Performing Anti-Money Laundering Obligation and Promoting Anti-Corruption Work

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The Chinese government has always attached great importance to the anti-corruption work. It has taken effective measures to mobilize the force of the whole society to launch an anti-corruption campaign and to formulate and improve corruption preventing and curbing mechanisms. As the country’s administrative organ in performing the anti-money laundering obligation, the People’s Bank of China (PBC) plays an important role in the anti-corruption campaign.

PBC is actively involved in the prevention of and the fight against corruption by undertaking the anti-money laundering obligation. It has been proved that most of the corruptive acts are closely related to economic activities and accompanied by illegal money transfer. Illegal transactions associated with corruption can be detected through the supervision of illegal money flow, which is an effective way to prevent and fight against the crime of money laundering, and eventually check the corruption and safeguard the state property.

Anti-money laundering is a newly added duty of PBC. In 2003, the State Council decided to transfer the Ministry of Public Security’s duty of organizing and coordinating state’s anti-money laundering work to PBC. On December 17, 2003, the 6th Session of the Standing Committee of the 10th National People’s Congress revised “PBC Law of the People’s Republic of China” and regulated that PBC “is responsible for instruction and deployment of anti-money laundering work of the financial industry and takes charge of capital monitoring for anti-money laundering purposes.” In order to perform the anti-money laundering duty as required, PBC has established the Anti-Money Laundering Bureau to take the responsibility of organizing and coordinating the state’s anti-money laundering work, study and work out the financial institution’s anti-money laundering plan and policy, undertake the international cooperation and exchange in anti-money laundering activities, consolidate, trace and analyze the suspicious RMB and foreign currency payment transaction information provided by relevant departments. In April 2004, PBC established the China Anti-Money Laundering Monitoring & Analyzing Center to take charge of collecting, analyzing, monitoring and providing anti-money laundering intelligence, and to provide technical support for anti-money laundering activities.

(1) Establishing and improving the legal system of anti-money laundering

When the Standing Committee of the National People’s Congress revised “Criminal Law” in 1997, the crime of money laundering was explicitly defined in Article 191, which provides that drug related crime, Mafia-like crimes and crime of smuggling are the upstream crimes. On December 29, 2001, the Standing Committee of the National People’s Congress approved the revision of the “Revised Act of Criminal Law (III) which provides that terrorist crime is an upstream crime of the money laundering crime, and “the crime of financing terrorist activity” was added to Article 120.
With the deepening of the anti-money laundering work, the legislative body and the administrative authorities of the government have reached a consensus of formulating a special “Anti-money Laundering Law”, which has been listed in the legislative agenda of the 10th National People’s Congress. In March 2004, the “Anti-money Laundering Law” drafting body was established, headed by PPC Budget Working Commission. As a member unit, PBC is actively involved in the legislation work by conducting surveys and investigations, collecting complete information and data on the matter and making valuable suggestions in the drafting process. At present, the “Anti-money Laundering Law (Draft)” for soliciting comments has been completed and will be submitted to the Standing Committee of the NPC for review.

In January 2003, PBC promulgated the “Regulations on Anti-money Laundering Initiatives for the Financial Institutions”, the “Rules on Control of Large Amount and Suspicious RMB Transactions”, and the “Rules on Reporting Large Amounts and Suspicious Foreign Exchange Transactions by Financial Institutions”, which stipulates the basic anti-money laundering measures including client identification, large amounts and suspicious transactions reporting, transaction records archiving and establishing/perfecting internal control system of anti-money laundering with banking and financial institutions. At present, PBC is working with relevant financial supervisory authorities to conduct an overall revision of the above-mentioned three regulations and work on formulating anti-money laundering rules and systems for securities and insurance institutions, which are expected to be promulgated in this year.

(2) Establishing an anti-money laundering coordinating mechanism

As the authority of organizing and coordinating the state’s anti-money laundering work appointed by the State Council, PBC has actively participated in the establishment and operation of the anti-money laundering work coordinating mechanism at different levels. In May 2004, PBC presided over the establishment of the anti-money laundering coordinating mechanism of financial supervisory bodies involving CBRC, CSRC, CIRC and SAFE with the purpose to plan and coordinate the anti-money laundering work of the financial industry, to harmonize the anti-money laundering duties of the financial supervisory bodies for banking, securities, insurance and foreign exchange, to minimize wastefully repeated supervision and to avoid the overlooking of supervision areas. The main function of the mechanism is to study and analyze the general situation of the anti-money laundering in the financial industry, to exchange the findings of each party, to share the supervision information, to promote the cooperation between the financial supervisory bodies, to coordinate and carry out the anti-money laundering work.

