

Order of the State Council of the People's Republic of China  
(No.532)

The Regulation of the People's Republic of China on Foreign Exchange Administration, as amended, which was adopted at the 20th executive meeting of the State Council on August 1, 2008, is hereby promulgated, and shall come into force as of the date of promulgation.

Premier: Wen Jiabao  
August 5, 2008

## Regulation of the People's Republic of China on Foreign Exchange Administration

(promulgated by Order No.193 of the State Council of the People's Republic of China on January 29, 1996, amended according to the Decision of the State Council on Amending the Regulation of the People's Republic of China on Foreign Exchange Administration on January 14, 1997, and amended again at the 20th executive meeting of the State Council on August 1, 2008)

### Chapter I General Provisions

Article 1 This Regulation is formulated for the purposes of strengthening foreign exchange administration, maintaining the balance of international payments and promoting the sound development of the national economy.

Article 2 The foreign exchange administrative department of the State Council and the branches thereof (hereinafter referred to as foreign exchange administrative organs) shall perform the duty of foreign exchange administration in accordance with law and take charge of the implementation of this Regulation.

Article 3 The term "foreign exchange" as mentioned in this Regulation refers to the following instruments of payment and assets expressed in foreign currencies that can be used for international liquidation:

- (1) foreign currencies in cash, including paper money and coins;
- (2) foreign currency payment instruments, including bills, bank deposit certificates and bank cards;
- (3) negotiable securities in foreign currencies, including government bonds and stocks;
- (4) special drawing rights; and
- (5) other foreign exchange assets.

Article 4 This Regulation shall apply to the foreign exchange income and expenditure and foreign exchange business operations of Chinese institutions and individuals, and the foreign exchange income and expenditure and foreign exchange business operations conducted within the territory of the People's Republic of China by overseas institutions and individuals.

Article 5 International payments in foreign exchange and the transfer of foreign exchange under the current items shall not be subject to any state control or restriction.

Article 6 The state practices the balance of payments statistics and reporting system.

The foreign exchange administrative department of the State Council shall collect statistical data about and monitor the balance of payments, and publish the balance of payments on a regular basis.

Article 7 Financial institutions operating foreign exchange business shall open foreign exchange accounts for

their clients and handle foreign exchange business through such accounts in accordance with the provisions of the foreign exchange administrative department of the State Council.

A financial institution operating foreign exchange business shall file the foreign exchange income and expenditure of its clients and the changes in the foreign exchange accounts of the clients with a foreign exchange administrative organ according to law.

Article 8 It is prohibited to circulate foreign currencies in the People's Republic of China, or use foreign currencies for pricing or account settlement.

Article 9 The foreign exchange income of a domestic institution or individual may be transferred back into the territory of the People's Republic of China or deposited overseas. The specific conditions and term requirements shall be determined by the foreign exchange administrative department of the State Council in light of the balance of payments and the foreign exchange administrative requirements.

Article 10 The foreign exchange administrative department of the State Council shall hold, manage, and operate the foreign exchange reserve of the state under the principles of safety, fluidity and increment.

Article 11 Where the balance of payments becomes or may become seriously unbalanced, or the national economy falls or may fall into a serious crisis, the state may take necessary protection or control measures for the balance of payments.

## Chapter II Foreign Exchange Administration under the Current Items

Article 12 The foreign exchange income and expenditure under the current items shall be made on the basis of authenticity and lawfulness. Financial institutions operating the foreign exchange sale or settlement business shall reasonably examine the authenticity of the transaction documents and the consistency between foreign exchange income and expenditure in accordance with the relevant provisions of the foreign exchange administrative department of the State Council.

The foreign exchange administrative organs have the right to supervise and inspect the issues prescribed in the preceding paragraph.

Article 13 The foreign exchange income under the current items may be reserved or sold to financial institutions operating the foreign exchange sale or settlement business.

Article 14 The foreign exchange expenditure under the current items shall be paid by an institution with its self-owned foreign exchange upon valid documents or with the foreign exchange purchased from any financial institution operating the foreign exchange sale or settlement business in accordance with the administrative provisions of the foreign exchange administrative department of the State Council on the payment and purchase of foreign exchange.

