangements to their staff by means such as awareness raising programmes, training programmes, etcetera (*PBC Circular 391*, item I(III)). This deficiency has been satisfactorily addressed.

R15 (Deficiency 3): There are no screening provisions in place to ensure high standards when hiring employees (with the exception of those that relate to senior management).

184. China has not amended its legislation to require screening provisions to be in place for the purpose of ensuring high standards when hiring employees (other than senior management). This deficiency has not been addressed.

R15 (Deficiency 4): There is no explicit requirement in the AML Law or the related rules for financial institutions to maintain an adequately resourced and independent audit function to test compliance with internal AML/CFT controls.

185. China has amended its legislation to explicitly require FIs to maintain an adequately resourced and independent audit function to test compliance with internal AML/CFT controls (*CDD Rules*, article 4; *PBC Circular 391*, Item I(I-II)). As well, the Auditing Bureau of the CIRC established the insurance auditing joint conference mechanism and has held the first joint conference, in which six insurance groups and companies signed, as sponsors, the Agreement of Insurance Auditing Joint Conference. The audit joint conference may further strengthen the importance function of company internal control and management of the auditing department, including on AML/CFT issues. This deficiency has been satisfactorily addressed.

R15 (Deficiency 5): There are no specific legal provisions that require financial institutions to ensure that compliance officers and other appropriate staff have timely access to relevant information.

186. China has amended its legislation to ensure that compliance officers and other appropriate staff have timely access to relevant information (*PBC Circular 391*, item I(I)). This deficiency has been satisfactorily addressed.

R15 (Deficiency 6): There is no requirement to provide relevant employees with CFT training.

187. China has amended its legislation to FIs to provide training on both AML and CFT to their employees (*PBC Circular 391*, Item I(III)). The PBC reports that the results of its on-site and off-site inspection processes indicate financial institutions are placing quite a lot of effort into training their staff, including middle-level, front-desk and new employees. Additionally, the CSRC and its branches, in cooperation with the SROs, are taking steps to raise awareness of AML/CFT legislation, policy, and operative guidelines, including through training its own employees. In particular, in October 2008, the CSRC and the CSA organised a seminar for compliance officers of fund companies. Similar training seminars were held in 2009 for securities companies and futures companies. This deficiency has been satisfactorily addressed.

R15 (Deficiency 7): There is no explicit requirement to designate an AML/CFT officer at the management level (although in all of the financial institutions the assessors spoke with during the on-site visit had their compliance officer at senior management level).

188. China has amended its legislation to require FIs to designate a compliance officer at the level of senior management (*PBC Circular 391*, Item I(I)). These requirements have been reiterated by the CIRC mirrored in its *Notice of the Implementation of AML Law and Precaution against ML Risk of Insurance Industry*. This deficiency has been satisfactorily addressed.

RECOMMENDATION 15, OVERALL CONCLUSION

189. China has amended its legislation to correct six of the seven technical deficiencies which were identified in relation to R15. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. The only remaining deficiency is that there is no requirement to screen employees (other than senior management). Overall, China has taken sufficient action to bring its level of compliance with R15 up to a level essentially equivalent to LC.

RECOMMENDATION 16 – RATING NC**R16 (Deficiency 1): Reporting obligations have not been extended to any of the DNFBP sectors.**

190. At the time of the on-site visit, TSPs (*i.e.*, trust investment companies) were subject to the same reporting obligations as FIs. Since the on-site visit, these requirements have been strengthened to a level of compliance which is essentially equivalent to a rating of LC for both R13 and SRIV (see the analysis above in relation to R13 and SRIV). However, reporting obligations have not been extended to any other type of DNFBP. It should be noted, however, that the authorities are currently working to amend the *Law of the People's Republic of China on Urban Real Estate Administration*, with a view to extending a reporting obligation to the real estate sector. This deficiency has been partially addressed.

R16 (Deficiency 2): None of the DNFBP sectors is required to pay special attention to business relationships and transactions involving persons from or in countries that do not (or insufficiently) apply the FATF Recommendations.

191. Since the on-site visit, China has amended its legislation to require TSPs (*i.e.*, trust investment companies) to give special attention to customers from countries or regions with weak AML/CFT regimes (*CDD Rules*, articles 18-19; *PBC Circular 48*, Item IV). These requirements are substantially in line with R21. However, similar requirements have not yet been extended to any other type of DNFBP. This deficiency has been partially addressed.

R16 (Deficiency 3): Dealers in precious metals and stones, lawyers, notaries, real estate agents and company service providers are not required to establish internal AML/CFT control programs.

192. China has not yet extended requirements to establish internal AML/CFT control programs which are applicable to dealers in precious metals and stones, lawyers, notaries, real estate agents or company service providers. This deficiency has not yet been addressed.

R16 (Deficiency 4): The obligations for trust investment companies to establish internal control programs are deficient in the same respects as described in section 3.8 of this report.

193. Since the onsite visit, China has strengthened the obligations for TSPs to establish internal control programs, such that its level of compliance with R15, in the TSP sector, is up to a level essentially equivalent to LC (see the above discussion of R15). This deficiency has been satisfactorily addressed.

RECOMMENDATION 16, OVERALL CONCLUSION

194. Since the on-site visit, China has strengthened the requirements applicable to TSPs in relation to R13, R15, R21 and SRIV. However, it has not yet extended similar requirements to any other type of DNFBP. Consequently, China has not yet taken sufficient action to bring its level of compliance with R16 up to a satisfactory level.

RECOMMENDATION 17 – RATING PC

R17 (Deficiency 1): The level of the sanctions provided in the AML Law appears relatively low for major deficiencies.

195. At the time of the on-site visit, the concern was that the level of sanctions provided for in the *AML Law* appeared to be relatively low for major deficiencies. The maximum penalty for cases of serious misconduct (*e.g.*, failure to meet CDD, record keeping or STR obligations; breaching confidentiality requirements; obstructing an AML or other type of inspection or investigation) is a fine on the FI of up to RMB 500 000 (EUR 53 606 / USD 77 000), and a further fine on any directors, senior managers and other person(s) directly responsible for the misconduct of up to RMB 50 000 (EUR 5 360 /USD 7 770) (*AML Law*, article 32). If ML results from serious misconduct, these fines may be increased to a maximum of RMB 2 million (EUR 214 426/USD 307 752) and

RMB 500 000 (EUR 53 606/USD 77 000) respectively. China has not yet amended its legislation to increase the level of sanctions available. This deficiency remains unaddressed.

R17 (Deficiency 2): The sanctions regime focuses excessively on minor deficiencies and does not appear effectively to target structural weaknesses.

196. Since the onsite visit, China has significantly strengthened its AML/CFT monitoring and supervision framework, including by enhancing its focus on FIs structural weaknesses such as not maintaining a proper internal control programme, failing to establish an AML/CFT compliance function, or failing to provide AML/CFT training to staff. In particular, China has amended its legislation to require FIs to strengthen their AML/CFT procedures and internal controls, and to require the PBC branches to focus on the rationality of the internal controls being implemented and the effectiveness of each FI's risk management system (*PBC Circular 391*). China has also enhanced its implementation of the risk-based approach, which has resulted in the PBC strengthening its sanctions on high-risk FIs in which severe violations are detected, while imposing more moderate measures to deal with light violations. The following chart indicates the number of FIs inspected, the number of sanctions issued, and the number of fines imposed.

Banking FIs				
Year	Number of FIs inspected	Number of FIs sanctioned	Amount of fines levied (RMB) (Approximate value in EUR/USD)	Average amount of fines levied
2005	3 351	600	RMB 56 296 900 (EUR 6.1 million/USD 8.7 million)	EUR 10 166/ USD 14 500
2006	3 378	662	RMB 40 522 300 (EUR 4.4 million/USD 6.2 million)	EUR 6 646/ USD 9 365
2007	3 909	341	RMB 26 579 300 (EUR 2.9 million/USD 4.1 million)	EUR 8 504/ USD 12 023
2008	3 451	236	RMB 14 400 500 (EUR 1.6 million/USD 2.2 million)	EUR 6 779/ USD 9 322
2009	2 298	195	RMB 20 225 222 (EUR 2.2 million/USD 3.1 million)	EUR 11 282/ USD 15 897
Securities and Futures FIs				
Year	Number of FIs inspected	Number of FIs sanctioned	Amount of fines levied (RMB) (Approximate value in EUR/USD)	
2007	96	0	RMB 0 (EUR 0 /USD 0)	EUR 0/ USD 0
2008	288	17	RMB 1 400 000 (EUR 150 000/USD 215 000)	EUR 8 823/ USD 12 647
2009	212	10	RMB 1 310 000 (EUR 142 000/USD 200 000)	EUR 14 200/ USD 20 000
Insurance FIs				
Year	Number of	Number of FIs	Amount of fines levied (RMB)	

	FIs inspected	sanctioned	(Approximate value in EUR/USD)	
2007	528	0	RMB 0 (EUR 0 /USD 0)	EUR 0/ USD 0
2008	1 765	51	RMB 2 600 000 (EUR 283 000/USD 400 000)	EUR 5 549/ USD 7 843
2009	854	77	RMB 5 501 000 (EUR 598 000/USD 846 000)	EUR 7 766/ USD 10 987

197. In all sectors, the statistics indicate a decreasing number of sanctions being issued (which suggests that compliance among FIs is improving), but a trend of increasing amounts of fines being issued. The Chinese authorities indicate that this demonstrates that the PBC is sending a clear signal that its supervisory effort is putting the most emphasis on high risk or severe violations of the AML/CFT requirements. This approach is also expressly set out in the legislation. Item VI of *PBC Circular 48* stipulates that all PBC branches shall impose light sanctions on an FI where few failures to report suspicious transactions are detected and no serious result occurs (*e.g.*, ML or severe violations of the AML/CFT requirements), provided that the internal control system of the FI is comparatively complete and the senior management and relevant personnel are fulfilling their AML/CFT obligations. This deficiency has been satisfactorily addressed.

RECOMMENDATION 17, OVERALL CONCLUSION

198. Since the onsite visit, China has made progress which enhances its implementation of R17 by increasing the focus on targeting structural weaknesses. The statistics provided show that the level of fines being imposed has been increasing. Nevertheless, the maximum fines which may be imposed for serious breaches remains low, as the legislation has not been amended to address this deficiency. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. Overall, China has not made sufficient progress to have enhanced with level of implementation to a level equivalent to LC.

RECOMMENDATION 18 – RATING PC

R18 (Deficiency 1): There are no specific legal requirements that prohibit the establishment of connections with a foreign shell bank.

199. China has not yet amended its legislation to prohibit the establishment of connections with foreign shell banks. This deficiency has not yet been addressed.

R18 (Deficiency 2): There are no legal provisions that require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

200. China has not yet amended its legislation to require FIs to satisfy themselves that respondent FIs in a foreign country do not permit their accounts to be used by shell banks. This deficiency has not yet addressed.

RECOMMENDATION 18, OVERALL CONCLUSION

201. China has not yet amended its legislation to correct the technical deficiencies identified in the MER. Overall, China has not yet taken sufficient action to bring its level of compliance with R18 up to a satisfactory level.

RECOMMENDATION 21 – RATING NC

R21 (Deficiency 1): There is no requirement to give special attention to business relationships and transactions with persons (natural or legal) from or in countries that do not, or insufficiently, apply the FATF Recommendations.

202. China has amended its legislation to require FIs to give special attention to customers from countries or regions with weak AML/CFT regimes (*CDD Rules*, articles 18-19). Additionally, FIs are required to pay special attention to transactions which have anything to do with countries/regions that the Chinese authorities have identified as being of AML/CFT concern. This is a much broader requirement which is not limited to customers from such countries or regions. If any such transactions are detected, the FI must immediately submit a suspicious transaction report (*PBC Circular 48*, Item IV). Additionally, the written findings of the examinations of such transactions must be kept for at least five years. This deficiency has been satisfactorily addressed.

R21 (Deficiency 2): China does not have a mechanism to implement countermeasures against countries that do not sufficiently apply the FATF standards.

203. Since the onsite visit, China has established a mechanism to implement countermeasures against countries that do not sufficiently apply the *FATF Recommendations*. In November 2009, the PBC established, on its official website, a column entitled *Financial Sanctions and Risk Notifications* under the title of *AML work*. Among other things, the purpose of this notification is to provide FIs with information on the risk notifications which are: (i) approved and published by the Chinese government; (ii) published by other jurisdictions, international organisations, such as the United Nations or FATF, and approved by the Chinese government; and (iii) listed in the *Risk Indication and Financial Sanction* column of the official website of the PBC (*PBC Circular 48*, Item IV).

204. China has amended its legislation to require FIs to appoint persons responsible for dealing with these lists, and to adopt practical and effective technical methods for conducting 24-hour real-time monitoring of them. Any transactions which are detected as having something to do with any of the listed countries (regions), organisations or individuals, must be immediately submitted to the senior management of the FI for verification, and an STR must be filed. Whenever the list is amended, FIs are required to review their current and past records for any matches. If the FI finds that it has established a business relationships involving a listed country (region), organisation or individual, the FI is required to immediately file an STR. Additionally, where a customer or beneficial owner is from a country (region) where the AML/CFT supervision is weak, the FI is required to: adopt intensified CDD measures; inspect the purpose, property and background of the transaction; and submit an STR (*PBC Circular 48*, Item IV). This deficiency has been satisfactorily addressed.

RECOMMENDATION 21, OVERALL CONCLUSION

205. Since the onsite visit, China has corrected all of the technical deficiencies identified in the MER in relation to R21. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. Overall, China has taken sufficient action to bring its level of compliance with R21 up to a level essentially equivalent to LC.

RECOMMENDATION 22 – RATING NC

R22 (Deficiency 1): There is no requirement for foreign branches and subsidiaries of Chinese funded financial institutions to apply the higher standard where the AML/CFT requirements of China and the host country differ.

206. China has amended its legislation to require the foreign branches and subsidiaries of Chinese funded FIs to apply the higher standards where the AML/CFT requirements of China and the host country differ (*CDD Rules*, article 5). This deficiency has been satisfactorily addressed.

R22 (Deficiency 2): There is no explicit requirement to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

207. China has amended its legislation to explicitly require FIs to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures. This deficiency has been satisfactorily addressed.

RECOMMENDATION 22, OVERALL CONCLUSION

208. China has significantly enhanced the legal framework in relation to foreign branches and subsidiaries by addressing all of the technical deficiencies identified in the MER. As a paper-based, off-site desk review is limited in its ability to assess effectiveness, it cannot be established whether these requirements are being implemented effectively. Overall, China has taken sufficient action to bring its level of compliance with R22 up to a level essentially equivalent to LC.

RECOMMENDATION 24 – RATING NC

R24 (Deficiency 1): Dealers in precious metals and stones, lawyers, notaries, real estate agents and company service providers are not monitored or supervised for compliance with AML/CFT requirements, since no such requirements yet apply to them.

209. The authorities are currently working to amend the *Law of the People's Republic of China on Urban Real Estate Administration*, with a view to establishing in the real estate sector a joint coordination mechanism on AML/CFT supervision. However, dealers in precious metals and stones, lawyers, notaries, real estate agents, and company service providers are not yet monitored or supervised for compliance with AML/CFT requirements, as no comprehensive AML/CFT requirements apply to them. This deficiency has not yet been addressed.

R24 (Deficiency 2): The sanctions regime that is applicable to trust service providers (i.e. trust investment companies) is deficient in the same ways as listed in section 3.10 of this report.

210. Since the onsite visit, China has enhanced its implementation of R17 in the TSP sector (see the above discussion of R17). However, a key issue is that the maximum level of sanctions provided for in the *AML Law* for serious AML/CFT breaches remains low. This deficiency has been partially addressed.

RECOMMENDATION 24, OVERALL CONCLUSION

211. Overall, China has made some progress in enhancing its implementation of R24 in the TSP sector, although the level of sanctions for serious breaches remains low. Additionally, work is underway to supervise the real estate sector for compliance with AML/CFT requirements. However, dealers in precious metals and stones, lawyers, notaries, real estate agents, and company service providers are not yet monitored or supervised for compliance with AML/CFT requirements, as comprehensive AML/CFT requirements do not yet apply to them. Overall, China has not yet taken sufficient action to bring its level of compliance with R24 up to a satisfactory level.

RECOMMENDATION 33 – RATING NC

R33 (Deficiency 1): There are no measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by the competent authorities.

212. Since the onsite visit, China has not implemented further measures to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by the competent authorities. For instance, no CDD requirements have yet been extended to company service providers, as is required by R12. This deficiency has not yet been addressed.

R33 (Deficiency 2): There are no measures to ensure that unregistered stocks (bearer shares) cannot be misused for money laundering.

213. Since the onsite visit, China has not implemented further measures to ensure that unregistered stocks (bearer shares) cannot be misused for ML. This deficiency has not yet been addressed.

RECOMMENDATION 33, OVERALL CONCLUSION

214. China has not yet taken sufficient steps to raise its level of compliance with R33 to a satisfactory level.

RECOMMENDATION 34 – RATING PC**R34 (Deficiency 1): No requirement to for trust investment companies to establish beneficial ownership of legal persons that are beneficiaries of trusts.**

215. Since the onsite visit, China has implemented a requirement for trust investment companies (and all other FIs) to establish beneficial ownership of legal persons that are beneficiaries of trusts. These requirements are in line with R5 (see the above discussion of R5). This deficiency has been satisfactorily addressed.

R34 (Deficiency 2): No means of obtaining timely information on beneficial ownership of trusts that may be administered by private individuals under the Trust law.

216. China has not yet implemented measures to ensure that timely information on the beneficial ownership of trusts that may be administered by private individuals under the Trust law is available. This deficiency has not yet been addressed.

RECOMMENDATION 34, OVERALL CONCLUSION

217. Since the onsite visit, China has improved its implementation of R34 by imposing a requirement on trust investment companies to identify the beneficial owner of legal persons that are beneficiaries of trusts. However, there is still no means of obtaining timely information on the beneficial ownership of trusts that are administered by private individuals. China has not yet taken sufficient steps to raise its level of compliance with R34 to a satisfactory level.

SPECIAL RECOMMENDATION IX – RATING PC**SRIX (Deficiency 1): System focuses exclusively on cash. Bearer negotiable instruments are not included.**

218. In June 2008, the PBC put forward working recommendations relating to the coverage of bearer negotiable instruments (BNI). In December 2008, the Anti-Money Laundering Joint-Ministry Conference (AML/JMC) listed this issue as priority work. The PBC, GAC, and the State Administration of Foreign Exchange (SAFE) are continuing to actively conduct research, including gathering the relevant experiences of foreign countries, with a view to determining how to best address issues related to the identification and definition of BNI. This deficiency has not yet been addressed.

