

Zhou Xiaochuan: Anti-money laundering in China - the status quo and prospects

Speech by Mr Zhou Xiaochuan, Governor of the People's Bank of China, at the first meeting of the Ministerial Joint Conference on AML, Beijing, 27 August 2004.

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Approved by the State Council, the People's Bank of China (PBC), as the leading ministry in the Ministerial Joint Conference on Anti-money Laundering (AML), invites today the member ministries to review the current AML situation, to draw up the plan for the AML work in the next stage, to determine the working procedure for the Ministerial Joint Conference on Anti-money Laundering (AML) and the responsibilities of the relevant ministries.

I. The significance of AML

Money laundering is the practice of legitimizing the illegally obtained gains and proceeds through a series of transactions, transfers or conversions in order to evade legal punishments. Money laundering helps criminals to evade legal punishments as well as puts a premium to the spawning of new crimes, distorts normal economic and financial orders, damages credibility of financial institutions and corrupts public morality. With the deepening integration of China's economy into the world economy and new changes in social conflicts, strengthening AML is of great significance.

First, sound AML work is an objective necessity for safeguarding China's national interests and the fundamental interests of the masses. AML involves efforts in the diplomatic, economic, judiciary and security fields etc. The performance of AML is closely related to the public image of China's government both at home and abroad, to the economic stability and to the social justice. A sound practice in AML also constitutes the concrete measure for safeguarding the order of China's socialist market economy and the fundamental interests of the masses and for practicing the important thoughts of "Three Represents". The work stands for an important move for honoring the Commitments of the Chinese government to the outside world and for creating the image of a responsible big country with respect to AML. It is also a necessary step for speeding up the opening of the financial industry and promoting the internationalization of the Chinese banks. Therefore, we shall, from the vantage point of "stressing political awareness" and based on the significance of safeguarding China's economic and financial security, sharpen the awareness of the importance and urgency of AML, establish effective AML system, and bring AML onto the track of standardization and institutional arrangement.

Second, AML is a necessity for relentlessly cracking down on economic crimes. At the start of reform and opening, Mr. Deng Xiaoping pointed out that, fighting economic crime "is a long-term continuous struggle," is a protracted task calling for perseverance in the course of China's modernization construction. With the deepening of marketization of China's economy, such crimes as smuggling, tax evasion, tax rebate cheating, financial frauds, market manipulation and insider trading are on the rise. The above crimes are catalyst to corruption like embezzlement and bribery taking, severely damaging the health of national economy and corroding social and public morality. A sound practice in AML will enable an effective monitoring of abnormal and suspicious fund movement, generate opportunities for controlling the transfer and hiding of the illegally obtained gains and provide effective means for recovering illegal funds transferred abroad, so as to fight economic crimes effectively.

Third, carrying out AML is a necessity for forestalling other grave criminal crimes. With China's opening wider to the outside, international narcotics crimes and organized crimes with the nature of underworld have picked up. In some part of the regions, there emerged the symptoms of terrorist crimes by a small handful of extremists and separatists, creating grave social problems. Experience at home and abroad suggests, the severe crimes are not possible without enormous financial support and therefore often entail frequent money laundering. Cracking down on money laundering and spotting and cutting off the funding chains on which crime organizations rely, will forcefully weaken, break up and disintegrate the criminal activities, strictly forestall them from spreading and realize ultimately the targets of combating crimes, protecting the fundamental interests of the masses and safeguarding social stability.

Fourth, a sound practice in AML is also a necessity for safeguarding the credibility of financial institutions and the financial stability. Money laundering is basically divided into three steps, placement, covering up and integration. First, placement, i.e. placing unlawful proceeds into the economic system, mainly the financial institutions. Second, covering up, i.e. covering the origin and blurring the nature of illegal funds through complex transactions. Third, integration, i.e. using "laundered" funds legally. The above features indicate that financial institutions, as the carrier of funds activities, are objectively prone to become the channels for money laundering. Involvement of financial institutions in money laundering, will not only damage the reputation of the financial institutions, but also bring about formidable legal and operational risks. AML is of important and realistic significance for safeguarding the reputation of financial institutions, forestalling financial risks, safeguarding the stability of the financial system.