Article 15 The limits for the amounts of foreign currencies in cash which are carried or declared when entering or exiting the territory of the People's Republic of China shall be determined by the foreign exchange administrative department of the State Council.

## Chapter III Foreign Exchange Administration under the Capital Items

Article 16 An overseas institution or individual that makes direct investments in the territory of the People's Republic of China shall handle the registration formalities at a foreign exchange administrative organ upon the approval of the competent department.

An overseas institution or individual that issues or trades negotiable securities or derivative products in the

territory of the People's Republic of China shall abide by the market access provisions of the state and handle the registration formalities at the foreign exchange administrative department of the State Council.

Article 17 A domestic institution or individual that makes direct investment or issues or trades negotiable securities or derivative products overseas shall handle the registration formalities at the foreign exchange administrative department of the State Council. If the relevant state provisions require it/him to get the approval of the competent department or archive the issue with the competent department, it/he shall do so before handling the registration formalities.

Article 18 The state shall implement the scale management of foreign debts. Any institution or individual borrowing foreign debts shall abide by the relevant state provisions and handle the foreign debt registration formalities at a foreign exchange administrative organ.

The foreign exchange administrative department of the State Council shall take charge of collecting statistical data about and monitoring the foreign debts of the whole nation, and publish the foreign debts situations on a regular basis.

Article 19 An institution shall apply to a foreign exchange administrative organ before providing foreign guarantee. The foreign exchange administrative organ shall make a decision of approval or disapproval according to the asset-liability situation of the institution. If the relevant state provisions provide that its scope of business shall be subject to the approval of the competent department, it shall get the approval before applying to the foreign exchange administrative organ. The institution shall, after concluding a foreign guarantee contract, handle the foreign guarantee registration formalities at the foreign exchange administrative organ.

The provisions of the preceding paragraph shall not apply where an institution, upon the approval of the State Council, provides foreign guarantee for a loan with the money borrowed from a foreign government or an international financial organization.

Article 20 Banking financial institutions may directly provide commercial loans to overseas parties within their approved scope of business. Any other domestic institution shall, before doing so, apply to a foreign exchange administrative organ, which shall make a decision of approval or disapproval according to the asset-liability situation of the applicant. If the relevant state provisions provide that its scope of business shall be subject to the approval of the competent department, it shall get the approval before applying to the foreign exchange administrative organ.

Any institution providing a commercial loan to an overseas party shall handle the registration formalities in accordance with the relevant provisions of the foreign exchange administrative department of the State Council.

Article 21 Before reserving the foreign exchange income under the capital items or selling it to any financial institution operating the foreign exchange sale or settlement business, the approval of the competent foreign exchange administrative organ shall be obtained, unless it is otherwise provided by the state.

Article 22 The foreign exchange expenditure under the capital items shall be paid by an institution with its self-owned foreign exchange upon valid documents or with the foreign exchange purchased from any financial institution operating the foreign exchange sale or settlement business in accordance with the administrative provisions of the foreign exchange administrative department of the State Council on the payment and purchase of foreign exchange. If the state provisions require the approval of a foreign exchange administrative organ, the approval must be obtained before making foreign exchange payments.

For a foreign-funded enterprise which is terminated according to law, after accounts are settled and taxes paid in accordance with the relevant state provisions, the Renminbi owned by the foreign investor may be used for buying foreign exchange from any financial institution operating the foreign exchange sale or settlement business.

Article 23 The foreign exchange and foreign exchange settlement funds under the capital items shall be used for the purposes approved by the competent department and the foreign exchange administrative organ only. The foreign exchange administrative organs have the right to supervise and inspect the use of the foreign exchange and foreign exchange settlement funds under the capital items and the changes in foreign exchange accounts.

#### Chapter IV Administration of the Foreign Exchange Operations of Financial Institutions

Article 24 A financial institution shall get the approval of a foreign exchange administrative organ before operating or terminating the foreign exchange sale or settlement business. Before operating or terminating any other foreign exchange business, a financial institution shall get the approval of a foreign exchange administrative organ or a financial regulatory organ, depending on the division of duties and functions between them.

