

Xiang Junbo: Combatting money laundering and terrorist financing in China

Speech by Mr Xiang Junbo, Deputy Governor of the People's Bank of China, at the high level seminar on AML and combatting terrorist financing, Beijing, 22 September 2005.

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Money laundering is always accompanied by criminal activities generating economic gains and to our society, the damage is obvious. Money laundering not only destroys the fairness and equality principle of market economy, disturbs orderly competition, damages reputations and normal operations of financial institutions, threatens the soundness and safety of financial systems, but also becomes the source of corruption and erodes the social fundamental institutions. To be more troublesome, money laundering and terrorist financing have interlaced with each other and threatened global security. A series of terrorist attacks in the last four years have already rung the alarm bell. Money laundering and terrorist financing have already threatened and challenged seriously the human society, sustainable development in the 21st century.

Currently, international community has made considerable progress in combating money laundering and terrorist financing. For example, the *United Nation (UN)* has issued several legal documents in this regard, including the *United Nation Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, the *International convention for the Suppression of the Financing of Terrorism*, the *United Nation Convention Against Transnational Organized Crime* and the *United Nation Convention Against Corruption* etc. On July 29, 2005, the UN Security Council issued the *UN Security Council Resolution 1617*, which “urges all member countries to implement the Forty Recommendations on money laundering and 9 Special Recommendations on terrorist financing of the Financial Action Task Force on Money laundering (FATF)”. FATF and its regional organizations have been set up successively. Many countries have already issued and implemented anti-money laundering and terrorist financing laws in succession. But, we have to note that, money laundering, terrorist financing and those serious criminal activities supported by them, such as drug trafficking, smuggling, population trafficking and corruption, and terrorist attacks are still rampant and threaten the safety, stability and prosperity of human society. According to the *UN Report of the Secretary-General's High-level Panel on Threats, Challenges and Change*, lack of international cooperation is one of the fundamental drawbacks that international communities cannot respond effectively to money laundering and terrorist financing. In recent years, China has made great efforts in preventing, cracking down and punishing of money laundering and terrorist financing activities and therefore achieved obvious progress. Now, I would like to brief you the situation in China about combating money laundering and terrorist financing.

Before that, I would like to explain the special role of the People's Bank of China (PBC) in anti-money laundering. In May 2003, in line with the need of anti-money laundering development, the State Council designated the PBC as the leading government department for anti-money laundering in China. In December 2003, the Standing Committee of the National People's Congress (NPC) revised the *Law of the People's Republic of China on the People's Bank of China* and accordingly, PBC is legally responsible for directing and deploying anti-money laundering work in the financial system and monitoring funds movement in anti-money laundering.

I. Chinese government pays high attention to anti-money laundering and strengthens international cooperation with an open and practical attitude

The stance of Chinese government towards money laundering and terrorist financing is always clear and firm. With regard to money laundering, the Chinese government insists on cracking down all kinds of money laundering activities, supports the establishment of a unified anti-money laundering standards by international communities and is ready to develop bilateral and multilateral international cooperation. After “9.11” attack in 2001, President Hu Jintao mentioned that, “terrorist financing is the key fund sources and bases for terrorists and terrorism organizations to exist, develop and conduct terrorist activities. To succeed in anti-terrorism, we must contain and eliminate terrorist financing activities.” Therefore, China has signed consecutively on the *UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, the *UN Convention Against Transnational Organized*

Crime and the UN Convention Against Corruption. After the “9.11” incident, the Chinese government promoted the UN Resolutions 1368 and 1373 on anti-terrorism financing and signed on important legal documents on international anti-terrorism financing, such as the *International convention for the Suppression of the Financing of Terrorism, and Shanghai Convention on Terrorism, Extremism and Separatism.*