219. In the meantime, China provided the following statistics concerning its implementation of SRIX since the onsite visit.

Illegal Monetary Cases during 2007-2009

Year	Entry/Exit	Foreign Currency		RMB	
		Number of Investigated Cases (counts)	Monetary Value (RMB 10K yuan)	Number of Investigated Cases (counts)	Monetary Value (10K yuan)
2007	Exit	2426	39205.87	423	4941.29
	Entry	966	4868.08	372	4322.94

Year	Entry/Exit	Foreign Currency		RMB	
		Number of Investigated Cases (counts)	Monetary Value (RMB 10K yuan)	Number of Investigated Cases (counts)	Monetary Value (10K yuan)
2008	Exit	1632	29228.54	649	5689.24
	Entry	885	96903	926	15362.22
2009	Exit	2426	45396.18	870	8080.98
	Entry	966	90721.36	625	7555.99
2010	Exit	2578	53200	1039	11980
	Entry	1376	109981	835	9041

SRIX (Deficiency 2): Reports on cash declarations/seizures are not being provided to the FIU and are not being used to identify and target money launderers and terrorist financiers.

220. Since the onsite visit, China has implemented information sharing mechanisms between the GAC and the PBC, and work is underway to develop information sharing mechanisms with the FIU (CAMLMAC). Memorandums of understanding have been signed by 41 directly subordinated customs units with local PBC branches to facilitate information sharing in ML cases. Since 2007, the GAC has cooperated with the PBC to conduct ML investigations in more than 50 cases, provided information on fund transactions, and given support for investigation of smuggling cases. Additionally, the GAC and the PBC are researching specific standards and methods for sharing information on cash declarations and seizures.

221. Additionally, the authorities have been working to use reports on cash declarations and seizures for the purpose of identifying money launderers and terrorist financiers. The GAC is conducting ongoing study ML trends and characteristics in smuggling activities, accumulating experience in combating ML, exchanging intelligence with and providing information to the PBC and the public security organs, making full use of the PBC's advantages in monitoring ML activity, dynamically tracking and monitoring the fund flows where there are suspicions of smuggling, and working to enhance its analysis of evidence in smuggling cases. The GAC has also been involved in two successful cases of smuggling and related ML: *The ML Case of Huang Guangrui in Beihai Guangxi* and *The ML Case of Tan Tong in Zhenjiang Jiangsu*. The GAC also exchanges information on smuggling crimes with foreign customs through World Customs Organization (WCO) and Customs Enforcement Network (CEN). It also takes an active part in a couple of international anti-terrorism programs including: CSI cooperation, PSI cooperation and financial anti-terrorism cooperation between China and the United States; CSI cooperation between China and Canada; and anti-terrorism cooperation between China and India, and between China and Pakistan. The GAC has also actively investigated and responded to over 20 international assistance requests from foreign police concerning clues related to ML and FT. This deficiency has been partially addressed.

SPECIAL RECOMMENDATION IX, OVERALL CONCLUSION

222. Since the onsite visit, China has made progress to improve its implementation of SRIX. The authorities have been working to use reports on cash declarations and seizures for the purpose of identifying money launderers and terrorist financiers. These efforts have generated some success. As well, China has implemented information sharing mechanisms between the GAC and the PBC. Work is also underway to develop information sharing mechanisms with the FIU (CAMLMAC)—although this work is not yet completed. Additionally, the PBC, GAC, and the SAFE are continuing to actively conduct research, including gathering the relevant experiences of foreign countries, with a view to determining how to best address issues related to the identification and definition of BNI. Overall, China has not yet taken sufficient steps to raise its level of compliance with SRIX to a satisfactory level.

VIII REVIEW OF OTHER ACTION TAKEN

RECOMMENDATION 26 – RATING LC

223. China has continued to take steps to enhance the effectiveness of its FIU. For example, China has implemented an electronic large-value and suspicious transaction reporting system. The PBC amended its legislation to require FIs to take certain steps to enhance their systems for detecting and analysing suspicious transactions, and enable them to file STRs electronically: the *Circular of the People's Bank of China on Further Improving Requirements of Filling out Large-Value and Suspicious Transaction Reports (PBC Doc.No.[2009]123) (PBC Circular 123)*. The electronic filing system gives real-time feedback to reporting institutions concerning any missed or mistaken elements in the filed reports. China has also moved from a one-stage verification system to a two-stage verification system (primary verification and content verification), with a view to improving the timeliness, validity and integrity of data reporting. This enables the FIU (CAMLMAC) to advise FIs in real time whether the information in a report needs to be corrected or whether missing information needs to be added: see *The Notice of the People's Bank of China on Issuing Regulations of Data Reporting Interface of Large-Value and Suspicious Transaction Reports of Banking Industry, Securities and Futures Industry and Insurance Industry (Doc. No.[2008]248 of the PBC) (PBC Circular 248)* issued in July 2008, and *Interface Regulations (Revised in 2008)* formally promulgated in July 2008. All FIs began reporting large-value and suspicious transactions in accordance with the new electronic interface forms as of 1 January 2009. The electronic reporting system should enhance the FIU's ability to receive, analyse and provide feedback to reporting institutions.

224. As well, CAMLMAC is better prioritising the analysis of subjectively suspicious transaction reports. When filing large-value and suspicious transaction reports with CAMLMAC, in accordance with articles 14 and 15 of the *LVT/STR Rules*, FIs are required to indicate the report category in "Suspicious Transaction Characteristics". The FIU then focuses its analysis and administrative investigations on the subjectively suspicious transaction reports (as defined by the *PBC Circular 48*) (*i.e.*, STRs which are filed on the basis of subjective suspicions in accordance with Article 14 & 15 of the *LVT/STR Rules*), with a view to better allocating its limited human resources to the analysis of the most valuable intelligence. This analysis also involves searching the database

for related unusual and large-value transactions which might provide further leads. The Chinese authorities report that these methods have enhanced the FIU's ability to analyse transactions and support both administrative and judicial investigations.

225. CAMLMAC is also continually working to improve its analysis of STRs by developing and continually updating data check rules, in consultation with the private sector, for each of the different types of FIs. These data check rules are promulgated and updated periodically so as to continuously improve their rationality and accuracy (*Doc.No.[2008] 36 of the CAMLMAC*; and *Doc. No.9 [2009] of the CAMLMAC*). The CAMLMAC is also working to enhance its supervision and monitoring of the reporting requirements, through the assessment of objective elements (*e.g.*, data timeliness, integrity, accuracy and adopting rate) and subjective elements (*e.g.*, the judgement of data value made by the data users).

ANNEX 1

LIST OF SUPPORTING MATERIAL PROVIDED

Amendment VII to the Criminal Law of the People's Republic of China, Order of the President of the People's Republic of China No.10 (2009)

Interpretation of the Supreme People's Court on Several Issues Pertaining to the Specific Application of Law in the Trial of Money Laundering and Other Criminal Cases, Judicial Interpretation No.15 (2009) of the Supreme People's Court

Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work, Adopted at the 23rd Meeting of the Standing Committee of the Eleventh National People's Congress (29 October 2011)

Statement of Decision on Strengthening Counter-Terrorism Work (October 2011)

Anti-Money Laundering Law of the People's Republic of China, Order of the President of the People's Republic of China No.56 (2007)

Rules for Anti-Money Laundering by Financial Institutions, People's Bank of China (2007)

Administrative Rules for the Reporting of Large-Value and Suspicious Transaction by Financial Institutions, People's Bank of China (2007)

Administrative Rules for the Reporting of Suspicious Transactions related to the Financing of Terrorism by Financial Institutions, People's Bank of China (2007)

Administrative Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identity and Transaction Information, People's Bank of China (2007)

Circular of the People's Bank of China on Further Strengthening AML work of Financial Institutions, People's Bank of China, PBC Doc. No.[2008] 391 (2008)

Circular of the People's Bank of China on Clarifying Implementation Issues of Suspicious Transaction Reporting Regime, People's Bank of China, PBC Doc. No.[2010] 48

Circular of the People's Bank of China on Further Improving Requirements of Filling Out Large-Value and Suspicious Transaction Reports, People's Bank of China, PBC Doc. No.[2009] 123

Circular of the People's Bank of China on Implementing the Circular of the Ministry of Foreign Affairs on Implementing Relevant Resolutions of UN Security Council, People's Bank of China, PBC Doc. No.[2010] 165

Circular of the People's Bank of China on Further Strengthening Anti-Money Laundering Work of Financial Institutions, People's Bank of China, PBC Doc. No.[2008] 391

Measures for the Anti-Money Laundering Work in the Securities and Futures Sectors, Order of the China Securities Regulatory Commission No.68 (2010)

Anti-Money Laundering Guidelines to Members of China Futures Association, China Futures Association (2008)

Notice on Issuing the Guidelines to Futures Companies on Customer Risk Classification Standards of Anti-Money Laundering, China Futures Association (2009)

Notice on Promulgating Anti-Money Laundering Guidelines to Members of China Securities Association, China Securities Association (2008)

Notice regarding Issue of the Guidelines on Anti-Money Laundering Customer Risk Classification Criteria in Securities Company (Interim), China Securities Association (2009)

Notice on Issuing the Guidelines to Fund Management Companies on Customer Risk Classification Standards of Anti-Money Laundering (Interim), China Securities Association No.158 (2009)

Law of the People's Republic of China on Urban Real Estate Administration

Measures for Housing Registration, Order No.168 of the Ministry of Construction (2008)

Measures for the Management of Pre-Sale of Urban Houses, Order No.40 of the Ministry of Construction (2004)

Provisions on the Administration of Urban Real Estate Transfer, Order No.45 of the Ministry of Construction (2001)

Administrative Measures on the Sale of Houses, Order No.88 of the Ministry of Construction (2001)

ANNEX 2

KEY LAWS, REGULATIONS AND OTHER MEASURES

Criminalisation of money laundering, Penal Code, article 191

Where anyone who obviously knows that any proceeds are obtained from any drug-related crime, crimes committed by organisations in nature of syndicate, terrorist crime, crime of smuggling, crime of corruption or bribery, crime of disrupting the financial management order, crime of financial fraud, etc. as well as the proceeds generated therefrom, yet commits any of the following acts for the purpose of disguising or concealing the origin or nature thereof, the incomes obtained from the commission of the aforementioned crimes as well as the proceeds generated there from shall be confiscated, and the offender shall be sentenced to fixed-term imprisonment of not more than five years or detention, and/or shall be imposed a fine of 5% up to 20% of the amount of laundered money. If the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall be imposed a fine of 5% up to 20% of the amount of laundered money:

- (a) Providing any capital account;
- (b) Assisting the transfer of property into cash, financial instruments, or negotiable securities;
- (c) Assisting the transfer of capital by means of transfer accounts or any other means of settlement;
- (d) Assisting the remit of funds to overseas;
- (e) Disguising or concealing the source or nature of any crime-related income or the proceeds generated therefrom by any other means.

Where an entity commits the crime as mentioned in the preceding paragraph, it shall be fined, and any of the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of no more than five years or criminal detention; if the circumstances are serious, any of them shall be sentenced to fixed-term imprisonment of no less than five years but no more than ten years.

Criminalisation of money laundering, Penal Code, article 312

Where anyone, who obviously knows that the income or the proceeds that are generated therefrom are obtained from the commission of any crime, harbours, transfer, purchases or sells them as an agent or disguises or conceals them by any other means, he shall be sentenced to fixed-term imprisonment of not more than three years, detention, or surveillance, and/or shall be fined. If the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years, and shall be fined.

Criminalisation of money laundering, Penal Code, article 349

Whoever shields offenders engaged in smuggling, trafficking in, transporting or manufacturing of narcotic drugs or whoever harbours, transfers or covers up, for such offenders, narcotic drugs or their pecuniary and other gains from such criminal activities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Anti-drug officers or functionaries of a State organ who shield or cover up offenders engaged in smuggling, trafficking in, transporting or manufacturing of narcotic drugs shall be given a heavier punishment in accordance with the provisions of the preceding paragraph.

Conspirators to the crimes mentioned in the preceding two paragraphs shall be regarded as joint offenders in the crime of smuggling, trafficking in, transporting or manufacturing of narcotic drugs and punished as such.

Criminalisation of terrorist financing, Penal Code, article 120bis

Any individual who financially supports a terrorist organization or an individual that commits terrorist activities shall be sentenced to fixed-term imprisonment of no more than five years, criminal detention, public surveillance, or be deprived of political rights and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of no less than five years, and shall

also be fined or be sentenced to confiscation of property. "Where an entity commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions in the preceding paragraph."

Decision of the Standing Committee of the National People's Congress on Strengthening Counter-Terrorism Work

(Adopted at the 23rd Meeting of the Standing Committee of the Eleventh National People's Congress on October 29, 2011)

In order to strengthen counter-terrorism work, safeguard national security, protect the safety of people and their property, and to maintain social order, the following decision regarding counter-terrorism work are hereby adopted:

Article I. China opposes terrorism of any form, strictly bans terrorist organizations, tightly prevents and severely punishes terrorist activities.

Article II. The term "*terrorist activity*" refers to any act intended to cause public panic, endanger public safety or coerce state organs or international organizations, by means of, among others, violence, destruction and/or blackmail, that has caused or intends to cause human injury or death, significant property losses, destruction of public facilities, social chaos or other serious social harm, and any act of inciting, financing or facilitating by other means the above-mentioned activities.

The term "*terrorist organization*" refers to criminal groups formed for the purpose of committing terrorist activities.

The term "*terrorist*" refers to any individual who organizes, plots and commits terrorist activities, or who is a member of a terrorist organization.

Article III. The national counter-terrorism work shall be under the unified leadership and directions of the State Counter-Terrorism Leading Committee.

The public security authorities, the state security authorities, the People's Courts and the People's Procuratorates, the judicial administrative authorities and other related authorities shall properly perform their own functions and coordinate with each other, so as to carry out counter-terrorism work effectively.

The People's Liberation Army of China, the People's Armed Police Force of China and militia organizations are responsible for preventing and combating terrorist activities in accordance with the laws, administrative regulations, military regulations and orders of the State Council and the Central Military Commission of the Communist Party of China.

Article IV. The State Counter-Terrorism Leading Committee is responsible for designating terrorist organization and terrorists and updating the lists according to Article II of this decision.

Lists of designated terrorist organizations and terrorists shall be published by the public security authority under the State Council.

Article V. When publishing lists of designated terrorist organizations and terrorists, the public security authority under the State Council shall simultaneously make a decision to freeze the fund or other assets related to the listed organizations and individuals.

Financial institutions and designated non-financial businesses and professions shall freeze immediately any fund or other asset related to terrorist organizations or terrorists on the published lists, and report timely in accordance with relevant provisions to the public security authority and state security authority under the State Council and the competent authority in charge of anti-money laundering under the State Council.

Article VI. The People's Republic of China shall, according to the international treaties that China has concluded or acceded to or according to the principles of equality and reciprocity, carry out international counter-terrorism cooperation.

Article VII. The State Council shall be responsible for developing Regulations concerning designation of terrorist organizations and terrorists; the competent authority in charge of anti-money laundering under the State Council, together with the public security authority and state security authority under the State Council, shall be responsible for developing Rules concerning freezing terrorist-related assets.

Article VIII This Decision shall come into force as of the date of its promulgation.

Statement of Decision on Strengthening Counter-Terrorism Work

(Extract)

Terrorism has become a key factor that affects global peace and development. China is also encountered by real threats of terrorism. The fight against terrorism turns out to be a long-term challenge with remarkable complexity and severity. Under this circumstance, it is necessary and essential to further enhance the national legislation on counter-terrorism to address legal difficulties and obstacles in practice, so as to safeguard state security and maintain social stability.

China has been attaching great importance to enacting counter-terrorism legislations. Various laws, such as the Criminal Law, the Criminal Procedural Law, the AML Law and the Law on the People's Armed Police Force, have provided for criminal liability of terrorist activities, the judicial proceedings applied and measures of monitoring funds related to terrorism. In addition, China has signed or joined a number of international Treaties on counter-terrorism. All these Laws and Treaties provide important basis for fighting against terrorism. However, there are some remaining legal issues that need to be addressed urgently, including: the absence in the current legislations of an explicit definition of terrorist activity, terrorist organization and terrorist; the absence in the current legislations of provisions concerning which agency shall be the competent authority in charge of designation of terrorist organizations and terrorists, and what are the procedures of designation and publication; the absence of legal basis for financial institutions to freeze promptly funds and terrorist-related assets; and so on.

In order to overcome the above-mentioned obstacles, and at the same time bring China into compliance with the AML/CFT international Standards, the Decision on Strengthening Counter-Terrorism Work was drafted with the participation of all relevant Ministries and agencies. The statements of the Decision are presented as follows:

1. Definition of terrorist activity, terrorist organization and terrorist

The current legislations do not define explicitly terrorist activity, terrorist organization and terrorist, which has a direct effect on the effort of combating terrorism and controlling related assets, and the international cooperation in these regards as well. The Decision provides for the definition of terrorist activity, terrorist organization and terrorist, which are designed to fit the practical situation of terrorist activities, terrorist organizations and terrorists in China. When drafting the definition, consideration was also been given to relevant provisions in international Treaties in which China is a party and other international standards.