Article 25 The foreign exchange administrative organs shall administer the synthetic positions in the foreign exchange operations of financial institutions. The specific measures shall be set down by the foreign exchange administrative department of the State Council.

Article 26 Where a financial institution needs to swap its capital or profits from Renminbi to a foreign currency or vice versa, or needs to do so due to the mismatch between its Renminbi assets and its foreign currency assets, it shall get the approval of a foreign exchange administrative organ.

#### Chapter V Exchange Rate of Renminbi and the Administration of the Foreign Exchange Market

Article 27 The exchange rate of Renminbi shall be subject to a floating rate system regulated based on the market supply and demand.

Article 28 Financial institutions operating the foreign exchange sale or settlement business and other institutions satisfying the requirements prescribed by the foreign exchange administrative department of the State Council may make foreign exchange transactions in the inter-bank foreign exchange market.

Article 29 Transactions in the foreign exchange market shall follow the principles of openness, fairness, equity and good faith.

Article 30 The currencies and forms of transactions in the foreign exchange market shall be determined by the foreign exchange administrative department of the State Council.

Article 31 The foreign exchange administrative department of the State Council shall supervise and administer the foreign exchange market of the whole nation according to law.

Article 32 The foreign exchange administrative department of the State Council may regulate the foreign exchange market according to the changes in the market and the requirements of the monetary policies.

#### Chapter VI Supervision and Administration

Article 33 A foreign exchange administrative organ shall legally perform its functions, and have the authority to take the following measures:

- (1) Conducting an on-site inspection of a financial institution engaging in foreign exchange business;
- (2) Entering a place where an illegal act of foreign exchange is suspected to have occurred for purposes of investigation and collecting evidence;
- (3) Inquiring of an institution or individual which has foreign exchange income and expenditure or engages in foreign exchange business operations, and requiring the same to make an explanation of the matters directly

related to the illegal act of foreign exchange being investigated;

(4) Consulting and copying the transaction documents and other data directly related to the illegal act of foreign exchange being investigated;

(5) Consulting and copying the financial and accounting data and related documents of the party involved in the illegal act of foreign exchange being investigated and an entity or individual directly related thereto, and seizing the documents and data which may be transferred, concealed, damaged or destroyed;

(6) Inquiring into the accounts of the party involved in the illegal act of foreign exchange being investigated and an entity or individual directly related thereto, with the approval of the person-in-charge of the foreign exchange administrative department of the State Council or a foreign exchange administrative organ at the provincial level; and

(7) Applying for a freeze or seizure by the people's court, where there is evidence that the illegal fund or any other property involved in a case has been or may be transferred or concealed or any important evidence has been or may be concealed, forged, damaged or destroyed.

The relevant entity or individual shall cooperate with the foreign exchange administrative organ in the supervisory inspection and truthfully explain the relevant information and provide the relevant documents and data, and shall not refuse or obstruct the explanation and provision or conceal the relevant information, documents and data.

Article 34 A foreign exchange administrative organ shall conduct supervisory inspections or investigations in a lawful manner, and there shall be two or more personnel in the supervisory inspections or investigations who shall show their certificates. Where there are fewer than two persons conducting the supervisory inspection or investigation or such persons fail to show their certificates, the entity or individual under the supervisory inspection or investigation shall have the right to refuse the supervisory inspection or investigation.

Article 35 A domestic institution engaging in foreign exchange business operations shall submit its financial and accounting statements, statistical statements and other data according to the provisions of the foreign exchange administrative department of the State Council.

Article 36 Where a financial institution engaging in foreign exchange business finds that a client has any illegal act of foreign exchange, it shall timely report it to a foreign exchange administrative organ.

Article 37 To perform its functions in foreign exchange administration, the foreign exchange administrative department of the State Council may acquire the necessary information from the relevant departments and institutions of the State Council, and the relevant departments and institutions of the State Council shall provide the same.

The foreign exchange administrative department of the State Council shall circulate a bulletin on the foreign exchange administration work to the relevant departments and institutions of the State Council.