The Chinese government is supportive to the establishment of international cooperation framework in anti-money laundering and anti-terrorist financing. In February 2004, China officially applied to join the Financial Action Task Force (FATF). In February and October 2004 consecutively, the PBC wrote to the Chairman of FATF and expressed its commitment to follow the FATF anti-money laundering and anti-terrorist financing recommendations. In January 2005, 33 members of FATF unanimously agreed to accept China as an observer. Currently, China is making great efforts to obtain FATF official membership. In October 2004, China, as the funding member country and together with Russia, Kazakhstan, Tajikistan, Kyrgyzstan and Belarus, established the Euro-Asian Group on Combating Money-laundering and Financing of Terrorism (EAG), which became the key component of international cooperation in anti-money laundering and terrorist financing.

Chinese government is practical with regard to strengthening international cooperation in criminal law implementation. China has collaborated with other countries in police affairs cooperation, information exchange, case investigation and illegal gains retrieving and criminals arresting. China set up cooperation relations successively with above 40 countries through 70 agreements, MOUs or Meeting Minutes in police cooperation and combating criminals. China also reached agreements with 5 countries including the USA, Canada and Thailand to bilaterally dispatch police liaison officers. China also signed agreements on criminal judicature with 26 countries and agreements with 18 countries on bilateral extradition, including Russia, Thailand, and the Republic of Mongolia etc. Since 1998, Chinese police has assisted foreign counterparts in investigating on 20 terrorist financing related clues, and helped counterparts from the USA, Canada and Great Britain etc investigate and collect evidences in China. Since 2001, China has disclosed suspicious money laundering and terrorist financing name lists for more 50 times in accordance with the UN 1267 committee and other countries' requirements.

II. China has established comparative complete legal system in anti-money laundering and terrorist financing in line with the fundamental principle of “ruling by law”

Article 120(l) and Article 190 of the current *Criminal Law* in China defined terrorist financing and money-laundering crime as criminal acts. Money-laundering crime in China has its special features. First, on the basis of the defined money-laundering crime act, both natural person and legal person are treated as the criminal offenders; second, punishment of money-laundering crime also cover laundering illegal gains from oversea upstream criminal acts; third, although there are only four different upstream criminal acts, there are totally 27 different crimes within them, including smuggling, trafficking, production of narcotic drugs and illegal possession of psychotropic substances, illegal cultivation of drug plants, organizing, leading and participating in mafias, weapon and ammunition smuggling, counterfeit currency smuggling, cultural relic smuggling, precious metal and jewelry smuggling , organizing, leading or participating in terrorist organizations etc; fourth, criminal punishments of money laundering include maximum 10 year imprisonment, detention, property confiscation and criminal fines.

With regard to administrative methods for preventing, combating money-laundering and terrorist financing, the fundamental institutions recommended by international communities, such as due diligence, suspicious transaction identification, transaction record-keeping, cross border capital movements control, are all embodied in Chinese legal system. For example, *Provisional Rules for Cash Management*, issued by the State Council in October 1988, stipulates strictly the cash use in circulation. *Administrative Rules for Cross-border Transfer of National Currency*, issued by the State Council in January 1993, stipulates the reporting and maximum management system, forbids transferring and remitting RMB abroad through regular mails without permission. Now the upper limits of RMB to be taken abroad is 20,000 yuan each time per person. *Rules for Authentic Name of Individual Deposit Account*, issued by the State Council in April 2000, deny the validity of anonymous account existence. In January 2003, the People's Bank of China issued the *Rules for Anti-money Laundering Efforts by Financial Institutions, 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*, which stipulate that financial

institutions should establish sound internal control system in anti-money laundering, report timely large-value and suspicious transactions (including 46 standards about suspicious reports for domestic and foreign currency transactions), keep records of clients documents and transactions for at least 5 years. At current, the PBC is organizing personal resources to amend in full scale the above-mentioned three rules. The revised rules will focus on the scientific and information-oriented supervision of anti-money laundering and effective control of the working cost of financial institutions to prevent and control money laundering. In August 2003, the State Administration of Foreign Exchange (SAFE) and the General Administration of Customs jointly issued the *Provisional Administrative Rules for Transfer of Foreign Currency*, which stipulates that people entering China with foreign exchange cash with value over USD5000 should provide written report to the customs and people traveling abroad with foreign exchange cash with value over USD5000 should apply for permission beforehand.