The Decision prescribes that, "The term 'terrorist activity' refers to any act intended to cause public panic, endanger public safety or coerce state organs or international organizations, by means of, among others, violence, destruction and/or blackmail, that has caused or intends to cause human injury or death, significant property losses, destruction of public facilities, social chaos or other serious social harm, and any act of inciting, financing or facilitating by other means the above-mentioned activities. The term 'terrorist organization' refers to criminal groups formed for the purpose of committing terrorist activities. The term 'terrorist' refers to any individual who organizes, plots and commits terrorist activities, or who is a member of a terrorist organization." (Article II)

2. Leading institution and backbone of the counter-terrorism work

The State Counter-Terrorism Coordinative Group is the leading institution in the current national counter-terrorism regime, which played important role of direction and coordination in securing safe Olympics and handling emergent terrorism incidents. The Decision provides for the leading and directive function of the State Counter-Terrorism Leading Committee, and the backbone of the counter-terrorism work. The Decision prescribes that, "The national counter-terrorism work shall be under the unified leadership and directions of the State Counter-Terrorism Leading Committee. The public security authorities, the state security authorities, the People's Courts and the People's Procuratorates, the judicial administrative authorities and other related authorities shall properly perform their own functions and coordinate with each other, so as to carry out counter-terrorism work effectively. The People's Liberation Army of China, the People's Armed Police Force of China and militia organizations are responsible for preventing and combating terrorist activities in accordance with the laws, administrative regulations, military regulations and orders of the State Council and the Central Military Commission of the Communist Party of China." (Article III)

3. Designation of terrorist organizations and terrorists

Judicial authorities can designate and convict terrorist organizations and terrorists during the fulfillment of their responsibility of fighting against terrorism crimes. Nevertheless, it is necessary to establish procedures other than the judicial ones that allow authorized administrative authority to designate and publish terrorist organizations and terrorists, so as to effectively prevent and combat terrorist activities, especially by means of monitoring and freezing terrorist-related assets. In addition, in the course of the international counter-terrorism cooperation, the sanction lists of terrorist organizations and terrorists issued according to the Resolutions of Security Council of the United Nations (UNSCRs) also need to be enforced upon approval by the State Counter-Terrorism Leading Committee once it receives such request from the Ministry of Foreign Affairs. Similar arrangements to designate and publish lists of terrorist organizations and terrorists have been enacted by legislation in most jurisdictions that encounter severe threat of terrorism. Taking into account the practical situation of the counter-terrorism work in China, the Decision prescribes that the lists of terrorist organizations and terrorists are designated by State Counter-Terrorism Leading Committee and published by the Ministry of Public Security. (Article IV)

4. Freezing of assets related to terrorism

It is an effective and important measure that financial institutions and designated non-financial businesses and professions freeze terrorist-related assets promptly. It is also required by the Resolutions of the Security Council of the United Nations that member states freeze “without delay” the assets of entities and individuals that engage, participate in or finance terrorist activities. According to the Law on Commercial Banks, the freezing of assets such as deposits is illegal unless based on provisions of Law. In order to further strengthen monitoring and controlling of terrorist-related assets, and promote international cooperation in this respect, the Decision prescribes that, “When publishing lists of designated terrorist organizations and terrorists, the public security authority under the State Council shall simultaneously make a decision to freeze the fund or other assets related to the listed organizations and individuals.

Financial institutions and designated non-financial businesses and professions shall freeze immediately any fund or other asset related to terrorist organizations or terrorists on the published lists, and report timely in accordance with relevant provisions to the public security authority and state security authority under the State Council and the competent authority in charge of anti-money laundering under the State Council.” (Article V)

Additionally, the Decision also provide for international cooperation regarding counter-terrorism. (Article VI)

The counter-terrorism work involves a number of aspects that adds to its complexity. It is therefore necessary to be adapted and reified from time to time based on experiences gained as the work moves forward. Taking this consideration, the Decision prescribes that, “the Council shall be responsible for developing Regulations concerning designation of terrorist organizations and terrorists; the competent authority in charge of anti-money laundering under the State Council, together with the public security authority and state security authority under the State Council, shall be responsible for developing Rules concerning freezing terrorist-related assets.” (Item VII).

Anti-Money Laundering Law (2007) (the AML Law)

Article 1

The present Law is formulated for the purpose of preventing money-laundering, safeguarding the financial order and cracking down on the crime of money-laundering as well as other relevant crimes.

Article 2

The term “anti-money laundering” as mentioned in the present Law refers to an act of adopting the relevant measures according to the provisions of the present Law to prevent any money laundering activity for the purpose of concealing or disguising, by all means, the sources and nature of criminal proceeds generated from any drug-related crime, organizational crime of any gangland, terrorist crime, crime of smuggling, crime of corruption or bribery, crime of disrupting the financial management order, crime of financial fraud, etc..

Article 3

A financial institution as established within the territory of the People’s Republic of China or a special non-financial institution that shall perform the obligation of anti-money laundering shall adopt relevant measures for prevention and supervision according to law, establish and improve a clients’ identity identification system, a preservation system of clients’ identity materials and transactional records, a reporting system of large sum transactions and doubtful transactions, and perform its anti-money laundering obligations.

Article 4

The administrative department of anti-money laundering of the State Council shall take charge of the anti-money laundering supervision and administration throughout the country. The relevant departments and organs under the State Council shall, within their respective scope of functions and duties, perform their obligations of anti-money laundering supervision and administration.

The administrative department of anti-money laundering of the State Council, the relevant departments and organs under the State Council and the judicial organs shall coordinate with each other in their anti-money laundering work.

Article 5

Any client’s identity material or transactional information as acquired in the performance of the duties and functions of anti-money laundering according to law shall be kept confidential. None of the aforesaid information may be provided to any entity or individual in the absence of relevant provisions of law.

The clients’ identity materials and transactional information as acquired by the administrative department of anti-money laundering or any other department or organ bearing the obligation of anti-money laundering supervision and administration according to law in the process of performing their anti-money laundering functions and duties shall only be used in the administrative anti-money laundering investigation.

The clients’ identity materials and transactional information as acquired by the judicial organ according to the present Law shall only be used in the criminal litigation on anti-money laundering.

Article 6

Where any organ or functionary bearing the anti-money laundering obligation submits a report on large sum transaction or doubtful transaction according to law, it shall be protected by law.

Article 7

Where any entity or individual finds any money laundering activity, it/he has the right to tip it off to the administrative department of anti-money laundering or to the public security organ. The organ that accepts a tip-off shall keep confidential the tip-off maker as well as the tipped-off contents.

Article 8

The administrative department of anti-money laundering of the State Council shall organize and coordinate the anti-money laundering work throughout the country, take charge of the supervision over the anti-money laundering funds, formulate, by itself or in collaboration with the relevant financial regulatory bodies under the State Council, the relevant anti-money laundering regulations of financial institutions, conduct supervision and examination on the performance of anti-money laundering obligations

by financial institutions, investigate into doubtful transactions within the power limit of its functions and duties, and perform other duties and functions of anti-money laundering as prescribed by law or by the State Council.

A dispatched organ of the administrative department of anti-money laundering of the State Council shall, within the power limit as authorized by the administrative department of anti-money laundering of the State Council, conduct supervision and examination of the performance of anti-money laundering obligations by financial institutions.

Article 9

The relevant financial regulatory bodies under the State Council shall participate in the formulation of anti-money laundering regulations for the financial institutions under its supervision and administration, require them to establish and improve an internal control system of anti-money laundering and perform the other duties and functions of anti-money laundering as prescribed by law or by the State Council.

Article 10

The administrative department of anti-money laundering of the State Council shall establish an Anti-money Laundering Information Centre to take charge of accepting and analyzing the reports on large sum transactions and doubtful transactions, report the result of analysis to the administrative department of anti-money laundering of the State Council according to the relevant provisions and perform any other functions and duties as prescribed by the administrative department of anti-money laundering of the State Council.

Article 11

The administrative department of anti-money laundering of the State Council may, in order to perform its duties and functions of supervising the anti-money laundering funds, collect the necessary information from the relevant departments and organs of the State Council, and the latter shall provide assistance.

The administrative department of anti-money laundering of the State Council shall circulate, on a periodic basis, the anti-money laundering work to the relevant departments and organs of the State Council.

Article 12

Where the customs finds that any cash or bearer securities that any person carries exceeds the prescribed sum, it shall report the case to the administrative department of anti-money laundering in a timely manner.

The standards of amount that shall be circulated in the preceding paragraph shall be prescribed by the administrative department of anti-money laundering of the State Council in collaboration with the General Administration of Customs.

Article 13

Where the administrative department of anti-money laundering or any other department or organ bearing the obligation of anti-money laundering supervision and administration according to law finds any transaction involved with the crime of money laundering, it shall report it to the investigation organ in a timely manner.

Article 14

Where the relevant financial regulatory body under the State Council conducts examination and approval of the establishment of a new financial institution or establishment of any sub-branch or branch of a financial institution, it shall examine the internal control system of anti-money laundering of the new institution and shall not approve any application for establishment that fails to satisfy the provisions of the present Law.

Article 15

A financial institution shall, according to the provisions of the present Law, establish and improve its internal control system of anti-money laundering, and the principal thereof shall be responsible for the effective implementation of its internal control system of anti-money laundering.

A financial institution shall establish a special institution of anti-money laundering or designate an internal department to take charge of anti-money laundering.

Article 16

A financial institution shall establish a clients' identity identification system according to the relevant provisions.

Where a financial institution establishes any business relationship with a client or provides such one-off financial services as cash remittance, cash conversion and bill payment beyond the prescribed amount, it shall require the client to show its/his authentic and effective identity certificate or any other identity certification document and make relevant verification and registration.

Where a client entrusts an agent to handle the transaction on its/his behalf, the relevant financial institution shall make verification and registration of the identity certificates or any other identity certification documents of the agent and the principal thereof.

Where a financial institution establishes a business relationship of personal insurance or trust with his client yet if the contractual beneficiary is not the client himself, the financial institution shall make verification and registration of the identity certificate or any other identity certification document of the beneficiary as well.

A financial institution shall not provide any service to or have trade with any client who cannot clarify his identity or establish any anonymous or pseudonymous account therefore.

Where a financial institution has any doubt about the authenticity or effectiveness or completeness of any client's identity materials, it shall check out the client's identity again.

Where any entity or individual establishes any business relationship with any financial institution or requires a financial institution to provide a one-off financial service, it/he shall provide its/his authentic and effective identity certificate or any other identity certification document.

Article 17

Where a financial institution identifies the identity of its clients through a third party, it shall be guaranteed that the third party has adopted the measures for clients' identity clarification as required by the present Law. Where any third party fails to adopt the measures for the clients' identity clarification as prescribed by the present Law, the financial institution shall bear the liabilities for its failure to perform the obligation of clarifying the client's identity.

Article 18

Where a financial institution conducts the clarification of its clients' identity, it may, where it so requires, verify the relevant identity information with such departments as the public security organ and the administrative department for industry and commerce.

Article 19

A financial institution shall establish a preservation system for its clients' identity materials and transactional records. During the existence of business relationship, any client's identity material that changes shall be updated in a timely manner. Upon conclusion of any business relationship or transaction, the relevant client's identity materials or client's transaction information shall be kept for at least 5 years.

Where a financial institution goes bankrupt or is dissolved, it shall transfer the relevant clients' identity materials and clients' transactional records to the institution designated by the relevant department of the State Council.

Article 20

A financial institution shall, according to the relevant provisions, implement the reporting system of large sum transactions and doubtful transactions.

Where any single transaction handled by a financial institution or the accumulated transaction within a prescribed time limit goes beyond the prescribed sum or where any doubtful transaction is found, it shall be reported to the Anti-money Laundering Information Centre in a timely manner.

Article 21

The specific measures for a financial institution to establish a clients' identity clarification system and a preservation system for its clients' identity materials and transactional records shall be formulated by the administrative department of anti-money laundering of the State Council in collaboration with the relevant financial regulatory bodies under the State Council. The specific measures for reporting the large sum transactions and doubtful transactions by financial institutions shall be formulated by the administrative department of anti-money laundering of the State Council.

Article 22

A financial institution shall, according to the requirements for anti-money laundering prevention and supervision, conduct anti-money laundering trainings and publicity.

Article 23

Where the administrative department of anti-money laundering of the State Council or its dispatched organ at the provincial level finds any doubtful transaction and if an investigation and verification is therefore required, it may conduct an investigation into the related financial institutions, and the latter shall provide assistance and faithfully provide the relevant documents and materials.

In the investigation into any doubtful transaction, there shall be no fewer than 2 investigators, who shall show their legal certificates as well as the investigation notice produced by the administrative department of anti-money laundering of the State Council or by its dispatched organ at the provincial level. In the case of fewer than 2 investigators or in case the relevant legal certificate or investigation notice fails to be shown, the financial institution under investigation has the right to refuse the investigation.

Article 24

In the investigation into any doubtful transaction, the relevant investigators may inquire of relevant personnel of the related financial institutions about relevant information.

A Transcript shall be made for an inquiry and shall be checked against the person being interrogated. In the case of any omission or mistake in a transcript, the person being interrogated may request for supplementation or correction. After a person being interrogated confirms a transcript, he shall render his signature or seal thereto and the relevant investigators shall render their signatures onto the transcript as well.

Article 25

Where a further examination is required in an investigation, the investigator may, upon the approval of the principal of the administrative department of anti-money laundering of the State Council or its dispatched organ at the provincial level, consult and photocopy the relevant account information, transactional records and any other relevant materials of the investigated institution or persons, and may seal up any document or material that may be transferred, concealed, tampered or destroyed.

Where an investigator seals up any documents or materials, he shall, in collaboration with the relevant personnel of the investigated financial institution on the spot, sort them out and produce a checklist in duplicate, to which the signatures or seal of investigators and personnel of the financial institutions on the spot shall be rendered. One copy shall be delivered to the financial institution and the other shall be attached to the relevant file for reference.

Article 26

Where any suspicion of money laundering cannot be cleared off upon investigation, a case shall be reported to the competent investigation organ immediately. Where a client requests to transfer the account capital as involved in the investigation to a foreign country, temporary freezing measures may be adopted, subject to approval of the principal of the administrative department of anti-money laundering of the State Council.

After the investigation organ receives a case, it shall decide, in a timely manner, whether or not to further freeze the capital as temporarily frozen up according to the provisions of the preceding paragraph. Where it deems it necessary to continue freezing the capital, freezing measures shall be adopted according to the provisions of the Criminal Litigation Law. Where it deems it unnecessary to freeze the capital any more, it shall immediately notify the administrative department of anti-money laundering of the State Council, and the latter shall immediately notify the relevant financial institution to lift the freeze.

A temporary freeze shall not exceed 48 hours. Where a financial institution does not receive any notice on continuing freezing from the investigation organ within 48 hours after it adopts temporary freezing measures according to the requirements of the administrative department of anti-money laundering of the State Council, it shall immediately lift the freeze.

Article 27

The People's Republic of China shall, according to the international treaties that China has concluded or acceded to or according to the principles of equality and reciprocity, carry out international anti-money laundering cooperation.

Article 28

The administrative department of anti-money laundering of the State Council shall, according to the authorization of the State Council, represent the Chinese government to make anti-money laundering cooperation with foreign governments and relevant international organizations, exchange the relevant information and materials related to anti-money laundering with overseas anti-money laundering institutions according to law.

Article 29

Legal assistance for investigation into any crime of money laundering shall be handled by the judicial organ according to the provisions of relevant laws.

Article 30

Where any functionary of the administrative department of anti-money laundering or any other department or organ bearing the functions and duties of anti-money laundering supervision and administration has any of the following acts, an administrative sanction shall be given according to law:

- (1) Where anyone makes examination, investigation or adopts any temporary freezing measures in violation of the relevant provisions;
- (2) Where anyone divulges any state secret, commercial secret or individual privacy which he has access to in his anti-money laundering work;
- (3) Where anyone gives any administrative punishment to the relevant institution and personnel in violation of the relevant provisions; or
- (4) Where anyone has any act of failing to perform his duties and functions according to law.

Article 31

Where a financial institution has any of the following acts, the administrative department of anti-money laundering of the State Council or its authorized dispatched organ at or above the districted city level shall order it to correct within a time limit. In the case of serious circumstances, it shall advise the relevant financial regulatory body to order the relevant financial institution to give a disciplinary sanction to its directly liable chairperson, senior manager or any other person according to law:

- (1) Where it fails to establish an internal control system of anti-money laundering according to the relevant provisions;
- (2) Where it fails to establish a special institution of anti-money laundering or designates an internal department to take charge of anti-money laundering; or
- (3) Where it fails to conduct anti-money laundering trainings to its employees according to the relevant provisions.

Article 32

Where a financial institution is under any of the following circumstances, the administrative department of anti-money laundering of the State Council or its authorized dispatched organ at or above the districted city level shall order it to correct. In the case of serious circumstances, a fine of 20, 000 yuan up to 50, 000 yuan shall be imposed on the financial institution and a fine of 10, 000 yuan up to 50, 000 Yuan shall be imposed upon its directly liable chairman, senior manager or any other person:

- (1) Where it fails to perform the obligation of clarifying any clients' identity according to the relevant provisions;
- (2) Where it fails to preserve the clients' identity materials and transactional records according to the relevant provisions;
- (3) Where it fails to report relevant reports on large sum transactions or doubtful transactions according to the relevant provisions;
- (4) Where it trades with any client who fails to clarify its/his identity or establishes any anonymous account or pseudonymous account therefore;
- (5) Where it violates the relevant confidential provisions or divulges any relevant information;
- (6) Where it refuses or retards any anti-money laundering examination or investigation; or
- (7) Where it refuses to provide any investigation material or provides any false material on purpose;

Where a financial institution has any of the aforesaid act and thus leads to the consequence of money laundering, a fine of 500, 000 Yuan up to 5, 000, 000 Yuan shall be imposed upon the financial institution and a fine of 50, 000 Yuan up to 500, 000 Yuan shall be imposed upon its directly liable chairman, senior manager or any other person. In the case of particularly serious circumstances, the administrative department of anti-money laundering may advise the relevant financial regulatory body to order the financial institution to suspend its business for rectification or to revoke its business license.

As to the directly liable chairman, senior manager or any other person of a financial institution as prescribed in the preceding two paragraphs, the administrative department of anti-money laundering may advise the relevant financial regulatory body to order the financial institution to give a disciplinary sanction thereto or revoke his qualification to hold a post and prohibit him from engaging in any financial work.

Article 33

Where anyone violates the provisions of the present Law and thus constitutes a crime, he shall be subject to criminal liabilities according to law.

Article 34

The term “financial institutions” as mentioned in the present Law refers to the policy banks, commercial banks, credit cooperatives, post savings institutions, trust investment companies, securities companies, futures brokerage companies, insurance companies as well as any other institutions that have been determined and publicized by the administrative department of anti-money laundering of the State Council to engage in the financial undertakings.

Article 35

The scope of the special non-financial institutions that shall perform the obligation of anti-money laundering, the specific anti-money laundering obligations thereof as well as the specific measures for supervision and administration on the special non-financial institutions shall be formulated by the administrative department of anti-money laundering of the State Council in collaboration with the relevant departments of the State Council.

Article 36

The supervision over any funds suspected of being involved in any terrorism activity shall be governed by the present Law. In the case of any different provision in any other law in this regard, such provision shall prevail.

Article 37

The present Measures shall come into force as of January 1, 2007.

Anti-Money Laundering Rules (2007) (the AML Rules)

Article 1

In order to prevent money laundering activities, regulate anti-money laundering supervision and regulation practice and anti-money laundering tasks of financial institutions, safeguard financial order, the Rules are formulated pursuant to 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 and other relevant laws, administrative rules and regulations.