Article 38 Any entity or individual shall have the right to report any illegal act of foreign exchange.

A foreign exchange administrative organ shall keep confidential the identity of informants, and reward those informants and meritorious entities or individuals having assisted in the investigation and punishment of illegal acts of foreign exchange according to the legal provisions.

## Chapter VII Legal Liability

Article 39 Where any evasion of foreign exchange control is committed, such as transferring domestic foreign

exchange to the overseas in violation of legal provisions or transferring domestic capital to the overseas by fraudulent means, a foreign exchange administrative organ shall order return of the foreign exchange within a prescribed time limit, and impose a fine of not more than 30% of the amount of foreign exchange evading government control; or if the circumstances are serious, impose a fine of not more than the amount but not less than 30% of the amount of foreign exchange evading government control; and if a crime is constituted, the violator shall be subject to criminal liabilities according to law.

Article 40 Where any illegal arbitrage is committed, such as a payment which shall be made in Renminbi is made in a foreign money as in violation of legal provisions or a purchase of foreign exchange by cheating the financial institution engaging in the settlement or sale of foreign exchange with false or invalid transaction documents, the foreign exchange administrative organ shall order conversion of the illegal arbitrage funds back into the original currency, and may impose a fine of not more than 30% of the amount of illegal arbitrage; or if the circumstances are serious, it may impose a fine of not more than the amount but not less than 30% of the amount of illegal arbitrage; and if a crime is constituted, the violator shall be subject to criminal liabilities according to law.

Article 41 Where any foreign exchange is remitted into the territory of the People's Republic of China in violation of any legal provision, the foreign exchange administrative organ shall order its correction, and impose a fine of not more than 30% of the amount of violation; or if the circumstances are serious, impose a fine of not more than the amount but not less than 30% of the amount of violation.

Where any illegal settlement of foreign exchange is committed, the foreign exchange administrative organ shall order conversion of the illegal settlement funds back into the original currency, and impose a fine of not more than 30% of the amount of violation.

Article 42 Where any foreign exchange is carried into or out of the territory of the People's Republic of China in violation of any legal provision, the foreign exchange administrative organ shall impose a warning, and may impose a fine of not more than 20% of the amount of violation. Where any law or administrative regulation provides that the punishment shall be imposed by the customs, such a law or administrative regulation shall apply.

Article 43 Where any violation of foreign debt administration is committed, such as unapproved international borrowing, overseas bond issuance or provision of international guaranty, the foreign exchange administrative organ shall impose a warning and a fine of not more than 30% of the amount of violation.

Article 44 Where the purpose of foreign exchange or the purpose of foreign exchange settlement funds is converted without approval as in violation of any legal provision, the foreign exchange administrative organ shall order its correction, confiscate the illegal proceeds and impose a fine of not more than 30% of the amount of violation; or if the circumstances are serious, it may impose a fine of not more than the amount but not less than 30% of the amount of violation.

Where any illegal use of foreign exchange is committed, such as pricing or settlement in a foreign currency within the territory of the People's Republic of China or transfer of foreign exchange in violation of legal provisions, the foreign exchange administrative organ shall order correction and impose a warning, and may impose a fine of not more than 30% of the amount of violation.

Article 45 Where the amount of foreign exchange privately purchased or sold, or purchased or sold in disguise, illegally traded or purchased or sold upon the illegal referral of any person is rather large, the foreign exchange administrative organ shall impose a warning, confiscate the illegal proceeds and impose a fine of not more than 30% of the amount of violation; or if the circumstances are serious, it may impose a fine of not more than the amount but not less than 30% of the amount of violation; and if a crime is constituted, the violator shall be subject to criminal liabilities according to law.

Article 46 Where the business of settlement or sale of foreign exchange is operated without approval, the foreign exchange administrative organ shall order its correction, confiscate the illegal proceeds if any, and if the amount

of illegal proceeds is more than 500,000 yuan, it may impose a fine of not less than the amount or not more than five times the amount of illegal proceeds; or if there are no illegal proceeds or the amount of illegal proceeds is less than 500,000 yuan, it may impose a fine of not less than 500,000 yuan but not more than 2 million yuan; if the circumstances are serious, the relevant competent department shall order its suspension of business operation for rectification or revocation of its business permit; and if any crime is constituted, the violator shall be subject to criminal liabilities according to law.