II. International AML situation

After the mid-20th century, governments around the world were confronted with the grave situation where the flooding of narcotics became a scourge, and they conducted in-depth examination on the legal policies of preventing narcotics-related crimes. In 1970, the United States passed the Bank Secrecy Act (BSA). BSA reformed on the traditional bank secrecy system, built up the AML foundation in the US and instituted the AML working system led by one government department and participated by various others. Meanwhile, AML was paid much attention by the majority of Western developed economies and emerging economies. During 1980s-1990s, these countries and regions have successively enacted AML laws. Switzerland, famous for its strict bank secrecy arrangements, also accepts the international AML practices under international pressure. Starting from July 1 this year, for those who transfer money above a certain amount through anonymous accounts with banks of Switzerland, the banks should make known their true identity.

Faced with ever-raging money laundering, such international organizations as the Security Council of the UN have responded actively as well. In 1988, the UN passed the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which criminalizes money laundering related to narcotics. The Convention is the first international convention against crimes of money laundering in the world. Since 1990s, the international community has paid ever closer attention to money laundering. In 1990, the European Council passed Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime. In April 1995, the UN particularly drafted guidelines on preventing money laundering activities, for reference of all countries in the course of AML legislation. In December 1999, the UN General Assembly passed International Convention for the Suppression of the Financing of Terrorism. In November 2000, the UN General Assembly also passed Convention against Transnational Organized Crime, calling for all parties to institute AML program. In October 2003, the UN General Assembly further passed Convention against Corruption, stipulating stricter requirements for AML programs of the parties. Such international organizations as the International Monetary Fund, the World Bank and the Basle Committee on Banking Supervision have also developed an array of principles and guides.

Because of the transnational nature of money laundering, the G-7 Summit in Paris decided in July 1989 to establish the Financial Action Task Force (FATF), in a bid to examine the cooperative results with respect to combating money laundering through banks and the financial system, to improve laws and rules in AML and measures, and to strengthen preventive AML measures through multi-lateral judiciary assistance. In February 1990, the FATF set out a set of Forty Recommendations on Money Laundering ("Forty Recommendations"). First, each country should criminalize money laundering of funds used in severe crimes. Second, governments of all countries should strengthen financial supervision by urging financial institutions to develop and implement feasible internal AML control system and to fulfill the obligation of customer identification, record-keeping of customer information and transactions and detection and reporting of suspicious financial activities. Third, governments should establish Financial Intelligence Unit (FIU) responsible for monitoring unusual and suspicious transactions of funds, so as to achieve coordination and cooperation between appropriate ministries. Fourth, countries should exchange intelligence on money laundering and conduct international cooperation in AML investigation, search and freezing of illegal funds and extradition of suspects. The Forty Recommendations by the FATF has become the most important guiding document in the current international AML sphere, promoting AML legislation in all countries and regions and development of the international AML system.

After 9/11 terrorist attack, anti-terrorism is combined with AML. Combating terrorist financing has become an important field of AML. AML and combating terrorist financing have become important issues of some international organizations and forums, occupying a significant niche in current international relation. After 9/11 terrorist attack, the US congress wasted no time in passing the USA PATRIOT Act, strengthening in an all-round way the rules for combating terrorist financing. The legislature of all countries and regions reacted to the movement quickly as well. Besides some international conventions passed by the UN with respect to combating terrorist financing, the FATF drafted specifically 8 more recommendations for combating terrorist financing in October 2001. The developed countries in Europe and America have rendered AML and combating terrorist financing a focus of their foreign affairs, and have taken resolute measures to that effect.

III. The status quo of AML in China

1. AML legislation

China's criminal legislation with respect to AML almost synchronized with the international efforts. After the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances went into effect in 1988, China's National People's Congress promulgated the Decision on Ban of Narcotics, predicating "the crime of disguising and concealing the nature and source of funds for narcotics". The Criminal Law was amended in 1997 with a specific article predicating the crime of money laundering. After 9/11 terrorist attack, the highest legislative body stipulated in the Amendment to the Criminal Law in December 2001 that terrorist crime be an upstream crime of money laundering.