Article 2

The Rules are applicable to financial institutions legally established within the territory of the People's Republic of China, which includes:

- (1) Commercial banks, urban credit cooperatives, rural credit cooperatives, post savings institutions, policy banks;
- (2) Securities companies, futures broker companies, fund management companies;
- (3) Insurance companies and insurance asset management companies;
- (4) Trust investment companies, financial asset management companies, finance companies, financial leasing companies, automobile finance companies, money brokerage companies;
- (5) Other institutions identified and proclaimed by the People's Bank of China.

The provisions concerning anti-money laundering supervision and regulation on financial institution stipulated by the Rules are applicable to institutions engaged in remittance, payment and clearing, and sales of funds.

Article 3

The People's Bank of China is the competent authority in charge of anti-money laundering affairs under the State Council, and is responsible for supervising and regulating the anti-money laundering work of financial institutions in pursuant to the law. The China Banking Regulatory Commission, the China Securities Regulatory Commission, the China Insurance Regulatory Commission shall perform anti-money laundering supervision and regulation responsibilities within their own jurisdiction. When carrying out the anti-money laundering responsibilities, the People's Bank of China, relevant authorities or institutions under the State Council and the judicial agencies shall cooperate with each other.

Article 4

The People's Bank of China shall represent the Chinese Government to carry out international cooperation on anti-money laundering affairs as authorized by the State Council. The People's Bank of China can establish cooperative mechanism with agencies in charge of anti-money laundering affairs of other countries or territories and conduct cross-border anti-money laundering supervision and regulation.

Article 5

The People's Bank of China carries out the following supervision and regulation responsibilities on anti-money laundering:

- (1) Issue, or issue jointly with the China Banking Regulatory Commission, the China Securities Regulatory Commission, the China Insurance Regulatory Commission, anti-money laundering regulations or rules for financial institutions;
- (2) Monitor the movement of funds in both RMB or foreign currencies for anti-money laundering purposes;
- (3) Supervise and inspect financial institutions on their fulfilment of anti-money laundering obligations;
- (4) Investigate suspicious transactions or activities within its own jurisdiction;
- (5) Report to law enforcement agencies transactions or activities of suspicious money laundering crimes;
- (6) Exchange information for anti-money laundering purposes with overseas anti-money laundering intelligence units in accordance with relevant laws, administrative rules and regulations;
- (7) Other responsibilities stipulated by the State Council.

Article 6

The China Anti-Money Laundering Monitoring and Analysis Centre is established by the People's Bank of China, and shall perform the following responsibilities:

- (1) Receive and analyze large-value and suspicious transaction reports in RMB or foreign currencies;
- (2) Establish the national anti-money laundering database and properly keep large-value and suspicious reports filed by financial institutions;
- (3) Report to the People's Bank of China the analysis result of large-value and suspicious transactions pursuant to provisions;
- (4) Require financial institutions to supplement and correct RMB and foreign exchange large-value and suspicious reports in a timely manner;
- (5) Exchange relevant anti-money laundering information with overseas anti-money laundering intelligence organizations with the approval of the People's Bank of China; and
- (6) Other responsibilities stipulated by the People's Bank of China.

Article 7

The People's Bank of China and its staff shall keep confidential the information obtained while performing anti-money laundering responsibilities and shall not disclose such information against provisions. The China Anti-money Laundering Monitoring and Analysis Centre and its staff shall keep confidential the information of customer identification, large-value and suspicious transaction obtained while performing anti-money laundering responsibilities and shall not provide such information to any organization and individual unless otherwise required by law.

Article 8

Financial institutions and their subsidiaries shall establish and improve anti-money laundering internal control programs, set up or designate relevant internal departments to specialize in anti-money laundering efforts, establish internal operation and control program, and conduct anti-money laundering training on their staff to enhance their anti-money laundering capabilities. The person in charge of financial institutions and their branch offices shall be responsible for the effective implementation of the internal control program.

Article 9

Each financial institution shall establish and implement customer identification program pursuant to the provisions.

- (1) When establishing business relationship with any customer or providing occasional services above the prescriptive amount, a financial institution shall conduct customer identification procedures, require its customer to show a valid identity card or other identity document, verify the documents and register the identity information. The identity information shall be updated in time if any change occurs;
- (2) A financial institution shall know the purpose and nature of the transactions made by its customers, effectively identify the beneficiary of transactions in accordance with the provisions;
- (3) A financial institution shall re-identify its customer in case that the authenticity, validity or integrity of the identification record of the customer obtained previously is doubted or abnormality is discovered during the business.
- (4) A financial institution shall be required to satisfy them selves that the overseas financial institution of agent relationship or other similar business relation has effective customer identification procedures and is able to obtain necessary customer identification information from the overseas financial institution.

Specific implementing measures stipulated above shall be formulated jointly by the People's Bank of China, the China Banking Regulatory Commission, the China Securities Regulatory Commission, and the China Insurance Regulatory Commission.

Article 10

During the stipulated period, financial institutions shall properly keep customer identification documents, as well as relevant document relating to each transaction such as data, vouchers, accounting materials, etc. Specific implementing measures stipulated above shall be formulated jointly by the People's Bank of China, the China Banking Regulatory Commission, the China Securities Regulatory Commission, and the China Insurance Regulatory Commission.

Article 11

Financial institutions shall file RMB and foreign exchange large-value and suspicious transaction reports to the China Anti-money Laundering Monitoring and Analysis Centre in accordance with the provisions. Specific implementing measures stipulated above shall be formulated by the People's Bank of China.

Article 12

The People's Bank of China, jointly with the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission, shall guide the industry self-discipline organizations to formulate anti-money laundering guidelines for specific sector or professions within their jurisdictions;

Article 13

In case that the financial institutions discover any case of suspicious crimes during their fulfilment of their anti-money laundering responsibility, they shall report such as to the local People's Bank of China and public security organ in writing in a timely manner.

Article 14

Financial institutions and their staff shall assist and cooperate with the judicial authorities and administrative law enforcement authorities to fight against money laundering activities in accordance with the law. The overseas branches of financial institutions shall comply with the anti-money laundering laws and regulations of the host countries or territories, and assist and cooperate with the anti-money laundering authority of the countries or regions of the host country or *territories*.

Article 15

Financial institutions and their staff shall keep confidential the customer identification materials and transaction records obtained while performing anti-money laundering responsibilities and shall not provide such information or material to any organization and individual unless otherwise required by law. The financial institutions and their staff shall keep confidential the anti-money laundering work information such as information related to suspicious transactions and investigation on suspicious transactions conducted by the People's Bank of China and shall not provide such information to the customer or other persons.

Article 16

Financial institutions and their staff are protected by law to report large-value and suspicious transactions in accordance with laws.

Article 17

In accordance with the provisions of the People's Bank of China, financial institutions shall submit statistical statements, information materials, and audit reports related to their anti-money laundering practices to the People's Bank of China.

Article 18

Based on the need for fulfilling the responsibilities of anti-money laundering, the People's Bank of China and its subsidiaries have the power to adopt the following measures to conduct on-site inspections:

- (1) Enter the financial institutions for inspection;
- (2) Inquiring the staff of financial institutions for explanations on the inspected items;
- (3) Checking and copying documents and materials kept by financial institution that are relevant to the inspected items, and seal up the documents and materials that might be transferred, destroyed, concealed or tampered;
- (4) Checking the computerized system that stores the management or business data of the financial institutions.

Before conducting on-site inspection, the People's Bank of China and its subsidiaries shall fill in the approval form for on-site inspection, which specifies the institution to be inspected, content of inspection, timetable, etc. The on-site inspection shall be undertaken after being approved by the person in charge of the People's Bank of China or its branch Offices. When on-site inspection is undertaken, the number of inspectors shall not be less than two, and law enforcement certificate and inspection notice shall be presented. If the number of inspectors is less than two or law enforcement certificate and inspection notice are not properly presented, the financial institution has the right to refuse the inspection.

After on-site inspection, the People's Bank of China and its subsidiaries shall produce the letter of comments on on-site inspection, seal up the document and send it to the inspected institution. The letter of comments on on-site inspection shall cover the inspection profile, inspection comments, recommendations for improvement and measures.

Article 19

Based on the need for fulfilling the responsibilities of anti-money laundering, the People's Bank of China and its subsidiaries could talk to the directors and senior executives of the financial institution and ask them to provide explanations on important issues on the fulfilment of anti-money laundering obligations of the financial institution.

Article 20

Where necessary, the People's Bank of China shall inform the China Banking Regulatory Commission, the China Securities Regulatory Commission or the China Insurance Regulatory Commission of the result of its on-site inspection on the financial institution.

Article 21

When discovering any suspicious transaction in need of further investigation or verification, the People's Bank of China and its branches at the provincial level can investigate the customer account information, transaction record and other relevant document relating to suspicious transaction. The financial institution and its staff shall cooperate with the investigation or verification. The People's Bank of China and its branches at the provincial level mentioned above include the People's Bank of China's Shanghai Headquarter, branches, operational offices, sub-branches both at the provincial capital cities and quasi province-level cities.

Article 22

When investigating suspicious transactions or activities, the People's Bank of China and its branches at the provincial level can inquire and ask relevant staff of a financial institution to make explanation, check a copy the account information, transaction record and other materials related to the investigated customer of the financial institution, and seal up the document and material that may be transferred, concealed, tampered or damaged. When the investigation of suspicious transactions is undertaken, the number of investigators shall not be less than two, and law enforcement certificate and investigation notice issued by the People's Bank of China or its branch offices at the provincial level shall be presented. Checking and copying the account information, transaction record and other materials related to the investigated customer of the financial institution shall be approved by the person in charge of the People's Bank of China or its branches at the provincial level. If the investigators violate the stipulated procedures, the financial institution has the right to refuse the investigation.

Enquiry record shall be made when enquiry is conducted. The enquiry record shall be verified by the enquired. The enquired has the right to request supplements or corrections if the enquiry record is thought to have missing or incorrect points. The enquired shall sign his or her name, or seal up on the documents after the verification of the enquiry record. The investigator shall also sign on the enquiry record. While affixing any document or material for keeping, the investigators shall check the items to be affixed with the staff of the financial institution present. Two lists of affixed items shall be made on the spot, and signed by both the investigator and the staff of the financial institution. One of the two lists shall be kept by the financial institution, the other attached to the file for future check-up.

Article 23

If the suspicion is not excluded after investigation, the case shall be reported to the law enforcement agency with proper jurisdiction. In case that the customer requests the fund in the investigated accounts to be transferred overseas, financial institutions shall report timely to the local People's Bank of China. Upon authorization of the responsible person of the People's Bank of China, the People's Bank of China can take temporary freezing measures and inform the financial institution in writing. The financial institution shall implement the freezing notice immediately once receiving it.

Upon receiving the case, if the law enforcement agency decides to freeze the fund, the financial institution shall cooperate after receiving the notice of continual freezing. If the law enforcement agency decides not to continue freezing the fund, upon receiving the notice from the law enforcement agency to discontinue freezing the fund, People's Bank of China shall notify the financial institutions to remove the freezing measure in writing in a timely manner.

Temporary freezing shall not exceed 48 hours. Unless getting continual freezing notice from the law enforcement agencies within 48 hours after the temporary freezing measure is taken, the financial institution shall remove freezing immediately upon the expiry of the 48 hours.

Article 24

In the case of any of the following misconducts, correspondent administrative sanctions shall be imposed on the employee of the People's Bank of China and its subsidiaries who performs anti-money laundering tasks:

- (1) Inspecting, investigating or taking temporary freezing measure in violation of the provisions;
- (2) Disclosing national secrets, commercial secrets or individual privacy obtained while performing anti-money laundering tasks;
- (3) Imposing administrative sanctions upon relevant institutions or individuals in violation of relevant provisions; or
- (4) Other misconducts in violation of the obligations specified by the law.

Article 25

When a financial institution is in breach of the Rules, the People's Bank of China or its branch offices above the prefecture level shall impose penalties on the financial institution in accordance with the Article 31, 32 of the Anti-money Laundering Law of the People's Republic of China. Depending on different situation, the People's Bank of China could propose to the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission to adopt the following measures:

- (1) Order the financial institution to stop its operation for internal rectification or withdraw its business license;
- (2) Disqualify the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institutions from engaging in financial businesses; or
- (3) Order the financial institution to impose disciplinary sanctions on the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institution.

In case that the county-level sub-branches of the People's Bank of China discover that financial institutions act in violation of the Rules, they shall report to the branch office at higher level. The branch office at higher level shall impose sanctions or make suggestions in accordance with the aforementioned provision.

Article 26

The People's Bank of China and its branch offices above the prefecture level shall abide by the Rules of Administrative Punishment Procedure of the People's Bank of China when imposing administrative sanctions on the financial institution that violates the Rules.

Article 27

The Rules come into effect as of January 1st, 2007, when the Rules for Anti-money Laundering by Financial Institutions that was issued by the People's Bank of China on March 1, 2003 shall be simultaneously abolished.

Administrative Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identity and Transaction Information (2007) (the CDD Rules)

Chapter 1 General Provisions

Article 1 The Rules are made to prevent money laundering and terrorist financing activities, to standardize the customer identification and record keeping of customer identity and transaction information by financial institutions, and to maintain financial order, according to the Anti-Money Laundering Law of the People's Republic of China and other regulations.

Article 2 The Rules are applicable to financial institutions legally established within the territory of the People's Republic of China, which include:

- (1) Policy banks, commercial banks, rural cooperative banks, urban credit cooperatives and rural credit cooperatives;
- (2) Securities companies, futures companies, and fund management companies;
- (3) Insurance companies and insurance asset management companies;
- (4) Trust companies, financial asset management companies, finance companies, financial leasing companies, automobile finance companies, and money brokerage companies;
- (5) Other institutions identified and proclaimed by the People's Bank of China.

Institutions engaged in remittance, payment and clearing, and sales of funds are obligated by the Rules to identify their customers, keep the customer identification materials and transaction records.

Article 3 The financial institutions shall fulfill their due diligence; establish, improve and implement their customer identification system; carry out "know your customer" principles; take correspondent measures according to the risks of various customers, business relationships, or transactions; understand the customer, and the purpose and nature of its transactions; and know the natural person(s) who actually controls the customer and the actual beneficiary of the transaction.

Financial institutions shall keep customer identity materials and transaction records properly, ensure the security, accuracy, integrity and confidentiality of all the materials and the sufficiency of the information to recover each transaction, so as to provide necessary information to identify the customer, monitor and analyze the transaction, and investigate suspicious activities and money laundering cases.

Article 4 Financial institutions shall establish and improve internal operating standards and procedures on customer identification and record keeping of customer identity and transaction information according to the laws and regulations concerning anti-money laundering or combating the financing of terrorism, designate specialized personnel in charge of compliance and management on anti-money laundering and combating the financing of terrorism, devise proper business procedures and operating standards, do internal audit regularly, evaluate the integrity and effectiveness of their internal operating standards and procedures, and revise and improve relevant internal regulations in time.

Article 5 Financial institutions shall supervise branches on the implementation of customer identification, record keeping of customer identity and transaction information.

Headquarters of financial institutions shall make uniform requirements on customer identification, and record keeping of customer identity and transaction information.

Financial institutions shall require their overseas branches or subsidiaries to follow the Rules as permitted by the laws or regulations of the host country. If the laws or regulations of the host country are stricter than the Rules, the stricter requirements shall be followed. If the Rules are stricter than the laws or regulations of the host country where overseas branch or subsidiary

locates are not stricter than this Rule, but the host country forbid branches or subsidiary to follow the Rules, the financial institutions shall report to the People's Bank of China.

Article 6 When establishing correspondent banking or similar relationship with financial institutions abroad, financial institutions shall collect sufficient information of the overseas correspondent bank to fully understand its nature, reputation, internal control and the supervision on it, evaluate the AML supervision onto it, the integrity and effectiveness of its AML/CFT measures, and confirm each institution's responsibilities concerning customer identification and record keeping of customer identity and transaction information on written documents.

Establishing new correspondent relationship should be approved by the board of directors or the senior management.

Chapter 2 Customer Identification Program

Article 7 When establishing business relationship with customers in the way of opening accounts, or providing customers without accounts in the institution with occasional services, such as cash remittance, cash exchange or note cashing, with the transaction volume exceeding 10,000 RMB or 1,000 USD equivalent, policy banks, commercial banks, rural cooperative banks, urban credit cooperatives, rural credit cooperatives and foreign exchange institutions shall identify their customers, find out the natural person(s) who actually control(s) the customer and the actual beneficiary of the transaction, verify valid identity cards or other identity documents of customers, register basic identity information of customers and keep copies of valid identity cards or other identity documents.

If the customer is a foreign senior political person, the financial institutions shall obtain approval from the senior management before opening an account.

Article 8 When providing cash deposit or cash withdrawal services with single transaction volume exceeding 50,000 RMB or 10,000 USD equivalent for natural person customers, financial institutions, such as commercial banks, urban credit cooperatives, rural credit cooperatives, rural cooperation banks, etc, shall verify valid identity cards or identity documents of customers.

Article 9 When providing safekeeping service, financial institutions shall understand the actual user of the safe.

Article 10 When remitting funds from China to other countries, financial institutions such as commercial banks, urban credit cooperatives, rural credit cooperatives, rural cooperation banks, policy banks, etcetera and institutions engaged in remittance business shall register the name, account number and address of the payer, and the name and address of the payee, shall keep the above information in the remittance voucher or relevant information system, and provide the receiving financial institutions with information of the payer such as the name, account number, address and so on. If the payer does not have account in the financial institution and thereby the financial institution is not able to record the account number, the financial institution shall register other relevant information, provide the information to the institution receiving the remittance and ensure the follow-up audit of the transaction. If the address of the payee abroad is not clear, financial institutions may register the address of the overseas institution receiving the remittance.

When receiving remittance from other countries, financial institutions shall ask the foreign remitting institution to make supplementation if any information regarding the name, account number and address of the remitter is omitted. If the remitter does not have account in the foreign remitting institution and therefore the domestic receiving financial institutions are not able to register the account number of the remitter, the domestic receiving financial institution shall register other relevant information and ensure the possibility of follow up audit of the transaction. If the address of the overseas remitter is not clear, financial institutions shall register the address of the foreign remitting institution.