With the development of anti-money laundering and the expansion of international collaboration, legal institutions and government agencies have reached consensus on stipulating special anti-money laundering law. On March 22, 2004, Budgetary Work Committee of the NPC Standing Committee held the anti-money laundering law drafting meeting, participated by 17 government departments, including the People's Supreme Court, the People's Supreme Prosecutor, Ministry of Public Security, Ministry of Finance and the People's Bank of China. Now, the drafting anti-money laundering law is underway and it will be presented to the legislative body in proper time for deliberation. Besides, other relevant departments have finished the drafting of anti-terrorism law, with anti-terrorist financing being one of the important contents.

III. On the basis of completion of anti-money laundering organizational framework, China is exploring to establish effective anti-money laundering mechanism

At central government level, the main government agencies concerned with anti-money laundering tasks are the PBC, the General Administrative of Customs, the General Administration of Taxation, China Banking Regulatory Commission (CBRC), China Securities Regulatory Commission (CSRC), China Insurance Regulatory Commission (CIRC), and the SAFE etc. Right now, the PBC, the Ministry of Public Security and the SAFE have already set up special anti-money laundering organization, and the General Administration of Customs, the General Administration of Taxation, CBRC, CSRC, and CIRC appointed special units to fulfill anti-money laundering functions respectively.

In terms of improving anti-money laundering organizational framework, the PBC set up Anti-money Laundering Bureau in September 2003 to be responsible for the administration of anti-money laundering work nationwide, and supervise financial institutions to improve their internal control systems in anti-money laundering and implement relevant anti-money laundering regulations. In April 2004, the PBC established Anti-money Laundering Monitoring and Analysis Center to receive and analyze anti-money laundering information for both RMB and foreign currencies. Till July 2004, all domestic commercial banks have established anti-money laundering steering group and relevant working organizations, with anti-money laundering positions in financial institutions amounting to 91,313, anti-money laundering staff amounting to 92,743.

With regard to the establishment of effective anti-money laundering cooperation mechanism, the PBC took the initiative to establish the anti-money laundering joint ministerial conference and the financial supervisory departments' anti-money laundering collaboration mechanism. The Agenda joined by the People's Supreme Court, the People's Supreme Persecutor, the Secretariat of the State Council, the Ministry of Public Security, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice, CBRC, CSRC and CIRC etc, totaling 23 departments, targets to coordinate nationwide anti-money laundering work, strengthen policy coordination, law enforcement cooperation and information exchange, direct nationwide anti-money laundering efforts under the steering of the State Council, stipulate important guidance and policies relevant to anti-money laundering and international cooperation policy measures, coordinate different departments and motivate the whole nation to conduct ant-money laundering. Recently, the second meeting of the Joint Ministerial Conference passed the *Preparation Plan for FATF Evaluation* in principle, and relevant preparations have been already initiated in full scale. Financial supervisory departments' anti-money laundering collaboration mechanism joined by CBRC, CSRC, CIRC and the SAFE, targets to project, plan, collaborate financial institutions' efforts in anti-money laundering as well as the banking, securities, insurance and foreign exchange supervisory department's anti-money laundering functions to reduce duplicate supervision and avoid blind area in supervision. Till June 2005, 12 provinces, autonomous regions, municipalities

and cities with independent budget have already formed anti-money laundering collaboration mechanism among relevant agencies.

