

China Tax Alert

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New rules introduced to strengthen supervision of foreign currency transactions

Regulations discussed in this issue:

- *Administrative Measures on Reporting of Large Amount Transactions and Suspicious Transactions in Financial Institutions (People's Bank of China Order [2016] No. 3)*

Background

The People's Bank of China (referred to as PBOC hereinafter) published the Administrative Measures on Reporting for Large-Value Transactions and Suspicious Transactions in Financial Institutions (People's Bank of China Order [2016] No. 3) (referred to as Order No. 3 hereinafter) on 30 December 2016, which shall take effect from 1 July 2017. The issue of Order No. 3 indicates the determination of PBOC in strengthening the regulation and management of the foreign exchange market, cracking down on the illegal behaviors such as money laundering, and safeguarding a healthy and stable foreign exchange market.

Policy highlights

Order No. 3 specifies new requirements for which financial institutions should fulfill the obligations of reporting large-value transactions and suspicious transactions, helping financial institutions improve their effectiveness in transaction reporting. The following aspects should be paid attention to:

Adjustment on the scale of large amount transactions

Order No. 3 requires financial institutions to submit reports regarding the following kinds of large-value transactions to the China Anti-Money Laundering Monitoring and Analysis Centre:

- Any single or cumulative cash transactions on a single day with value of RMB50,000 or more, or USD10,000 and equivalent or more.
- Any single or cumulative domestic fund transfers initiated by a non-natural person on a single day with value of RMB2,000,000 or more, or USD200,000 and equivalent or more.
- Any single or cumulative domestic fund transfers initiated by a natural person on a single day with value of RMB500,000 or more, or USD100,000 and equivalent or more.

- Any cross-border fund transfers initiated by a natural person on a single day with value of RMB200,000 or more, or USD10,000 and equivalent or more

Expanding the requirements on reporting of suspicious transactions

- Reporting basis: Order No. 3 clarifies that reporting should be on the basis of "reasonable suspicion". Where a financial institution discovers or there are proper reasons to believe that the customer is involved in, or the transaction relates to criminal activities, such as money laundering and terror financing, it should submit reports of their suspicion, no matter the value of funds or assets involved.
- Reporting time: After determining that transactions are suspicious, financial institutions should submit the reports within five work days at the latest.

Optimising the internal management measures

- Establishing enhanced monitoring system: Order No. 3 requires that financial institutions to establish enhanced monitoring systems for large-value transactions and suspicious transactions in order to satisfy the data requirements.
- Standardizing operational procedures: Order No. 3 requires that financial institutions to formulate their internal transaction monitoring standards for the reporting of large-value transactions and suspicious transactions.
- Guidelines for practice: PBOC will issue the related guidelines for financial institutions in setting up the transaction monitoring standards to direct them to complete this task, including setting up the standards and improving the systems for transaction monitoring.

KPMG observations

In order to prevent and suppress money laundering and other criminal activities in depth, PBOC laid down its rules in Order No. 3 to require financial institutions to enhance their effectiveness on the reporting of large-value transactions and suspicious transactions.

Whilst under the new rules, the foreign currency conversion quotas remain unchanged at USD50,000 per annum for domestic individuals. Beginning from 1 January 2017, banks have already commenced requesting individuals to complete detailed questionnaires prior to processing foreign currency conversion transactions within the annual quota. Details include, purposes of foreign currency purchases and estimated timeframe for usage and etc. This initiative is a clear sign of the financial institutions stepping up in their efforts to enhance the procedures adopted to validate the authenticity of personal foreign currency conversion transactions and monitoring compliance. Banks are also in the process of rolling out comprehensive procedures with respect to administer foreign exchange conversions for individuals and enterprises.

Domestic individuals and enterprises should ensure that they are up to date with the new rules and new procedures implemented by the financial institutions in order to manage foreign exchange conversion affairs and comply with the rules. For example, domestic individuals who engage in foreign securities trading (e.g. those who participate in employee equity plans of foreign listing companies) should perform the relevant registration according to the requirements of the departments of foreign exchange of the State Council.

In accordance with the requirements of the banks, domestic individual and enterprises should improve their current processes of foreign exchange purchases and foreign currency payments during the document preparation and submission, to avoid the risks incurred from improper

operation (including administrative penalties and criminal liabilities).

Meanwhile, in accordance with Order No. 3, financial institutions should optimize their internal management measures and properly complete the reporting and management of large-value transaction and suspicious transactions.

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