Article 11 When conducting the following businesses, securities companies, future companies, fund management companies and other institutions engaged in fund sales shall identify their customers, find out the natural person(s) who actually control(s) the customer and the actual beneficiary of the transaction, verify the valid identity cards or other identity documents of their customers, register basic identity information of customers and keep copies of valid identity cards or documents:

- (1) open, cancel or change a capital account, or deposit or withdraw funds;
- (2) open a fund account;

- (3) open, report the loss or cancel a securities account for others, or apply, report the loss or cancel futures transaction codes for others;
- (4) sign futures brokerage contracts with customers;
- (5) conduct or cancel authorization of representative for customers;
- (6) change the trusteeship, designate transactions, cancel designated transactions;
- (7) confirm stocks for other persons;
- (8) report the loss of the transaction password;
- (9) modify the basic identity information of customers;
- (10) open non-counter based transaction modes, such as online transactions, telephone transactions, etcetera;
- (11) sign credit contracts, such as finance and securities loan contracts;
- (12) other transactions designated by the People's Bank of China and China Regulatory Securities Commission

Article 12 When signing property insurance contracts with premium paid by cash exceeding 10,000 RMB or 1000 USD equivalent, signing life insurance contracts with premium for single insurant paid by cash exceeding 20,000 RMB or 2,000 USD equivalent, or signing insurance contracts with premium paid by transfer exceeding 200,000 RMB or 20,000 USD equivalent, insurance companies shall verify the relationship between the policy holder and the insurant, verify the valid identity cards or identity documents of the policy holder, the insurant of the life insurance and the appointed beneficiary other than the legal heir of the insurant, register the basic identity information of the policy holder, the insurant and the appointed beneficiary other than the legal heir of the insurance, and keep copies of the valid identity cards or other identity documents.

Article 13 When receiving application to cancel the policy with premium or cash value exceeding 10000 RMB or equivalent 1000 USD foreign currency, insurance companies shall require the applicant to show the original insurance contract or policy, verify the valid identity card or other identity document of the applicant and confirm the identity of the applicant.

Article 14 When receiving the compensation or payment request from the insurant or beneficiary with amount exceeding 10,000 RMB or 1,000 USD foreign currency equivalent, the insurance company shall verify the valid identity cards or other documents of the insurant and the beneficiary, verify the relationship among the insurant, the beneficiary and the policy holder, register basic identity information of the insurant and the beneficiary, and keep copies of the valid identity cards or documents.

Article 15 When setting up the trust, the trust company shall verify the valid identity cards or other identity documents of the settler, understand the source of the trust funds, register basic identity information of the settler and the beneficiaries, and keep copies of the valid identity cards or other identity documents of the settler.

Article 16 When signing financial business contracts, financial asset management companies, finance companies, financial leasing companies, auto finance companies, currency brokerage companies, insurance asset management companies and other financial institutions identified by the People's Bank of China shall verify the valid identity cards or other identity documents of their customers, register the customers' basic identity information and keep copies of the customers' valid identity cards or other identity documents.

Article 17 When providing non-counter based services to customers such as through the telephone, network, ATM and other electronic transaction platforms, financial institutions shall carry out strict identification measures, adopt proper technical safety measures commensurate with the risks, strengthen the internal control procedures and identify the customers.

Article 18 The financial institutions shall determine the risk level according to features such as the customer, account, geography, business, industry, and whether the customer is a foreign senior political persons, and so on. Financial institutions shall keep

ongoing attention and adjust the risk level in time. Under the same condition, customers from countries/regions with weak AML/CFT administration shall have higher risk level than other customers.。

Financial institutions shall verify customers' basic information regularly according to the level of the customer or the account. Verification on customers or accounts with higher risk level shall be more rigorous. Verification on customers or accounts with the highest risk level shall be carried out at least once per 6 months.

Financial institutions' risk classification criteria shall be reported to the People's Bank of China.

Article 19 (Ongoing Due Diligence) During the existence period of the business relationship, financial institutions shall adopt ongoing customer due diligence measures, pay attention to the customer and his/her daily operations and financial transactions, and remind customers to update relevant material and information in time.

For high-risk customers or holders of high-risk accounts, financial institutions shall understand the information such as the source of fund, the purpose of fund, financial or business status, etcetera, and strengthen the monitoring and analysis of financial transactions. For foreign senior political persons, financial institutions shall take proper measures to understand the source and purpose of their fund.

If the identity document is expired and the customer fails to update the document within the rational period without any proper reason, financial institutions shall suspend doing business for the customer.

Article 20 Financial institutions shall take reasonable steps to determine whether the customer conduct business on behalf of others, and shall obtain valid identity card or other identity document to verify the identity of the representative, register the name, contact ways, and type and number of the identity card or other identity document of the representative when performing customer identification procedures on the represented persons.

Article 21 Financial institutions other than the trust companies shall identify the identities of the parties concerned in the trust, and register the names and contact ways of the settler and the beneficiary, if the financial institutions know or should have known the asset or property is under trust.

Article 22 Financial institutions shall re-identify their customers under the following circumstances:

- i. The customer requires to change his registered name, type of his identity card or other identity document, registered capital, business scope, legal representative or persons in charge;
- ii. There is something unusual in the customer's behavior or transaction activities;
- iii. The name of the customer matches the list of the suspects, money launders, and terrorist financiers that the relevant authorities under the State Council and law enforcement authorities have asked the financial institutions to assist in investigation or pay special attention to;
- iv. The financial institution suspects that the customer is involved in money laundering or terrorist finance activities;
- v. The customer information obtained by the financial institution is not consistent with such information acquired previously;
- vi. The financial institution doubts the authenticity, validity or integrity of the identification record of the customer obtained previously;
- vii. Other circumstances under which the customer should be re-identified at the financial institution's discretion.

Article 23 Besides verifying the valid identity card or identity document, financial institutions may take one or several of the following measures when identifying or re-identifying their customer's identities:

- i. To require the customer to supplement other identity record or identity document;
- ii. To call the customer;
- iii. To visit the customer;
- iv. To verify with the public security organs and administrative departments of industry and commerce; or
- v. To take other measures provided by legislations.

When the financial institutions of the banking sector verify the identity cards of relevant individuals for fulfilling the customer identification obligations in accordance with laws, administrative regulations or rules, they shall verify the identity information of the individuals through the Networking System for Citizen Identity Information Verification established by the People's Bank of China. Financial institutions in other sectors may verify the identity information of the individuals through the Networking System for Citizen Identity Information Verification established by the People's Bank of China if necessary.

Article 24 Financial institution that entrusts other financial institutions to sell financial products to customers shall specify the obligations of the parties concerned in identifying the customers in the entrustment agreements, assist each other when necessary, and take effective customer identification measures according to their obligations.

Financial institutions can, under the following circumstances, rely on the customer identification results provided by financial institutions that sell financial products to the customers and need not to repeat the customer identification procedures that have been done by other financial institutions, but shall be held liable for any failure in fulfilling the customer identification obligations.

- i. The customer identifying measures taken by financial institutions that sell financial products comply with the requirement of the AML laws, regulations and the Rules.
- ii. The customer identity material and information can be effectively obtained and kept.

Article 25 Financial institutions may entrust third parties that are not financial institutions to identify customers if the following requirements are complied with:

- i. It is proved that that the third party has taken necessary steps in customer identification and record keeping of identity documents in line with the requirement of the AML laws, regulations and the Rules;
- ii. There is no legal or technical obstacles for that third party to provide the financial institutions with customer information; and
- iii. Customer information can be obtained immediately by the financial institutions when financial services are provided, and original copy or photocopies of valid identity card or other identity documents can be obtained when necessary.

Financial institutions that entrust a third party to identify customers shall be held liable for any failure in fulfilling the customer identification obligations.

Article 26 Each financial institution shall report to China Anti-Money Laundering Monitoring and Analysis Center and local branches of the People's Bank of China the following suspicious activities when fulfilling the customer identification obligations:

- i. The customer refuses to show valid identity card or other identity document;
- ii. The name, account number, and address or its substitute information of the remitter can not be fully obtained after requesting the overseas remitting institutions to provide for these data;

- iii. Customer refuses to update his basic customer information without proper reasons;
- iv. The financial institutions still have doubt on the authenticity, validity or integrity of the identity record of the customer obtained previously, after taking necessary measures; or
- v. Other suspicious activities have been discovered when the customer identification obligations are fulfilled.

When filing the suspicious activities reports, the financial institutions shall refer to the Administrative Rules for the Reporting of Large-Value and Suspicious Transactions by Financial Institutions (Decree [2006] No. 2 of the People's Bank of China) and other relevant provisions.

CHAPTER 3 KEEPING RECORDS OF CUSTOMER IDENTITY MATERIAL AND TRANSACTION RECORDS

Article 27 Records of customer identity materials that shall be kept by each financial institution include customer identity information and materials obtained in fulfilling the customer identification obligations, and various records and materials that reflect the work of the financial institutions in identifying the customers.

Transaction records that shall be kept by each financial institution include data, business vouchers, accounting vouchers for each transaction, and contracts, business vouchers, bills, business correspondence and other materials that reflect the circumstances of the actual transactions.

Article 28 Financial institutions shall take necessary managerial and technical measures to prevent the lost, destroy, damage or leakage of customer identity materials and transactions records.

Financial institutions shall take feasible measures to keep customer identity materials and transaction records to facilitate AML investigation and supervision.

Article 29 Financial institutions shall keep customer identity materials and transaction records for the following period of time:

- i. At least five years for customer identity materials since the termination of business relationship or the date of the book entries of the occasional transaction.
- ii. At least five years for transactions records since the date of the book entries of the transaction.

If the customer identity materials or transaction records relate to suspicious activities under investigation and the anti-money laundering investigation cannot be completed before the above time limit, the customer identity materials and transaction records should be kept until the investigation is finished.

For the medium on which customer identity data or transaction records with different keeping terms are kept, it shall be kept for the longest required period of time. If one set of customer identity data or transaction record is kept on different mediums, at least one medium with such data and record shall be kept for the required period of time.

If other laws, administrative regulations and rules provides longer period of time for keeping customer identity materials and transaction records, the other laws, administrative regulations and rules shall be applied.

Article 30 In the case that a financial institution goes bankruptcy or is dismissed, the customer identity materials and transaction records shall be transferred to institutions designated by China Banking Regulatory Commission, China Security Regulatory Commission, or China Insurance Regulatory Commission.

CHAPTER 4 LEGAL LIABILITIES

Article 31 In case of any violation of the Rule by a financial institution, sanctions shall be imposed in line with article 31 and 32 of the AML Law by the People's Bank of China. For the correspondent circumstances, the PBC shall propose to the China Banking Regulatory Commission, China Security Regulatory Commission, or China Insurance Regulatory Commission to take the following measures:

- i. Order the financial institution to stop its operations for internal rectification or withdraw its business license;
- ii. Disqualify the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institutions from taking the positions, or prohibit them from engaging in financial businesses; or
- iii. Order the financial institution to impose correspondent disciplinary sanctions on the directors, senior managers, and other person(s) directly responsible for the misconduct.

Where a sub-branch of a county (prefecture) of the People's Bank of China finds any financial institution that violates the Rules, it shall report to the branch institution of the PBC at the next higher level, which shall impose penalties or put forward a proposal according to the preceding Paragraph.

Chapter 5 Supplementary Provisions

Article 32 The Rules are not applicable to the insurance companies to identify customer while doing re-insurance business.

Article 33 The terminologies in the Rules shall be interpreted as follows:

Basic Identity information of a natural person includes names, gender, nationality, occupation, domicile address or business address, contact ways, and type, number and period of validity of the identity card or other identity document. In case that the customer's regularly live in residency other than his domicile, the regular residency shall be regarded as his domicile address.

Basic Identity information of a legal person, other organization, and self-employed entity includes its name; address; business scope; organization or institution code; tax registration certificate; titles, numbers and period of validity of licenses, certificates or documents that certify the customer is legally established and qualified to do business or carry out social activities; names, and type, number and period of validity of identity cards or other identity documents of the controlling shareholders or actual controllers, legal representatives, person(s) in charge and person(s) authorized to act on behalf of the entity.

Article 34 The Rules shall be interpreted by the PBC together with China Banking Regulatory Commission, China Security Regulatory Commission, and China Insurance Regulatory Commission.

Article 35 The Rules enter into force as of August 1, 2007.

Administrative Rules for the Reporting of Large Value and Suspicious Transactions by Financial Institutions (2007) (the LVT/STR Rules)

Article 1

In order to prevent money laundering activities through financial institutions and regulate large-value and suspicious transaction reporting of financial institutions, the Rules are formulated pursuant to 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 and other relevant laws and administrative regulations.

Article 2

The Rules are applicable to financial institutions legally established within the territory of the People's Republic of China, which includes:

- (1) Commercial banks, urban credit cooperatives, rural credit cooperatives, post savings institutions, and policy banks;
- (2) Securities companies, futures broker companies, and fund management companies;
- (3) Insurance companies and insurance asset management companies;
- (4) Trust Investment companies, financial asset management companies, finance companies, financial leasing companies, automobile finance companies, and money brokerage companies;
- (5) Other institutions identified and proclaimed by the People's Bank of China.

Institutions engaged in remittance, payment and clearing, and sales of funds are obligated by the Rules to report large-value and suspicious transactions.

Article 3

The People's Bank of China and its subsidiaries are responsible for supervising and inspecting the reporting of large-value and suspicious transactions by the financial institutions.

Article 4

The People's Bank of China establishes the China Anti-money Laundering Monitoring and Analysis Center to be responsible for receiving the RMB and foreign exchange large-value and suspicious transaction reports. When the China Anti-money Laundering Monitoring and Analysis Centre discovers that the essential elements of the large-value transaction or suspicious reports provided by a financial institution are not complete or accurate, it can send a notice of supplementation and correction to the financial institution that files the report. The financial institution shall supplement and correct the report within five business days after receiving the notice.

Article 5

Financial institutions shall establish posts to specialize in anti-money laundering efforts and designate specific personnel to be responsible for reporting large-value and suspicious transactions. Financial institutions shall set up internal control and operation program for reporting large-value and suspicious transactions and report the programs to the People's Bank of China for record. Financial institutions shall supervise and regulate their subsidiaries on their implementation of the large-value and suspicious reporting program.

Article 6

Financial institutions and their staff shall keep confidential the information concerning suspicious transaction reports and shall not provide such information to any organization or individual.

Article 7

Financial institutions shall timely report the large-value transactions to the China Anti-money Laundering Monitoring and Analysis Centre in electronic way within five business days after the date of transactions, through their headquarters or institutions designated by headquarters. For financial institutions that do not have headquarters or are not able to file large-value transaction reports to the China Anti-money Laundering Monitoring and Analysis Centre through headquarters and institutions designated by headquarters, the means of reporting shall be decided by the People's Bank of China. When the customers conduct large-value transactions through their accounts opened in domestic financial institutions or banking cards, the financial institutions that opened the accounts or the banks issuing the cards shall report such transactions. When the customers conducted large-value

transactions through their overseas banking cards, the banks that receive the bills shall report them. When the customers conduct large-value transactions not based on any account or banking card, the financial institutions that deal with such businesses shall report such transactions.

Article 8

Financial institutions shall file a suspicious transaction report to their headquarters. The headquarters of the financial institutions or the institutions designated by headquarters shall report the suspicious transactions within 10 business days after the date of transaction to the China Anti-money Laundering Monitoring and Analysis Centre in electronic way. For financial institutions that do not have headquarters or are not able to file suspicious transaction reports to the China Anti-money Laundering Monitoring and Analysis Centre through the headquarters or the institutions designated by headquarters, the means of reporting shall be decided by the People's Bank of China.

Article 9

Financial institutions shall report the following large-value transactions to the China Anti-money Laundering Monitoring and Analysis Centre:

- (1) Any single cash transaction with the value or any series of cash transactions with the accumulated value in a single day over RMB 200,000, or over US\$10,000 equivalents in foreign currencies such as cash deposit, cash withdrawal, sale and purchase of foreign exchange by cash, cash exchange, cash remittance, cashier's check payment and other cash transactions.
- (2) Any fund transfer above RMB 2,000,000 or US\$200,000 equivalents in foreign currencies among bank accounts of legal persons, other organizations and firms created by self-employed persons, in a single deal or in accumulative terms on the day of the transactions;
- (3) Any fund transfer above RMB 500,000 or US\$100,000 equivalents in foreign currencies among bank accounts of natural persons, or among bank accounts of the natural persons and legal persons, other organizations and firms created by self-employed persons, in a single deal or in accumulative terms on the day of the transactions;
- (4) Any cross-border transaction over US\$ 10,000 equivalents in foreign currencies in a single deal or in accumulative terms on the day of the transactions, and one party involved in the transaction is a natural person. The value of accumulative deals is calculated and reported on single customer, unilateral transaction basis according to receipt and payment of fund, unless otherwise provided for by the People's Bank of China.

In case that the customer conducts financial transactions with securities companies, future broker companies, fund management companies, insurance companies, insurance asset management companies, trust investment companies, financial asset management companies, finance companies, financial leasing companies, automobile financial companies and money brokerage companies, etc., and transfers fund through bank account, commercial banks, urban credit cooperatives, rural credit cooperatives, post savings institutions or policy banks shall file large-value transaction report to the China Anti-money Laundering Monitoring and Analysis Centre in accordance with the stipulations in item (2), (3) and (4) of this Article. The People's Bank of China can adjust the large-value reporting standard stipulated by this Article according to actual need.

Article 10

Financial institutions can choose not to file a report on large-value transaction if the transaction falls under one of the following conditions and is not discovered to be suspicious:

- (1) Time deposit is not directly withdrawn or renewed when expired. Instead, its principal or its principal plus its whole or partial interest is deposited in another account under the same account holder's name at the same financial institution by the customer.
The principal or the principal plus its whole or partial interest under his demand deposit account is transferred for time deposit to another account under the same account holder's name at the same financial institution by the customer. The principal or the principal plus its whole or partial interest under his time deposit account is transferred for demand deposit to another account under the same account holder's name at the same financial institution by the customer.
- (2) Transactions between different types of foreign currencies in the course of firm-offer foreign exchange transactions conducted by natural persons;

- (3) One party involved in the transaction is the China Communist Party and or the government organ, administrative organs, judicial organs, military organs, organs under the Chinese People's Political Consultative Conference, the Chinese People's Liberation Army and or the armed police force at various levels. Various types of subordinated enterprises of the above organizations are excluded;
- (4) Inter-bank lending funds and bonds transaction in the inter-bank bonds market;
- (5) Gold transactions conducted by the financial institution in the gold exchange;
- (6) Internal fund allocations in financial institutions;
- (7) Transactions under the transfer loans of international financial organization and foreign government loans;
- (8) Debt swap transactions under international financial organization and foreign government loans;
- (9) Tax, correction of errors in account and interest payment in the commercial banks, urban credit cooperatives, rural credit cooperatives, post savings institutions and policy banks;
- (10) Other situations stipulated by the People's Bank of China.