IV. High attentions were paid to the role of financial institutions in anti-money laundering, and anti-money laundering supervision and funds monitoring have achieved evident results

From April 2004 to December 2004, the PBC has conducted special examination on anti-money laundering by the commercial banks. According to the examination results, most commercial banks have established internal control system of anti-money laundering and fulfilled obligations related to clients' identity verification, transaction-record keeping and large-value and suspicious transaction reporting. The PBC also punished 72 main reporting banks of commercial banks involving total fines up to RMB 1.7 million yuan due to their incomplete internal control systems of anti-money laundering or misreporting of suspicious transactions. The examination played active role in understanding commercial banks implementation of anti-money laundering regulations and enhanced commercial banks emphasis on anti-money laundering. At the same time, the examination accumulated precious experiences for supervision over non-banking financial institutions and other high risky areas in money laundering, such as real estate, precious metal and jewelry distribution, and cultural relic auction. In 2005, the PBC continued the special examination on commercial banks' anti-money laundering of the provincial level. In 2006, the PBC will expand anti-money laundering examination to securities companies and insurance companies.

Since the establishment of the China Anti-money Laundering Monitoring and Analysis Center, it has networked with 17 commercial banks in data reporting. Its cumulative number of suspicious activities reports in both RMB and foreign currencies posted 654,400, amounting to RMB248.023 billion yuan and USD76.92 billion and covering provinces, autonomous regions and municipalities across the nation. By means of identification, analysis, investigation on suspicious activities reports, increasingly more money laundering related cases were referred to departments of public security for further investigation. According to incomplete statistics, since April 2004, the PBC and the SAFE have altogether referred more than 1,500 clues to departments of public security at various levels. In particular, they helped solve 51 cases, involving RMB3.096 billion yuan and USD460 million and relating to various fronts of money laundering activities like underground banking, overseas gambling, money laundering through investment, smuggling, illegal purchase and sale of foreign exchange etc. At present, the PBC is trying to expand data coverage, complete data reception standards, regulate data reporting procedure, and improve data analysis skills. At the same time, PBC is conducting research on central data base network and collaborating with current data bases, for example, credit registration system, payment and settlement system, banking accounts management system etc. The PBC explores actively to establish data searching and verification platform for public security, customs, taxation agencies, industrial and commercial administrations to improve efficient use of suspicious transaction information. The PBC stands ready to sign with relevant law enforcement agencies of other countries and regions the Memorandum of Understanding on information exchange to challenge the new trend with increasingly more international and cross-border crimes.

In summary, anti-money laundering and combating terrorist financing in China developed rapidly with evident achievements and met the requirements of FATF 40 plus 9 recommendations. However, anti-money laundering and combating terrorist financing still face with the serious challenges from the changing society, rapid national economic development, advancement of science and technology, frequent international capital movement and continuous financial business innovation and need to strengthen and improve legal system, organizational framework, supervision by law and international cooperation. In the near future, our main tasks are:

1. Continue to improve anti-money laundering legal system by stipulating *Anti-money Laundering Law*, initiating revision procedures to the *Criminal Law*, speeding up legislation of the *Anti-terrorism Law*, amending *Provisional Rules for Cash Management*, *Rules for Financial Institutions Anti-money Laundering* and stipulating anti-money laundering rules for securities and insurance industries.
2. Improve departmental collaboration mechanism, strengthen anti-money laundering and terrorist financing research, publicity and training to improve participation by the whole society and different departments.

3. Strengthen the development of the China Anti-money laundering Monitoring and Analysis Center to detect, distinguish suspicious criminal information in time and cracking down seriously and strictly money laundering and terrorist financing activities, in particular, underground banking criminal activities.
4. Continue to conduct anti-money laundering examination and expand examination scope to securities and insurance companies to encourage the “first protection line” function of financial institutions in anti-money laundering and terrorist financing.
5. Strive to join the FATF as a full member and strengthen cooperation with other countries and regions within bilateral or multilateral frameworks based on equal and mutual beneficial principles in information exchange, training, investigation assistance, property seizure and criminal suspects extradition and repatriation.