In August 2004, approved by the State Council, PBC organized the establishment of the Anti-money Laundering Inter-ministerial Joint Conference with the participation of over 20 ministerial units, including the Supreme People’s Court, the Supreme People’s Procuratorate and the Ministry of Supervision. Based on this Joint Conference, PBC works closely with the judicial and supervision bodies to preliminarily establish a monitoring system over corruption capital to give powerful support to the anti-corruption work by integrating the advantageous resources of each party.

(3) Strengthening anti-money laundering supervision and law enforcement

In order to carry out the duties of anti-money laundering and further promote the anti-corruption work, PBC has actively conducted an anti-money laundering supervision and has worked with the law enforcement organisms to investigate and handle a batch of money laundering cases. From April to December 2004, PBC established 752 inspection groups staffed with 3,906 inspectors to conduct the first special inspection on the compliance of the commercial banks of the whole nation with the anti-money laundering regulations. The results show that most of the commercial banks have established an internal control system for anti-money laundering with acceptable performance of the obligations of client identification, transaction records archiving, large amounts and suspicious transactions reporting. By July, 2004, all the local commercial banks in China had established an anti-money laundering steering team and relevant functioning organizations. Throughout the whole country, there are 91,313 anti-money laundering posts staffed with 92,743 full-time or
part-time anti-money laundering personnel. In response to the problems of imperfections of the internal control system, failure of reporting or timely reporting of the suspicious transactions with some commercial banks, PBC has punished 72 main reporting offices of the non-compliant commercial banks with total penalty amounting to 1.7 million RMB. The inspection work has played a positive role in allowing the authority to understand the bankers’ implementation of the anti-money laundering rules and systems and in urging the commercial banks to pay more attention to anti-money laundering issues. It has also accumulated valuable experiences for the future anti-money laundering supervision work in the financial sector and even in the most vulnerable sectors exposed to money laundering activities such as real estate, sales of precious metals and stones, private sectors, relics auctions and so on. In 2005, PBC continues the special inspection at the provincial level on the commercial banks’ implementation of anti-money laundering regulations by province.

At the beginning of 2004, the Ministry of Public Security, PBC and SAFE jointly promulgated the “Circular on Joint Effort to Fight Against Illegal and Criminal Activities of Underground Private Banks”, in the light of which the local police, PBC and SAFE local offices made joint effort to ban illegal and criminal activities of the underground private banks. Great achievements have been made in the joint action. A large number of major cases involving underground private banks were cracked down. According to the statistics, 479 special actions were organized from April to December 2004, in which 155 underground private banks and illegal foreign exchange transaction dens were closed down, with a total of 12.5 billion RMB involved in the cases, cash equivalent to 110 million RMB being captured, 460 bank accounts with capital of 42 million RMB frozen, and 274 criminal suspects arrested. A number of corruption related crime clues were detected through these anti-money laundering supervision and law enforcement actions, intercepting the illegal channel of money movement of the corrupted, and controlling the ascending tendency of the corruption crimes.

(4) Enhancing international cooperation in anti-money laundering

The anti-money laundering campaign calls for extensive and in-depth cooperation among all the regions and countries of the world. Representing the Chinese government, PBC is actively engaged itself in the international cooperation to promote development of anti-money laundering work in both depth and scale. Owing to the joint efforts of the member units of PBC, Ministry of Foreign Affairs, Ministry of Public Security and Ministry of Finance, China worked with Russia to establish “the Eurasian Group on Combating Money and Financing of Terrorism” (EAG) in October 2004. In January 2005, the 33 members of FATF (Financial Action Task Force on Money Laundering) unanimously agreed to accept China as the observer, which signifies an important step made by China in the international cooperation in anti-money laundering. In April 2005, China successfully hosted the 2nd Plenary Session of BAG in Shanghai, which has uplifted China’s prestige in the international anti-money laundering field.