Article 11

Commercial banks, urban credit cooperatives, rural credit cooperatives, post savings institutions, policy banks, trust and investment companies shall report the following transactions or activities as suspicious transactions:

- (1) Fund being moved out in large quantities after coming into a financial institution in small amounts and in many batches within a short period of time or vice versa, which obviously does not conform to identification of customer, financial position and operation business;
- (2) Receipt and payment of funds occur between the same payee and payer frequently over the short term, and the sum of transaction is close to the standards of large-value transactions;
- (3) Legal persons, other organizations, firms created by self-employed persons frequently receive remittance over the short term, which is obviously unrelated to their businesses; or natural persons frequently receive remittance of legal persons and other organization over the short term;
- (4) Bank accounts that have been idled for a long time are activated for unknown reasons or bank accounts that have been normally low in fund flows have abnormal in-flow of funds all of a sudden with large amounts of receipts and payments over a short period of time;
- (5) There is an obvious increase during a short time of flows of funds for customers or frequent receipt and payment of large amounts of funds for customers from areas, regions, countries or jurisdictions where drug trafficking, smuggling, terrorism, gambling and tax evasion through the use of an offshore financial centre are prevalent;
- (6) Several bank accounts are opened under the same account holder's name and cancelled without proper reasons, or large amounts of receipts and payments of funds occur before the cancellation of accounts;
- (7) Repayment of large value loans is made ahead of schedule, but does not conform to the financial position obviously;
- (8) Most of the RMB funds of the customers for purchasing foreign currencies for overseas investment are cash or funds transferred not from the same bank account;
- (9) The customer asks for a swap transaction between domestic and foreign currencies, but sources and purposes of its funds are suspicious;
- (10) The customer often deposits traveller's checks written abroad or deposit of drafts in foreign currencies, which do not conform to its business position;
- (11) Foreign-funded enterprises make investment in cash of foreign currencies, or after investment funds are in place, they transfer them overseas quickly over a short period of time, which is not commensurate with their needs for payment in production and operations;
- (12) Investment capital from the foreign party in foreign-funded enterprise exceeds the approved sum or the foreign direct debt borrowed is inwardly remitted from an unrelated enterprise in the third country;

- (13) Securities firms instruct the banks to out-transfer funds that are unrelated to securities transactions and settlement, which is not commensurate with their business position;
- (14) Securities firms frequently remove and borrow foreign exchange funds in large amounts through the banks;
- (15) Insurance companies compensate or refund premiums for the same policyholders in large amounts through the banks;
- (16) Natural persons make frequent cash receipts and payments through bank accounts, or when they make one-time cash deposit and or withdrawal at large values which are not consistent with the customer's profile;
- (17) After frequently receiving foreign exchange from overseas in their foreign exchange bank accounts, residents ask the banks to issue traveller's checks or drafts, or non-residents ask the banks to issue traveller's checks and or drafts for them to bring out of the country, or frequently place orders for and cash traveller's checks and drafts in large amounts after frequently depositing foreign currencies in cash;
- (18) Multiple residents within the border of China receive remittance from one offshore account, at which the transfer and purchase of foreign exchange is operated by one or a few people.

Article 12

As for the following transactions or activities, securities companies, futures broker companies and fund management companies shall report the transactions as suspicious transactions:

- (1) The customer settlement account frequently receives and pays capital in the sum close to the large-value cash transaction report's standard without clear reasons, indicating obviously that the purpose of the operation is to evade the supervision of large-value cash transactions;
- (2) The customer without transaction or with a small sum of transaction demands to transfer a large sum of money to other accounts without clear transaction purpose or use;
- (3) The customer whose securities account idles for a long period of time while settlement account receives and pays a large sum of capital frequently;
- (4) An account idling for a long period of time starts operation suddenly and without clear reasons, and has a large amount of securities transactions during a short period of time;
- (5) Business relationship with high-risk money laundering countries or regions;
- (6) The customer buys and sells a large amount of securities in a short period of time after opening an account and then closes the account;
- (7) The customer has no or small amount of futures transactions for a long period of time and his or her settlement account receives and pays a large amount of capital;
- (8) The customer has no transaction for a long period of time and suddenly has frequent futures transactions during a short period of time without any clear reason, and the capital involved is enormous;
- (9) The customer frequently takes one futures contract as object, opens at certain price while at the same time opens in reverse direction at approximately same price, with the same amount or approximately the same amount before closing out and exiting to draw money;
- (10) At the completion of a business transaction with imported commodities, a customer serves as the selling party of the futures transaction yet cannot provide complete customs declaration and tax payment receipt, or provide fabricated and false customs declaration and tax payment receipt.
- (11) The customer demands to transfer fund shares due to non-transaction reasons yet cannot provide legal certification documents;
- (12) The customer processes the transfer of fund share custody frequently without proper reason;
- (13) The customer demands to change its registered information yet cannot provide required supporting documents and materials to be clear of suspicion of fabrication and alternation.

Article 13

As for the following transactions or activities, insurance companies shall report the transactions as suspicious transactions:

- (1) Separate application but single withdrawal, or single application but separate withdrawal, without reasonable explanations;
- (2) Frequent applications, withdrawals, or alterations of insurance type and amount;
- (3) The insurant pays unusual attention on the auditing, insurance examination, claim settlement, payment and withdrawal regulations of the insurance company instead of on the guarantee function of insurance products and the benefits of investment accounts;
- (4) The customer claims the loss of large-value invoices at time of withdrawal within the hesitation period, or the same insurant withdraws for many times at short period and the amount of loss of invoices is large;
- (5) Relevant obtained information of insurant, insured and beneficiary such as name, residential address, contact way and financial status are not real;
- (6) Any obvious discrepancy between the purchased insurance product and the presented need, customers persist in buying after financial institutions and their staffs explain;
- (7) The customer purchases large value insurance by single payment of the premiums and does not conform to its economic status;
- (8) For large value insurance, the customer withdraws right during the hesitation period or shortly after the effective date of insurance contract or withdraw cash, and require insurance companies to remit returned premiums into the third party' account or other accounts except non-payment account.
- (9) The customer pays no attention to the great economic cost that may be brought by withdrawal and insists on withdrawal without reasonable explanation;
- (10) The customer pays obvious extra premium payable of this term and requires the return of exceeding part right afterwards;
- (11) The insurance broker pays premiums on other's behalf but fails to state the source of the fund;
- (12) The legal persons and other organizations insist on requiring the premiums to be returned in cash or transferring into non-payment account without reasonable explanation;
- (13) The legal persons and other organizations pay the first period of premiums or single premiums from account other than that of their entity or from their overseas bank account;
- (14) Paying the premiums for an individual through a third party without reasonable explanation of the relationship among the third party and the insurant, the insured and the beneficiary;
- (15) The business is related to a country and region with high money laundering risks;
- (16) The insurant insists on using cash to insure, indemnify, pay premiums, withdraw premiums or insurance policy value, or to pay other funds of large amount and with proper reasons;
- (17) The customer requires the insurance companies to remit the fund to a third party other than the insured and beneficiary when the insurance company indemnifies and pays premiums, or the customer requires the insurance companies to remit returned premiums and insurance policy value to persons other than the insurant.

Article 14

Except for situations stipulated by the Article 11,12 and 13, financial institutions and their staff shall file suspicious transaction report to China Anti-money Laundering Monitoring and Analysis Centre in case that they discover abnormality of transaction amount, frequency, flow, nature, etc. and the transaction is considered to be suspicious after analysis

Article 15

Financial institutions shall analyze and identify the suspicious transaction reported to the China Anti-Money Laundering Monitoring

and Analysis Centre in accordance with the Rules. If there are proper reasons to believe that the customer or transaction is relating to money laundering, terrorist activities and other law –violating and criminal activities, financial institutions shall report to the local People’s Bank at the same time and cooperate with its anti-money laundering administrative investigation.

Article 16

If any transaction falls into both the large-value transactions and the suspicious transactions categories, financial institutions shall file the large-value and suspicious transaction reports respectively. If any transaction meets more than two large-value reporting standards, financial institutions shall file large-value transaction reports according to the standards respectively.

Article 17

Financial institutions shall, according to the essential elements in large-value transactions and suspicious transaction report attached to the Rules (the Content of the essential elements were attached to the Rules) provide authentic and complete transaction information, and formulate the electronic documents of large-value transactions and suspicious transactions. Specific reporting form and requirement shall be issued by the People’s Bank of China.

Article 18

When a financial institution is in breach of the Rules, the People’s Bank of China shall impose penalties on the financial institution in accordance with the Article 31, 32 of the Anti-money Laundering Law of the People’s Republic of China. Depending on different situation, the People’s Bank of China could propose to the China Banking Regulatory Commission, the China Securities regulatory Commission, and the China Insurance Regulatory Commission to adopt the following measures:

- 1) Order the financial institution to stop its operation for internal rectification or withdraw its business license,
- 2) Disqualify the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institutions from engaging in financial businesses.
- 3) Order the financial institution to impose disciplinary sanctions on the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institution.

In case that the county-level sub-branches of the People’s Bank of China discover any financial institution in violation of the Rules, they shall report such violation to branch at higher level. The branch at higher level shall impose sanctions or propose suggestions in accordance with the aforementioned stipulation.

Article 19

The People’s Bank of China and its branches above the prefecture level shall abide by the Rules of Administrative Punishment Procedure of the People’s Bank of China to impose administrative sanctions on the financial institution that violates the Rules.

Article 20

Terms contained in the Rules are defined as below: “Short-term” refers to the period within 10 business days, including 10 business days. “Long-term” refers to the period more than one year. “Large Amounts” refers to the situation where the value of transaction(s) in a single deal or accumulative deals is lower but close to the standard of large-value transactions. “Frequently” refers to the occurrence of transactions for more than 3 times a day or the occurrence thereof every business day for over 3 consecutive days ; “Above” is used to refer the situation that includes the number mentioned.

Article 21

The Rules come into effect as of March 1st, 2007, when Administrative Rules for the Reporting of Large-Value and Suspicious RMB Payment Transactions and Administrative Rules for the Reporting of Large-Value and Suspicious Foreign Exchange Transactions by Financial Institutions that were issued by the People’s Bank of China on March 1, 2003 shall be simultaneously abolished.

Administrative Rules for the Reporting of Suspicious Transactions related to the Financing of Terrorism by Financial Institutions (2007) (the FT/STR Rules)

Article 1 In order to monitor the financing of terrorism, prevent the financing of terrorism through financial institutions and regulate the reporting of suspicious transactions related to the financing of terrorism by financial institutions, the Rules are formulated pursuant to 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* and other relevant laws and administrative regulations.

Article 2 *Financing of terrorism* refers to the following behaviours:

- (1) The collection, possession or use of funds or other forms of assets by terrorist organisations or terrorist individuals;
- (2) Assisting terrorist organisations, terrorist individuals, terrorism, or terrorism acts with funds or other forms of assets;
- (3) The collection, possession or use of funds or other forms of assets for the use in terrorism or terrorist acts;
- (4) The collection, possession or use of funds or other forms of assets for terrorist organisations or terrorist individuals.

Article 3 The Rules are applicable to financial institutions legally established within the territory of the People's Republic of China, which include:

- (1) Policy banks, commercial banks, rural cooperative banks, urban credit cooperatives and rural credit cooperatives;
- (2) Securities companies, futures companies, and fund management companies;
- (3) Insurance companies and insurance asset management companies;
- (4) Trust Investment companies, financial asset management companies, finance companies, financial leasing companies, automobile finance companies, and money brokerage companies;
- (5) Other institutions identified and proclaimed by the People's Bank of China.

Institutions engaged in remittance, payment and clearing, sales of funds, or insurance brokerage are obligated by the Rules to report terrorist financing transactions.

Article 4 The People's Bank of China and its subsidiaries are responsible for supervising and inspecting the financial institutions for the reporting of suspicious transactions related to financing of terrorism.

Article 5 The China Anti-Money Laundering Monitoring and Analysis Center established by the People's Bank of China is responsible for receiving and analysing the suspicious transaction reports related to financing of terrorism.

When the China Anti-Money Laundering Monitoring and Analysis Center discovers that the essential elements of the suspicious reports related to the financing of terrorism filed by a financial institution are not complete or accurate, it may send a notice of supplementation and correction to the financial institution that files the report. The financial institution shall supplement and correct the report within five business days after receiving the notice.

Article 6 Financial institutions and their staff that are obligated to perform responsibilities on counter-financing of terrorism are protected by law to report suspicious transactions pursuant to the laws and regulations.

Article 7 Financial institutions shall file suspicious transaction reports related to the financing of terrorism to their headquarters. The headquarters of the financial institutions or the institutions designated by headquarters shall report the suspicious transactions within 10 business days to the China Anti-money Laundering Monitoring and Analysis Center in electronic way. For financial institutions that do not have headquarters or are not able to file suspicious transaction reports to the China Anti-money

Laundering Monitoring and Analysis Center through the headquarters or the institutions designated by headquarters, the means of reporting shall be decided by the People's Bank of China.

Article 8 Financial institutions that suspect any customer, fund, transaction or attempted transaction linked or related to terrorist organisations, terrorist individuals or those who finance terrorism shall file suspicious transaction reports, irrespective of the value of the funds or other forms of assets. Suspicious transactions related to the financing of terrorism include but are not limited to the following transactions or behaviours:

- (1) The customer is suspected to collect or attempt to collect funds or other forms of assets for terrorist organisations, terrorist individuals, terrorist acts;
- (2) The customer is suspected to provide or attempt to provide funds or other forms of assets for terrorist organisations, terrorist individuals, or terrorist acts, or those who finance terrorism; or
- (3) The customer is suspected to preserve, manage or operate funds or other forms of assets for terrorist organisations or terrorist individuals, or is suspected to attempt to do so;
- (4) The customer or the counterpart with whom the customer conducts transactions is suspected to be a terrorist organisation, a terrorist individual or anyone that finances terrorism;
- (5) The funds or other forms of assets are suspected to be derived from or will be derived from terrorist organisations, terrorist individuals or those that finance terrorism;
- (6) The funds or other forms of assets are suspected to be used or intended for use in the financing of terrorism, terrorism acts or other terrorist purposes, or by terrorist organisations, terrorist individuals or those who finance terrorism;
- (7) Other situations where there are reasonable grounds for financial institutions or their staff to suspect that the funds or other assets, transactions, customers are linked or related to terrorism, terrorist acts, terrorist organisation, terrorist individuals or those who finance terrorism.

Article 9 If the financial institutions or their staff discover, or there are reasonable grounds for them to suspect, that a customer or the counterpart with which a customer conducts transactions is linked or related to the following lists, the financial institutions shall file suspicious transaction reports to the China Anti-Money Laundering Monitoring and Analysis Center promptly and report to the local People's Bank of China at the same time, in addition to carrying out the measures required by the authorised administrative or judicial agencies:

- (1) The lists of terrorist organisations and terrorist individuals issued by the relevant authorities or institutions under the State Council;
- (2) The lists of terrorist organisations and terrorist individuals issued by the judicial agencies;
- (3) The lists of terrorist organisations and terrorist individuals designated by the United Nations Security Council Resolutions;
- (4) The lists of suspected terrorist organisations and terrorist individuals; to which the People's Bank of China require financial institutions to pay special attention.

If laws or administrative regulations set up different requirement on monitoring the above lists, financial institutions shall comply with the laws or the administrative regulations.

Article 10 When financial institutions file suspicious transaction reports related the financing of terrorism, they shall refer to the *Administrative Rules for the Reporting of Large-Value and Suspicious Transactions by Financial Institutions* (PBC Decree No.2 2006) and other relevant provisions for specific essential elements of the report, report format and other reporting requirements.

Article 11 when a financial institution is in breach of the Rules, the People's Bank of China shall impose penalties on the financial institution in accordance with Article 31 and 32 of the *Anti-Money Laundering Law of the People's Republic of China*. Depending on different circumstances, the People's Bank of China may propose to the China Banking Regulatory Commission, the China Securities Regulatory Commission, and the China Insurance Regulatory Commission to adopt the following measures:

- (1) Order the financial institution to stop its operation for internal rectification or withdraw its business license;
- (2) Disqualify the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institutions from engaging in financial businesses; or
- (3) Order the financial institution to impose disciplinary sanctions on the directors, senior managers and other person(s) directly responsible for the misconduct of the financial institution.

In case that the county-level sub-branches of the People's Bank of China discover any financial institution in violation of the Rules, they shall report such violation to branches at a higher level. The branch at a higher level shall impose sanctions or propose suggestions in accordance with the aforementioned stipulations.

Article 12 The People's Bank of China and its branches above the prefecture level shall abide by the *Rules of Administrative Punishment Procedure of the People's Bank of China (PBC Decree NO.3 2001)* when imposing administrative sanctions on the financial institution that violates the Rules.

Article 13 In order to prevent and combat the financing of terrorism, financial institutions shall make reference to the relevant anti-money laundering provisions while discharging their obligations such as building and completing internal control program, customer identification, record keeping for customer identification documents and transactions, confidentiality, etc.

Article 14 The Rules come into effect when they are promulgated.

Circular of the People's Bank of China on Clarifying Implementation Issues of Suspicious Transaction Reporting Regime, PBC Doc No.[2010] 48 (PBC Circular 48)

Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of sub-provincial city of the People's Bank of China, all policy banks, state-owned commercial banks, joint-stock commercial banks and Postal Savings Bank of China:

CC: CBRC, CSRC, CIRC

In order to further improve effectiveness of suspicious transaction reporting and guide AML staff to precisely understand and implement AML supervision stipulations, the following clarification of issues that branches of the People's Bank of China and financial institutions encounter in the implementation of suspicious transaction report regime is notified.

I. Issues concerning financial institutions` overall implementation of suspicious transaction reporting

Firstly, the financial institutions shall gradually establish the operational procedure of suspicious transaction reporting, which takes the customers as the monitoring unit, and effectively integrates suspicious transaction monitoring and analysis and customer due-diligence investigation as two key elements. Moreover, they shall not only adopt reasonable means to identify suspicious transactions in the customer due-diligence,, but also consciously take advantage of findings of the customer due-diligence in the process of screening, examination and analysis of transactions in order to improve effectiveness of transaction monitoring and analysis.

Secondly, the suspicious transaction monitoring shall cover all the segments along financial transactions, financial institutions shall, by means of building effective operational procedures, guide their employees to pay attention to whether customers, funds and transactions are involved in illegal and criminal activities, including money laundering and financing of terrorism.

Thirdly, the transaction monitoring shall cover all products and businesses. Suspicious transaction monitoring shall focus on not only accounting data, and financial institutions and their staff members shall compose an overall picture of a customer and his/her transactions. For ongoing or attempted transactions, financial institution and their employees shall consider to file suspicious transaction reports if they find or have reasonable ground to suspect transactions are related to money laundering or financing of terrorism.