Where a foreign exchange transaction other than settlement and sale of foreign exchange is done without approval, the foreign exchange administrative organ or financial regulatory authority shall impose a punishment according to the preceding paragraph.

Article 47 Under any of the following circumstances, a foreign exchange administrative organ shall order the financial institution to make correction within a prescribed time limit, confiscate the illegal proceeds, and impose a fine of not less than 200,000 yuan but not more than 1 million yuan; or if the circumstances are serious or no correction is made within the prescribed time limit, it may order the financial institution to suspend the relevant business:

- (1) failing to conduct a reasonable examination of the authenticity of transaction documents and consistency between them and balance of payments in foreign exchange when handling receipt or payment of funds under a current item;
- (2) handling receipt or payment of funds under a capital item in violation of legal provisions;
- (3) handling the settlement or sale of foreign exchange in violation of legal provisions;
- (4) violating the comprehensive position administration in foreign exchange; or
- (5) violating the foreign exchange market administration.

Article 48 Under any of the following circumstances, a foreign exchange administrative organ shall order correction and impose a warning, and may impose a fine of not more than 300,000 yuan in the case of an institution or 50,000 yuan in the case of an individual:

- (1) failing to make a declaration of statistics of international balance of payments in accordance with the legal provisions;
- (2) failing to submit a financial and accounting report, statistical statement or any other data in accordance with the legal provisions;
- (3) failing to submit a valid document in accordance with the legal provisions or submitting an unauthentic document;
- (4) violating any provision on foreign exchange account administration;
- (5) violating any provision on foreign exchange registration administration; or
- (6) refusing or obstructing a foreign exchange administrative organ to legally conduct a supervisory inspection or investigation.

Article 49 Where a domestic institution violates any provision on foreign exchange administration, in addition to the punishments imposed in accordance with this Regulation, administrative sanctions shall be imposed on the directly responsible person in charge and other directly liable persons; or a warning and a fine of not less than 50,000 yuan but not more than 500,000 yuan shall be imposed on the directly liable director, supervisor or senior

managerial officer or any other directly liable person of the financial institution; and if a crime is constituted, the violator shall be subject to criminal liabilities according to law.

Article 50 Where any of the personnel of a foreign exchange administrative organ practices favoritism, abuses his powers or neglects his duty, which constitutes a crime, he shall be subjected to criminal liabilities according to law. If offence does not constitute a crime, an administrative sanction shall be imposed according to law.

Article 51 Any party dissatisfied with the specific administrative action taken by the foreign exchange administrative organ may apply for administrative reconsideration according to law; and if it/he still refuses to accept the decision of administrative reconsideration, it/he may file an administrative lawsuit in the people's court according to law.

#### Chapter VIII Supplementary Provisions

Article 52 The following terms as mentioned in this Regulation shall have the following meanings:

(1) "domestic institution" refers to a state organ, enterprise, institution, social group, army and so on within the territory of the People's Republic of China, excluding the diplomatic or consulate institutions of foreign countries in China and the representative offices of international organizations in China.

(2) "domestic individual" refers to a Chinese citizen or a foreigner who has successively lived within the territory of the People's Republic of China for a full year, excluding diplomatic agents of foreign countries in China and the representatives of international organizations in China.

(3) "current item" refers to a transaction item involving goods, services, benefits or current transfer in the international balance of payments.

(4) "capital item" refers to a transaction item causing changes to the international level of assets and liabilities in the international balance of payments, including capital transfer, direct investment, securities investment, derivatives, loan and so on.

Article 53 The business operations of a non-financial institution in the settlement or sale of foreign exchange shall be subject to the approval of the foreign exchange administrative department of the State Council, and the specific administrative measures shall be formulated separately by the foreign exchange administrative department of the State Council.

Article 54 This Regulation shall come into force on the date of promulgation.