China has progressively promulgated an array of administrative and financial rules and regulations to legalize the arrangement of authentic names for individual deposits accounts, the management system on banking accounts and the regulations for management on large-value cash. In March 2003, the PBC promulgated Rules for Anti-money Laundering by Financial Institutions, Administrative Rules for the Reporting of Large-value and Suspicious RMB Payment Transactions and Administrative Rules for the Reporting by Financial Institutions of Large-Value and Suspicious Foreign Exchange Transactions. The rules put forward clearly the AML supervisory requirements for the banking institutions, and set up the basic framework for China's system of AML reporting and AML information monitoring. The Law of the People's Bank of China amended at end-2003 stipulated that the central bank is responsible for "guiding and planning AML work of the financial industry and monitoring of fund movement with respect to AML".

The criminalization of money laundering and the formation of the basic system of AML in the financial industry symbolize the preliminary establishment of the system of AML laws and rules.

2. Implementation of AML work

To carry out its duties on AML, the PBC set up, with the approval of the State Council, the AML Bureau in September 2003, further established the China AML Monitoring and Analysis Center in April 2004 responsible for accepting and analyzing AML intelligence. In order to strengthen the coordination within the financial industry, the PBC convened a Symposium of AML for financial regulatory authorities in April 2004, and formed a coordinating mechanism for AML led by the PBC and participated by China Banking Regulatory Commission (CBRC), China Securities Regulatory Commission (CSRC), China Insurance Regulatory Commission (CIRC) and the State Administration of Foreign Exchange (SAFE). In May 2004, the Ministerial Joint Conference on AML was, with the approval of the State Council, re-organized and enlarged from the original 16 members to 23 with scope of AML supervision widened. Thus, the coordinating mechanism at the national level and in the financial industry has formed preliminarily and begun its operation, and China's AML system has taken its initial shape.

Since the implementation of the three Rules in March 2003, the Head Office of the PBC has altogether received 3,061 reports of suspicious RMB payment transactions through screening by its branches while the SAFE has received 170,500 reports of suspicious foreign currency payment transactions with an amount of USD9.720 billion. After cross-examination, suspect cases of money laundering have been referred to the public security departments for investigation. The Ministry of Public Security, the PBC and the SAFE have also joined in cracking down on underground money centers. Since 2002, in operations of combating underground money centers, 73 cases have been solved, 57 underground money centers and 96 underground banking outlets destroyed, 240 suspects detained or arrested,

illegal funds and assets equivalent to more than RMB80 million yuan confiscated. The total amount involved in the cases was as high as several billion yuan, effectively holding in check the momentum of money laundering through underground money centers. At present, there are still some pending cases of money laundering referred by the PBC and the SAFE to the public security departments for investigation.

Meanwhile, we shall realize clear-minded the difficulties and protraction of AML work. Due to late start of AML and faced with the complex situation, the current AML in China is still falling short of the requirements and changes of the situation. The deficiencies of AML are mainly as follows. AML laws and regulations are far from perfect, leaving quite a gap from the perspective of the international practices and AML requirements. The awareness of the importance of AML by financial institutions has yet to be sharpened. The AML internal control system and the reporting system of suspicious funds transactions have yet to be strengthened and improved. AML in non-financial industries has yet to be reinforced either. With the changes of the economic environment, the means of money laundering has become ever more sophisticated and specialized, there has already emerged money laundering via the internet.

3. *International AML cooperation*

The Chinese government has all along attached importance to international AML cooperation. At present, China has signed and approved the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention against Transnational Organized Crime, and has signed the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Corruption.

The Chinese government has been advocating the expansion of representation by developing countries in international AML organizations. With the approval of the State Council, the PBC has formally written to the FATF in April this year and applied for a membership in the FATF. Meanwhile, China has contacted the preparatory committee of the Euro-Asia Group on AML and Combating Terrorist Financing (EAG) through various channels. The PBC and the Ministry of Public Security participated in the preparatory meeting of the EAG on AML held in Russia in June 2004. China will make efforts to become the initiating member of "the EAG".

Making full use of international resources in beefing up in staff training constitutes an important part of the international AML cooperation of China. In recent years, the PBC, the Ministry of Public Security and the SAFE, in collaboration with the international organizations like the UN, the World Bank, the IMF and the FATF, have held a series of seminars and training sessions. In the first half of 2004, the PBC, jointly with related agencies and international institutions, organized four AML seminars and training sessions, providing technical support for AML work in China.