II. Issues concerning unusual transactions that are subject to the suspicious transaction reporting regime

The "unusual" transactions described in the Article 11, 12 and 13 of the Administrative Rules for the Reporting by Financial Institutions of Large-value and Suspicious Transactions (Order of the People's Bank of China, No. 2 [2006], "the LVT/STR Rules" hereafter) are one of the most important reference of indicators that are designed to guide financial institutions to effectively identify suspicious transactions given the lack of their AML experience. After screening out unusual transactions by technical means, financial institutions shall examine the background, purpose and nature of transactions in line with what are required by the LVT/STR Rules. If financial institutions have sound reasons to obviate these unusual elements or have no rational reasons to suspect the transaction or customer may involve illegal and criminal activities, they shall not file these transactions as suspicious transactions, or vice versa.

As the amount of transaction reports are not the single compliance standard or the most important one, all branches of the People's Bank of China shall continuously improve the means of AML supervision, guide financial institutions to work out appropriate compliance management policy, improve operational procedures of suspicious transaction reporting, strengthen the analysis of unusual transactions, thus comprehensively improve the quality of suspicious transaction reports.

III. Issues concerning monitoring and analysis of high-risk products and business

As to non-face-to-face transactions performed via means such as internet, telephones and self-service transaction terminals, financial institutions shall strengthen internal management measures, update technical means to ensure integrated transmission of relevant information of transactions and customers and thus feed monitoring and analysis of suspicious transactions.

Moreover, financial institutions, which save or store transaction data in a centralized place, shall adopt secure and confidential measures, provide all personnel with data required in the performance of AML responsibility, and ensure that each transaction could be reproduced, .

Financial institutions shall effectively identify money laundering and terrorist financing activities conducted by agents who act on behalf of another person, or controlled by another person. Any financial institution, which finds or has justifiable reasons to suspect customers of concealing natural persons that actually control customers, or beneficiary of transactions, and finds or has sound reasons to suspect customers of hindering financial institutions from performing due-diligence of natural persons that actually control customers, or beneficiary of transactions, shall report those transactions mentioned as suspicious transactions in time.

All branches of the People's Bank of China shall strengthen AML/CFT typology research, analyze money laundering risk and its variation, identify the techniques and trends of local money laundering activities, guide financial institutions on monitoring of specific types of money laundering and financing of terrorism activities, and thus addressing money laundering and terrorist financing risks appropriately. Besides improving risk control measures in accordance with requirements of AML supervisors, financial institutions shall from time to time adapt their priorities of transactions monitoring and improve their own suspicious transactions monitoring indicators system, using their knowledge of customer characteristics, business operations, changes of market risk observed, and variation of illegal financial activities and criminal activities acquired by means of open channels such as media.

IV. Issues concerning monitoring against AML/CFT monitoring lists

Financial institutions shall appoint specific staff member to take the responsibility of maintenance of their AML/CFT monitoring lists. The lists shall include the following content at least: i). the lists issued by the authorized departments of our country that are required to be subject to AML/CFT monitoring; ii). the lists subject to AML/CFT monitoring issued by other jurisdictions and approved by our country; iii). the lists subject to AML/CFT monitoring issued by international organizations, such as the United Nations, and approved by our country; and iv). the lists published on the "Highlight of Country/Jurisdiction ML/FT Risks and Financial Sanctions" column of official website of the People's Bank of China.

Financial institutions shall adopt practical and effective technical methods to conduct 24-hour real-time monitoring against the AML/CFT monitoring lists. Any financial institution and its personnel, which finds that the transaction are related to countries /jurisdictions, agencies and individuals in the monitoring list, shall immediately file it to the senior management of financial institution for review and file suspicious transaction report in accordance with relevant regulations. Financial institutions, after obtaining the new monitoring list, shall immediately conduct backtracking survey against the new list. In case of finding business relationships established with bodies on the lists or transactions conducted by those bodies, the financial institution shall immediately file suspicious transaction report.

If its customers, the actual controllers of customers, the actual beneficial owners of transactions or counterpart financial institutions are from countries/jurisdictions where the AML/CFT regime is vulnerable, the financial institution shall conduct intensified customer due-diligence to inspect the purpose, nature and background of related transactions, and file the suspicious transaction reports where the Rules require.

V. Issues concerning ensuring the traceability of transaction monitoring and analysis

To facilitate investigation, monitoring, AML supervision and internal auditing, financial institutions shall preserve working records of review of unusual transactions, analysis and identification of suspicious transactions and internal processing of handling suspicious transactions at least five years in accordance with related stipulations of the Rules. Financial institutions shall gradually improve their data managing system, adopt practicable measures to ensure integrity and accuracy of LVT/STR elements including information of transaction counterparts, IP addresses of transactions conducted online, etc.

While determining whether financial institutions are compliant in terms of STR filing, branches of the People's Bank of China shall take into account financial institutions' working records that indicates financial institutions' performance of "due diligence" If a financial institution fails to report certain unusual transactions that shall be subject to analysis, but the working records prove the financial institution and its personnel have fulfilled its due diligence, the financial institutions shall not be regarded as non-compliant. Vice versa, even though a financial institution reports certain unusual transactions that shall be subject to analysis,, but

related STR fails to put forward sound reasons of suspicion, or the reasons are apparently irrational, and there is no working records showing the financial institution fulfills its due diligence, this institution shall not be regarded as compliant in terms of its LVT/STR work.

VI. Issues concerning the sanction criteria

If financial institutions fail to file the suspicious transaction report as required by the Rules, all branches of the People's Bank of China shall reasonably determine the due legal responsibility in line with the risk-based supervisory principle. To financial institutions that only fail to report few or next to nothing suspicious transactions that are required by the Rules and fall into the following conditions at the same time, branches of the People's Bank of China may, in accordance with related legal provisions, impose lightened sanctions: No serious result caused; the financial institution has no records of involving money laundering or severe AML violation ; the financial institution has a comparatively comprehensive AML internal control system; the senior management and relevant personnel of the financial institution fulfills its AML/CFT due diligence.

As to Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of Dalian, Qingdao, Ningbo, Xiamen and Shenzhen of the People's Bank of China, please forward this notice to financial institutions, of which the registration places of their head offices are in the specified region, including city commercial banks, rural commercial banks, rural cooperative banks, urban credit cooperatives, rural credit cooperatives, foreign-funded banks, securities companies, futures companies, fund management companies, insurance companies, insurance asset management companies, trust companies, financial assets management companies, financial companies, financial leasing companies, automobile financing companies and currency broking companies, as well as non-financial institutions engaging in payment and clearing business.

Circular of the People's Bank of China on Further Improving Requirements of Filling out Large-Value and Suspicious Transaction Reports, PBC Doc. No.[2009] 123 (PBC Circular 123)

Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of sub-provincial city of the People's Bank of China, all policy banks, state-owned commercial banks, joint-stock commercial banks and Postal Savings Bank of China:

CC: CBRC, CSRC, CIRC

After the implementation of *Administrative Rules for the Reporting by Financial Institutions' of Large-value and Suspicious Transactions* (Order No.2 [2006] of the People's Bank of China), financial institutions perform responsibilities of reporting large-amount and suspicious transactions, obtain initial effect in the improvement of report quality and thus provide strong support for safeguarding safety and stability of national economy and finance and finding and cracking down money laundering crimes in time. To improve quality of suspicious transaction reports and clarify the impact of new system change on anti-money laundering reports after the issue of regulations, the notice of manual judgment requirements of suspicious transaction reports and large-amount transaction report requirements after the implementation of escrow system is issued as follows:

I. Financial institutions shall improve artificial cognition working procedure of suspicious transaction reports so as to conduct manual analysis and discrimination of suspicious transaction reports.

To ensure effective artificial cognition of suspicious transactions, financial institutions shall provide indispensable information (include, but not limited to client identity information, transaction background information, etc.) for personnel responsible for the job, examine their work periodically, ensure professionals could be competent for the post duty and strictly abide by anti-money laundering rules and regulations.

II. Financial institutions shall report large-sum transfer transactions between settlement accounts and securities or futures escrow accounts, or margin accounts of their clients (See Annex for reporting requirements).

III. Financial institutions shall submit suspicious transaction reports to China Anti-Money Laundering Monitoring & Analysis Center in accordance with Article 14 & 15 of *Administrative Rules for the Reporting by Financial Institutions of Large-sum and Suspicious Transactions* and indicate the report category in "Suspicious Transaction Characteristics" (See the annex for report requirements).

IV. Financial institutions shall ensure to submit suspicious transaction reports to China Anti-Money Laundering Monitoring & Analysis Center in accordance with message format requirements and make explanations of significance level of the report and treatment situations in "Suspiciousness Degree" and "Measures Adopted" while submitting major suspicious transaction reports to local branches of the People's Bank of China or local public security sectors.

V. Financial institutions shall complete data corrections in 5 working days after receiving the correction notice (namely "correction requirement receipt") sent by "large-sum and suspicious transaction report data receiving platform". The People's Bank of China will impose supervision and punishment for institutions that fail to make corrections on schedule in accordance with the seriousness.

VI. The People's Bank of China further clarifies and adjusts specification requirements of current data report interfaces (See the annex for details) in accordance with demand of anti-money laundering monitoring and analysis and in combination with opinions and proposals raised by financial institutions for data interface specifications. Please comply with it.

VII. The notice is implemented as of May 1, 2009.

As to Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of Dalian, Qingdao, Ningbo, Xiamen and Shenzhen of the People's Bank of China, please forward this notice to financial institutions, of which the registration places of their head offices are in the specified region, including city commercial banks, rural commercial banks, rural cooperative banks, urban credit cooperatives, rural credit cooperatives, foreign-funded banks, securities companies, futures companies, fund management companies, insurance

companies, insurance asset management companies, trust companies, financial assets management companies, financial companies, financial leasing companies, automobile financing companies and currency broking companies.

Annex : Adjustment and Interpretation of Data Report Interface Specifications

Circular of the People's Bank of China on Further Strengthening Anti-Money Laundering Work of Financial Institutions, PBC Doc. No.[2008]391 (PBC Circular 391)

Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of sub-provincial city of the People's Bank of China, all policy banks, state-owned commercial banks, joint-stock commercial banks and Postal Savings Bank of China:

CC: CBRC, CSRC, CIRC

Since the Anti-money Laundering Law of the People's Republic of China took effect, financial institutions and related supervisory departments have performed AML obligations and supervision responsibility in accordance with rules and laws, continuously boosted AML/CFT work and made great achievements. To further strengthen anti-money laundering in the financial sectors, the notice is issued as follows:

I. To specify anti-money laundering operational procedure and improve AML internal control system

(I) Financial institutions shall designate AML/CFT compliance officer at the senior management level, and ensure compliance managers and other employees in varied business lines could timely obtain information and other resources necessary for AML/CFT tasks.

(II) Financial institutions shall strengthen audit to test compliance with AML/CFT laws, rules and internal controls, and in line with anti-money laundering obligations, improve AML/CFT operational procedure in time, integrate and optimize operational procedure, and fulfill requirements of anti-money laundering rules and laws.

(III) Financial institutions shall strengthen the AML/CFT awareness raising, guidance and training of their employees, and keep them informed of AML/CFT legislations, supervisory policies and internal control requirements.

II. To undertake ongoing customer due diligence measures and effectively address money laundering risk

(I) Financial institutions shall strengthen maintenance of customer identity information or data, and ensure accuracy and validity of this information. As to customers that have established business relationships with financial institutions by opening accounts and signing contracts or by other means prior to August 1, 2007, financial institutions shall conduct verification of customers' valid identity documents (identification files) or customer re-identification and hereby update customer identity information in accordance with Administrative Rules for Financial Institutions on Customer Identification and Record Keeping of Customer Identification and Transaction Information (Order No. [2007] 2 of China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission, hereinafter referred to as "the CDD Rules").

(II) According to time sequence of establishing business relationships with customers, financial institutions shall formulate specific implementation plans in accordance with following requirements and urge branches to complete customer risk classification on schedule:

1. As to customers with whom business relationships were established from August 1, 2007 to January 1, 2009, financial institutions shall complete classification by the end of the year 2009.
2. As to customers with whom business relationships were established prior to August 1, 2007 without re-establishment of any new business relationship after August 1, 2007, financial institutions shall complete classification by the end of the year 2011.
3. As to customers with whom business relationships were established after January 1, 2009, financial institutions shall complete classification within 10 working days after the establishment of business relationship.

Financial institutions shall submit their customer risk classification plans to the People's Bank of China for the record.

(III) "The natural person actually controlling customers or actual beneficial owner of the transaction" in the CDD Rules includes (but not limited to) the following two categories of persons: The first is the person(s) who ultimately owns or controls the company; the second is the person(s) who is not disclosed by customers but actually control financial transaction process or ultimately own the relevant economic interest (excluding the principal). As to the said persons, financial institutions may adopt reasonable measures, including inquiring customers, requesting customers to provide certification materials and entrusting other organizations to make a survey, so as to perform customer due diligence.

(IV) If customers, or the natural persons actually controlling customers and actual beneficial owner of the transaction, are the individuals as incumbent or former foreign personnel who perform important public functions, for example heads of state, heads of government, senior politician, senior government, judicial or martial senior officers, senior management of state-owned enterprises, important persons of political party, or family members and other close associates of the said person, financial institutions shall perform due diligence obligations in accordance with customer identification requirements related to "foreignPEPs" in the CDD Rules.

(V) Banking institutions shall strengthen customer due-diligence measures on large-value cash deposit and drawing business. While a single deposit (or withdraw), which is worth 50,000 RMB or foreign currencies equivalent to 10,000 US dollars, for natural persons, financial institutions must verify customer valid identity documents or other identity files. In case of any unusual circumstance during the transaction, financial institutions shall further verify customer identity via the citizen identity information system connected through internet.

While the customer of natural person acts on behalf of others for cash deposit and drawing, financial institutions shall perform customer identification in accordance with following requirements: While the single deposit (or withdrawal) reaches or exceeds 50,000 RMB or 10,000 US dollars for foreign currencies, financial institutions, in principle, shall verify valid identity documents or files of depositor (or payee) and account holder and register depositor (or payee)'s name, contact methods, and category and number of identity document. If the depositor reasonably fails to provide valid identity documents or identification files of the account holder and the single deposit reaches or exceeds 10,000 RMB or 1,000 US dollars for foreign currencies, financial institution, in consideration of practical situations, may perform the customer identification of depositor in accordance with requirements of Article 7 of the CDD Rules, that is, banking financial institutions shall perform customer identification while providing occasional financial services with a certain amount. In case of any unusual circumstance during the transaction, financial institutions shall further verify customer identity via the citizen identity information system connected through internet.

(VI) All branches of the People's Bank of China shall sufficiently understand the essence of AML supervision policy and its context, so as to guide, by means of setting rational anti-money laundering on-site inspection and off-site supervision data analysis and evaluation indicators, financial institutions' effort to identify regular customer and conduct due-diligence of high risk customers and customers in high-risk fields.

III. To improve anti-money laundering transaction monitoring and efficiency of large-value and suspicious transaction reports

(I) Financial institutions shall enhance customer due-diligence obligation by means of operational flow control. After screening transaction data by technical methods, financial institutions shall further conduct analysis, verification and judgment to improve effectiveness of suspicious transaction reports.

While reporting suspicious transactions in accordance with regulations of Article 11, 12 and 13 of the Administrative Rules for the Reporting by Financial Institutions of Large-value and Suspicious Transactions (Order No. [2006] 2 of the People's Bank of China, hereinafter referred to as "the LVT/STR Rules"), financial institutions shall analyze, verify and judge whether there are suspicious elements in screened transactions, for example "evident non-coincidence with customer identity, financial condition and business functions", "unclear reasons of transaction", etc. If a transaction objectively takes on unusual characteristics stipulated in the said articles but financial institutions have rational reasons to obviate these unusual elements or have no rational reasons to suspect the transaction or customer may involve illegal and criminal activities, financial institutions shall not report these transactions as suspicious transactions.

(II) With Risk-Based Approach, gradually strengthen pertinence and effectiveness of suspicious transaction reports of financial institutions

For instance, in consideration of relevant regulations of the Insurance Law of the People's Republic of China and operational conventions of insurance institutions, insurance companies may not consider the following transactions as suspicious transactions stipulated in Item 17 of Article 13 of the LVT/STR Rules: 1. The insurer directly pays insurance indemnity to the third party for the damage by the insured to the third party in accordance with requirements of law or stipulation of contract; 2. After the insurance accident happens, the insurer considers insurance indemnity as repair cost of claim insurance subject and pays it to the repair factory or insurance subject user who reimburses expenses, or as medical cost of the insured and pays it to the hospital in terms of authorized letter of attorney of the insured; 3. The insurer pays allocable indemnity to major insurance company in accordance with stipulations of contract with other insurance companies; 4. The insurer directly pays indemnity to the third party in accordance with mediation, adjudication or assistance implementation notice of the People's Court.

Except the said transactions, if the customer has other suspicious activities or the insurance company has rational reasons to suspect him/her involved in illegal and criminal activities, such as money laundering among others, the insurance company shall submit suspicious transaction reports in accordance with other articles of the LVT/STR Rules and relevant regulations of other AML legislations.

(III) All branches of the People's Bank of China shall attach great importance to suspicious transactions reported by financial institutions, especially to reports involving terrorism, and take no-delay actions.

All branches of the People's Bank of China shall grasp the essence of the anti-money laundering legislation, pay attention to effectiveness and rationality of STR operational procedures of financial institutions, guide staff of financial institutions to vigorously conduct due-diligence investigation of customers, t guide staff of financial institutions on analytical judgment of suspicious transactions in accordance with the Rules, and legally and rationally evaluate and define the compliance of financial institutions' anti-money laundering work..

All branches of the People's Bank of China shall not consider it as violation, if the financial institution does not report a transaction with unusual elements defined by the LVT/STR Rules as a suspicious transaction, but it proves that it has made analysis, verification and judgment for the transaction, and the reasons not to report it do not have evident irrationality or there is no serious deficiency in the due-diligence practice.

As to Shanghai Head Office, all branches, business management departments, central sub-branches of provincial capital cities of the People's Bank of China, central sub-branches of Dalian, Qingdao, Ningbo, Xiamen and Shenzhen of the People's Bank of China, please forward this notice to financial institutions, of which the registration places of their head offices are in the specified region, including city commercial banks, rural commercial banks, rural cooperative banks, urban credit cooperatives, rural credit cooperatives, foreign-funded banks, securities companies, futures companies, fund management companies, insurance companies, insurance asset management companies, trust companies, financial assets management companies, financial companies, financial leasing companies, automobile financing companies and currency broking companies.