IV. *Prospects for AML in China*

Generally speaking, the situation of AML is good. The relevant AML policies and measures have taken effect. The coordination and working mechanisms at various levels have been brought onto the right track. And with the deepening of AML work, the effects will unfold further. As AML is an important while arduous task that influences the overall society, all members of the joint conference shall collaborate with concerted efforts in doing well the following work.

1. *Continuing to reinforce the coordinating mechanism of AML*

Efforts shall be made to continue to carry out directives by the Central Committee of the CPC and the State Council on combating corruption, advocating honest and clean government and fighting economic crimes. In order to effectively fend off and crack down on crimes of money laundering, to safeguard the national economic and financial security and normal economic order, the Ministerial Joint Conference on AML will, under the leadership of the State Council, be responsible for guiding the national AML work, drawing up the important national AML principles and policies and the policies and measures for international AML cooperation, and coordinating all departments and mobilizing resources of the whole society to carry out AML work. As the leading ministry of the joint conference, the PBC will commit to strengthening research on AML policies and measures, improving management on AML, reinforcing supervision on AML of financial institutions, beefing up funds monitoring and analyses for AML purposes. The PBC will, together with relevant government

departments, develop AML guidelines for such high-risk sectors as banking, securities and insurance, spur financial institutions and other entities with high risk of money laundering to improve their internal AML policies and procedures. The PBC will make efforts to detect clues of crimes in money laundering and timely transfer them to public security and other departments for criminal investigation. The PBC will collaborate with authorities of public security, state security, commerce, customs, industrial and commercial administration and taxation in investigating, through AML monitoring system, cases of unlawful practices and crimes.

2. *Improving and strengthening AML legal system*

The AML Law has been included in the legislation plan of the Tenth Standing Committee of the NPC. In March 2004, the Budgetary Committee of the Standing Committee of the NPC convened the inauguration meeting for the drafting group of the AML Law. The leading and working groups for AML Law drafting have been established with the leadership of the NPC and the participation of 18 units like the Supreme Court, the Supreme Procuratorate, the Ministry of Public Security, the Ministry of Finance and the PBC. As planned, the draft AML law will be presented to the Standing Committee of the NPC for deliberation in early 2005.

The drafting of the AML law will further define China's AML work mechanism, the relevant authorities for AML and the responsibilities of relevant departments, and will stipulate the AML responsibilities of financial institutions and other sectors with high risk of money laundering, so as to immensely improve the AML work in China.

3. *Establishing and improving the supervisory system for AML in the financial industry*

The PBC will continue, in collaboration with the CBRC, the CSRC, the CIRC and the SAFE and other supervisory authorities, improve and newly developed AML guidelines for all financial business, implement in real earnest the information collection and analyses on as well as detection and monitoring of suspicious large-value funds, encouraging financial institutions to build and improve internal AML procedures by fulfilling conscientiously the AML responsibilities in verifying customer identity, reporting of suspicious large-value funds and record-keeping of transactions, so as to forestall financial risks and safeguard stability of the financial industry.

4. *Further strengthening international AML cooperation*

Strengthening international cooperation in the field of AML is necessitated by the developments of the current international situation, China's active participation in the international economic cooperation and the proceeding of AML in China. In the recent periods, we shall not only make efforts to join international AML organizations but also establish bilateral cooperation with major countries and regions in the areas of AML. We shall, within the multilateral and bilateral framework, carry out AML intelligence exchange and training cooperation, and provide assistance in the investigation and seizure of assets and extradition of suspects. By strengthening international AML cooperation, we will forcefully crack down on and hold in check the momentum of transferring overseas illegal assets by the criminal suspects, and will prevent the stripping of state-owned assets. We will provide assistance to foreign law enforcement authorities on the basis of mutual benefits.

Ladies and Gentlemen, despite some achievements attained in China's AML work, we are still facing very arduous tasks. We shall, from the vantage point of practicing the important thought of "Three Represents" and fully implementing the guidelines laid by the Sixteenth Congress of the CPC, sharpen our awareness of the importance and urgency of AML work, and strengthen our sense of responsibility in this mission. We shall, under the leadership of the State Council, bring into full play the role of the Ministerial Joint Conference on AML, and proceed in a practical, forward-looking and pioneering manner to open a new chapter for China's AML work.

Thank you!