Measures for the Anti-money Laundering Work in the Securities and Futures Sectors, Order of China Securities Regulatory Commission (No.68) (2010)

Shang Fulin, President of China Securities Regulatory Commission, September 1, 2010

Chapter I General Provisions

Article 1 To strengthen the anti-money laundering work of the anti-money laundering administrative department under the State Council in the securities and futures sectors, effectively prevent the risk of money laundering or financing for terrorist purposes in these sectors, regularize the anti-money laundering regulatory behaviors in these sectors, urge securities and futures institutions to seriously carry out the anti-money laundering work, and maintain the normal order of the securities and futures markets, these Measures are formulated pursuant to the Anti-money Laundering Law of the People's Republic of China (hereinafter referred to as the "Anti-money Laundering Law"), the Securities Law of the People's Republic of China, the Law of the People's Republic of China on Securities Investment Funds, the Regulation on the Administration of Futures Trading and other relevant laws and regulations.

Article 2 These Measures shall apply to the anti-money laundering work in the securities and futures sectors within the territory of the People's Republic of China.

These Measures shall also apply when institutions engaged in the sale of funds honor the anti-money laundering responsibilities in their selling operations.

Article 3 China Securities Regulatory Commission (CSRC) shall cooperate with the anti-money laundering administrative department under the State Council in the performance of anti-money laundering regulatory duties in the securities and futures sectors, in the making of rules on the anti-money laundering work in these sectors, and in the organization, coordination and guidance of the anti-money laundering work of securities companies, futures companies and fund management companies (hereinafter referred to as "securities and futures institutions").

The local offices of the CSRC shall perform their anti-money laundering regulatory duties within their respective jurisdictions pursuant to these Measures.

Article 4 The Securities Association of China and the Futures Association of China shall perform the anti-money laundering self-disciplinary management duties pursuant to these Measures.

Article 5 Securities and futures institutions shall establish and improve their respective anti-money laundering rules, report the relevant information to the local CSRC offices under these Measures and, whenever finding clues to any suspected money-laundering activity in the securities or futures sector, report them to the competent anti-money laundering administrative department or investigative organ.

Chapter II Duties of Regulatory Bodies and Industrial Associations

Article 6 The CSRC shall be responsible for organizing, coordinating and guiding the anti-money laundering work in the securities and futures sectors and perform the following duties:

1. Cooperating with the anti-money laundering administrative department under the State Council in the research and making of policies and plans on the anti-money laundering work in the securities and futures sectors, solving the key and difficult problems encountered in the anti-money laundering work involving the securities and futures sectors, and making reports on the anti-money laundering work to the anti-money laundering administrative department under the State Council;
2. Participating in the making of anti-money laundering rules targeting the securities and futures institutions, posing specific requirements on the securities and futures institutions for establishing and improving internal control rules for the anti-money laundering work, and carrying out the anti-money laundering requirements in respect of the market access of these institutions and the eligibility requirements for their employees;

3. Assisting the anti-money laundering administrative department under the State Council in the anti-money laundering supervision over securities and futures institutions;
4. Providing guidance jointly with the anti-money laundering administrative department under the State Council to the Securities Association of China and the Futures Association of China in the making of guidelines for the anti-money laundering work and the organization of anti-money laundering publicity and training activities;
5. Studying the major problems in the anti-money laundering work in the securities and futures sectors and offering policy suggestions;
6. Reporting trading activities suspected of committing the money laundering crime to the investigative organs in time and assisting the judicial departments in investigating and handling cases suspected of committing a money laundering crime;
7. Evaluating the local offices' performance in the anti-money laundering regulatory work and providing guidance to the Securities Association of China and the Futures Association of China in carrying out the anti-money laundering work; and
8. Other duties as set forth by any law or administrative regulation.

Article 7 The local CSRC offices shall perform the following anti-money laundering duties:

1. Cooperating with the local anti-money laundering administrative departments in the anti-money laundering regulation of securities and futures institutions and establishing an information exchange mechanism;
2. Making semi-annual and annual reports on the anti-money laundering work in their respective jurisdictions to the CSRC on a regular basis and reporting the inspections or punishments, if any, imposed by the anti-money laundering administrative departments on the securities and futures institutions in their respective jurisdictions and the relevant consequential events;
3. Organizing and guiding the anti-money training and publicity work in the securities and futures sectors in their respective jurisdictions;
4. Studying the problems in the anti-money laundering work in the securities and futures sectors and suggesting improvement measures; and
5. Other duties as set forth by any law, administrative regulation or the CSRC.

Article 8 The Securities Association of China and the Futures Association of China shall perform the following anti-money laundering duties:

1. Making and revising the relevant anti-money laundering guidelines under the guidance of the CSRC;
2. Organizing their member entities to carry out the anti-money laundering training and publicity work;
3. Submitting to the CSRC the annual anti-money laundering reports on a regular basis and timely reporting the major events;
4. Organizing their member entities to study the problems in the anti-money laundering work in their respective sectors; and
5. Other duties as set forth by any law, administrative regulation or the CSRC.

Chapter III Anti-money Laundering Obligations of Securities and Futures Institutions

Article 9 Securities and futures institutions shall fulfill their anti-money laundering obligations and establish internal control rules for the anti-money laundering work. Persons in charge of securities and futures institutions shall be responsible for the effective implementation of the internal control rules for the anti-money laundering work. The head offices shall supervise and regulate the

branch offices' implementation of the internal control rules for the anti-money laundering work and report the anti-money laundering work to the local CSRC offices as required.

Article 10 A securities or futures institution shall report to the local CSRC office the setup of its anti-money laundering department, the person in charge of the department, the contact information of the persons specially assigned for the anti-money laundering work and other relevant information. In the case of any change in the said information, it shall report the up-to-date information within 10 workdays after change.

Article 11 A securities or futures institution shall, within 5 workdays after finding out the occurrence of any of the following matters, report to the local CSRC in writing:

1. It is inspected or punished by the anti-money laundering administrative department;
2. It, or any of its clients, is engaged in any activity suspected of laundering money and thus punished by the anti-money laundering administrative department, the investigative organ or the judicial organ; or
3. Any other major event concerning the anti-money laundering work.

Article 12 Securities and futures institutions shall set up a client risk classification system according to the requirements of the anti-money laundering laws and regulations and submit it to the local CSRC offices for archival purposes. The class of client risks shall be properly adjusted on the basis of continuous concern.

Article 13 A securities or futures institution shall refuse to process the transaction of a client who provides any individual identity certificate or institutional document suspected of bearing any false information. If there is any doubtful point, it shall ask the client concerned to provide the original of his individual identity certificate or institutional document and other relevant certificates proving his identity, and refuse to process the client's transaction if he fails to provide the required materials to prove his identity.

Article 14 A securities or futures institution which sells any financial product such as funds to clients through a sales agency shall enter into a contract, an agreement or any other written document with the agency, clarifying the responsibilities of and the procedures that should be followed by both parties in the identification of clients, the safekeeping and exchange of clients' identity information and transaction records, the reporting of large-sum transactions and suspicious transactions, etc.

Article 15 A securities or futures institution shall establish a confidentiality system for the anti-money laundering work and submit it to the local CSRC office for archival purposes.

Confidential matters in the anti-money laundering work include:

1. Documents about clients' identity and risk class;
2. Transaction records;
3. Large-sum transaction reports;
4. Suspicious transaction reports;
5. Information known in the process of fulfilling the anti-money laundering obligations about suspected money laundering activities under the investigation of the law enforcement authorities of the state; and
6. Other confidential matters involved in the anti-money laundering work.

Confidential files can be consulted or copied only under the written registration system.

Article 16 A securities or futures institution shall make its anti-money laundering training and publicity rules, provide anti-money laundering trainings to its employees and hold anti-money laundering publicity activities toward its clients every year, constantly

improve the measures for preventing, monitoring and controlling anti-money laundering activities, and report the anti-money laundering training and publicity activities to the local CSRC office at the beginning of each year.

Article 17 Where any securities or futures institution fails to observe the reporting, registration or internal control requirements of these Measures, the CSRC or the local office thereof may order it to correct, hold a regulatory interview with it, order it to accept trainings or take any other regulatory measures.

Chapter IV Supplementary Provisions

Article 18 These Measures shall come into force on October 1, 2010.

ANNEX 3

OFFENCES IN THE PENAL CODE WHICH GENERALLY CORRESPOND TO THE TERRORIST OFFENCES DESCRIBED IN INTERNATIONAL INSTRUMENTS

International Instrument	Summary of the terrorist activities (offences) described in international instruments	Generally corresponding offences in the Chinese <i>Penal Code</i>	FATF Secretariat analysis of missing elements in China's criminalisation of <i>terrorist acts</i> ¹⁷
<i>International Convention for the Suppression of Terrorist Bombings</i> (1997)	Any person commits an offence who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility with the intent to cause death or serious bodily injury, or to cause extensive destruction of such a place. It is also an offence to attempt or threaten to commit such an act.	Articles 114 and 115 criminalises committing arson, breaching dikes, causing explosions, spreading pathogens of infectious diseases, poisonous or radioactive substances, or uses other dangerous means to endanger public security.	China has not criminalised intentionally delivering or placing an explosive or other lethal device in or against a place of public use, a State or government facility, a public transportation system, or an infrastructure facility with the intent to cause death or serious bodily injury, or to cause extensive destruction of such a place.
<i>Convention for the Suppression of Unlawful Seizure of Aircraft</i> (1970)	Any person commits an offence who, on board an aircraft in flight, unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts or threatens to perform any such act.	Article 121 criminalises hijacking an aircraft by means of violence, coercion or any other means.	China has criminalised an offence which generally corresponds to this type of terrorist act.
<i>Convention for the Suppression of Unlawful Acts against the</i>	Any person commits an offence who unlawfully and intentionally:	Article 121 criminalises hijacking an aircraft by means	China has not criminalised: <ul style="list-style-type: none"> • knowingly communicating any false

¹⁷ The contents of this column do not obtain the official confirmation of the Chinese legislative body or judicial authorities, and are used only as the basis of the initial analysis of outcomes from the FATF Secretariat.

International Instrument	Summary of the terrorist activities (offences) described in international instruments	Generally corresponding offences in the Chinese <i>Penal Code</i>	FATF Secretariat analysis of missing elements in China's criminalisation of <i>terrorist acts</i> ¹⁷
<p><i>Safety of Civil Aviation</i> (1971)</p> <p>and</p> <p><i>Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation</i> (1988)</p>	<p>(a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft;</p> <p>(b) destroys an aircraft in service or cause damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;</p> <p>(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or cause it damage thereby rendering it incapable of flight or which may endanger its safety in flight;</p> <p>(d) destroy or damage air navigation facilities or interfere with their operation, if any such act is likely to endanger the safety of an aircraft in flight;</p> <p>(e) knowingly communicate any false information which endangers the safety of an aircraft in flight.;</p> <p>(f) Uses any device, substance or weapon to perform an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death;</p> <p>(g) Uses any device, substance or weapon to destroy or seriously damage the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupt the services of the airport, if such an act endangers or is likely to endanger safety at that airport; or</p> <p>(h) Attempts or threatens to commit any of the acts set out in paragraphs (a) to (g).</p>	<p>of violence, coercion or any other means.</p> <p>Article 116 criminalises sabotaging a train, motor vehicle, tram, ship or aircraft to such a dangerous extent as to overturn or destroy it, but with no serious consequences.</p> <p>Article 117 criminalises sabotaging a railroad, bridge, tunnel, highway, airport, waterway, lighthouse or sign or conducts any other sabotaging activities to such a dangerous extent as to overturn or destroy it, but with no serious consequences.</p> <p>Article 123 criminalises using violence against any person on board any aircraft, thereby endangering air safety.</p>	<p>information which endangers the safety of an aircraft in flight;</p> <ul style="list-style-type: none"> • using any device, substance or weapon to perform an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or • threatening to commit any of the above acts.
<p><i>Convention on the Prevention</i></p>	<p>Any person commits an offence who intentionally commits,</p>	<p>Article 232 criminalises intentionally committing</p>	<p>China has not criminalised:</p>

International Instrument	Summary of the terrorist activities (offences) described in international instruments	Generally corresponding offences in the Chinese <i>Penal Code</i>	FATF Secretariat analysis of missing elements in China's criminalisation of <i>terrorist acts</i> ¹⁷
<i>and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents</i> (1973)	attempts to commit or threatens to commit: (a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person; (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty; or (c) a threat or attempt to commit any such attack.	homicide. Article 234 criminalises intentionally inflicting injury upon another person.	<ul style="list-style-type: none"> making an attack upon the person or liberty of an internationally protected person where no homicide or injury results; making a violent attack upon the official premises, private accommodation or means of transport of an internationally protected person likely to endanger his person or liberty; or threatening to commit such an attack.
<i>International Convention against the Taking of Hostages</i> (1979)	Any person commits an offence of hostage-taking who seizes or detains and threatens to kill, to injure or to continue to detain another person as a hostage in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage. It is also an offence to attempt or threaten to commit such an act.	Article 239 criminalises kidnapping for the purpose of extorting money or property.	China has not criminalised kidnapping for the purpose of compelling a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act (other than extorting money or property) as an explicit or implicit condition for the release of the hostage.
<i>Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation</i> (1988) and	Any person commits an offence who unlawfully and intentionally: (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation	Article 122 criminalises the hijacking of a ship or motor vehicle by means of violence, coercion or by any other means.	China has not criminalised: <ul style="list-style-type: none"> Acts of violence likely to endanger the safe navigation of a ship; Destroying/damaging a ship or maritime navigational facility, or placing devices on them which could do so; Knowingly communicating false

International Instrument	Summary of the terrorist activities (offences) described in international instruments	Generally corresponding offences in the Chinese <i>Penal Code</i>	FATF Secretariat analysis of missing elements in China's criminalisation of <i>terrorist acts</i> ¹⁷
<p><i>Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf</i> (1988):</p>	<p>of that ship;</p> <p>(d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;</p> <p>(e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship;</p> <p>(f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship;</p> <p>(g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f);</p> <p>(h) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or threatens to commit such an offence; or</p> <p>(i) Attempts or threatens to commit any of the acts set out in paragraphs (a) to (h).</p>		<p>information which endangers the safe navigation of a ship;</p> <ul style="list-style-type: none"> • Injuring/killing a person in connection with any of the above acts; • Using on/against a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substances in such quantities which (are likely to) cause death or serious injury or damage or discharges; or • Attempting or threatening to commit any of the above acts.
<p><i>Convention on the Physical Protection of Nuclear Material</i></p>	<p>It is an offence to intentionally and without lawful authority do any act which constitutes:</p> <p>(a) the receipt, possession, use, transfer, alteration,</p>	<p>Article 125 criminalises the illegal manufacture, trade in, transport, mailing or storing of any guns,</p>	<p>China has not criminalised:</p> <ul style="list-style-type: none"> • the illegal use, alteration, disposal, or

International Instrument	Summary of the terrorist activities (offences) described in international instruments	Generally corresponding offences in the Chinese <i>Penal Code</i>	FATF Secretariat analysis of missing elements in China's criminalisation of <i>terrorist acts</i> ¹⁷
(1980)	<p>disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;</p> <p>(b) a theft or robbery of nuclear material;</p> <p>(c) an embezzlement or fraudulent obtaining of nuclear material;</p> <p>(d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation; or</p> <p>(e) an attempt or threat to use nuclear material to cause death or serious injury to any person or substantial property damage, or to commit any of the offence described in this section for the purpose of compelling a natural or legal person, international organization or State to do or to refrain from doing any act.</p>	<p>ammunition or explosives, pathogens of infectious diseases, poisonous or radioactive substances.</p> <p>Article 127 criminalises stealing, robbing or forcibly seizing any gun, ammunition or explosive, pathogen of infectious diseases, poisonous or radioactive substances or other substances, thereby endangering public security.</p>	<p>dispersal of nuclear material which (is likely to) causes death or serious injury to any person, or substantial damage to property</p> <ul style="list-style-type: none"> • making a demand for nuclear material by threat or use of force or by any other form of intimidation; or • attempting or threatening to use nuclear material to cause death or serious injury to any person or substantial property damage, or to commit any of the offence described in the Convention for the purpose of compelling a natural or legal person, international organization or State to do or to refrain from doing any act.

ANNEX 4¹⁸

OFFENCES IN ARTICLE 2(A) OF THE TERRORIST FINANCING CONVENTION WHICH ARE NOT COVERED

Below is a list of terrorist acts that are not yet covered by China's legislation, but which are required by Article 2(a) of the *Terrorist Financing Convention*:

- (a) Intentionally delivering or placing an explosive or other lethal device in or against a place of public use, a State or government facility, a public transportation system, or an infrastructure facility with the intent to cause death or serious bodily injury, or to cause extensive destruction of such a place, as set out in the *International Convention for the Suppression of Terrorist Bombings (1997)*.
- (b) Knowingly communicating any false information which endangers the safety of an aircraft in flight, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*.
- (c) Using any device, substance or weapon to perform an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death, as set out in the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)*.
- (d) Threatening to commit the acts set out in (b) and (c) above.
- (e) Making an attack upon the person or liberty of an internationally protected person where no homicide or injury results, as set out in the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)*.
- (f) Making a violent attack upon the official premises, private accommodation or means of transport of an internationally protected person likely to endanger his person or liberty, as set out in the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)*.
- (g) Threatening to commit the types of attacks specified in (e) and (f) above.
- (h) Performing an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*.
- (i) Destroying a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*.
- (j) Placing or causing to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*.
- (k) Destroying or damaging a ship or maritime navigational facility, or placing devices on them which could do so, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*.

¹⁸ The contents of this Annex have not obtained the official confirmation of the Chinese legislative body or judicial authorities, and are used only as the basis of the initial outcomes by the FATF Secretariat.

- (l) Knowingly communicating false information which endangers the safe navigation of a ship, as set out in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*.
- (m) Injuring or killing a person in connection with the acts specified in (h) to (l) above.
- (n) Using on or against a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substances in such quantities which (are likely to) cause death or serious injury or damage or discharges, as set out in the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988)*.
- (o) Attempting or threatening to commit any of the acts specified in (h) to (n) above
- (p) The illegal use, alteration, disposal, or dispersal of nuclear material which (is likely to) causes death or serious injury to any person, or substantial damage to property, as set out in the *Convention on the Physical Protection of Nuclear Material (1980)*.
- (q) Making a demand for nuclear material by threat or use of force or by any other form of intimidation, as set out in the *Convention on the Physical Protection of Nuclear Material (1980)*.