

# China Legal Briefing\*301

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## I. The Export Control List of Dual-Use Items of the PRC

On November 15, 2024, the *Export Control List of Dual-Use Items of the PRC* (“**the List**”) was released by the Ministry of Commerce, in conjunction with the Ministry of Industry and Information Technology, the General Administration of Customs, and the State Cryptography Administration. The List has been implemented since December 1, 2024. In this publication, we will briefly introduce the key contents of the List.

- **Coding Rules**

The List systematically integrates all existing controlled dual-use items and divides them into 10 major categories of core industry sectors, including: “Specialized materials and related equipment, chemical products, microorganisms, and toxins”; “Material processing”; “Electronics”; “Computers”; “Telecommunications and Information Security”; “Sensors and Lasers”; “Navigation and Avionics”; “Marine”; “Aerospace and Propulsion”; and “Other Items “. This classification system adopts the coding mode of “Arabic numerals + English letters”, which consists of “one Arabic numeral (representing the industry sector) + one capital English letter (representing the type of item) + three Arabic numerals (where the third digit represents the reason for control, and the fourth and fifth digits together are used for the sorting of items)”, a total of five key elements.

- **Scope of items**

The distribution of items across the 10 industry sectors varies due to differences in resource allocation, technology application, or market demand, of which: the number of “specialized materials and related equipment, chemicals, microorganisms and toxins” far exceeds that of other sectors, accounting for more than one-third of the total; secondly, “Materials Processing” also occupies a large share, accounting for nearly one-fifth; “Electronics”, “Telecommunications and Information

Security”, “Aerospace and Propulsion” and “Sensors and Lasers” have a balanced distribution; “Ships” and “Other Items” account for the smallest share.

- **Legal responsibilities**

For dual-use items on the List, export operators should apply to the competent department of commerce under the State Council for a license or obtain an export certificate by registering the information. If there was no classification of items or the items were wrongly classified, resulting in the actual export of dual-use items listed without export licenses or certificates, the export operator would be deemed to have committed the illegal act of “exporting controlled items without permission”, and might be ordered to stop the illegal act, fined and have their illegal proceeds confiscated etc. In serious cases, it may also lead to suspension or revocation of the qualification for exporting controlled items.

- **Conclusion:**

Now that the List has come into effect, enterprises should actively study the List to compare and determine whether their exporting items are related to the List. A comprehensive and detailed review is critical. Most importantly, an internal compliance system should be established to avoid unauthorized export which may lead to unwanted legal consequences.

## **II. Highlights of the Revised Anti-Money Laundering Law (Effective January 1, 2025)**

The Anti-Money Laundering Law of the People's Republic of China, first implemented on January 1, 2007, had been in effect for 17 years. As money laundering methods have evolved, the previous law no longer meets the demands of China's economic development and international

standards. On November 8, 2024, the revised Anti-Money Laundering Law (the Revised Law) was officially promulgated and will take effect on January 1, 2025. The number of articles has increased from 37 to 65, incorporating key changes outlined below:

### **Chapter I: General Provisions**

The number of articles in this chapter increased from 7 to 12, expanding and refining the scope of application.

- Article 2 introduces a catch-all clause for "other crimes" and clarifies that "the prevention of terrorist financing activities is subject to this law."
- Article 12 emphasizes the law's jurisdiction over cross-border money laundering and terrorist financing activities that threaten China's national security, financial order, or public safety.

### **Chapter II: Anti-Money Laundering Supervision and Management Responsibilities**

The number of articles expanded from 7 to 16, adding 9 new provisions to clarify regulatory responsibilities and enhance oversight of high-risk sectors, including:

- Regulations on anti-money laundering management for specific non-financial institutions (Article 15);
- A system for managing beneficial ownership information (Article 19);
- National and sectoral money laundering risk assessments and risk guidelines (Article 23);
- Special measures for high-risk countries or regions (Article 24);
- Responsibilities of self-regulatory organizations and service agencies involved in anti-money laundering (Articles 25-26).

### **Chapter III: Anti-Money Laundering Obligations**

This chapter, renamed from "Financial Institutions' Anti-Money Laundering Obligations," expands from 8 articles in the previous law to 16 articles in the revised law, covering a broader range of entities and obligations. Key additions include:

- Customer due diligence requirements (Articles 28-29);
- Continuous monitoring of customer transactions and money laundering risk management measures (Article 30);
- Third-party due diligence requirements (Article 32);
- Risk assessments for new technologies and business models (Article 36);
- Group-level anti-money laundering arrangements (Article 37);
- Special preventive measures for money laundering (Articles 40-41).

#### **Chapter IV: Anti-Money Laundering Investigations**

The revised law emphasizes the legality and transparency of investigation procedures and broadens the scope of investigations compared to the previous law, the main changes including:

- Article 43 includes specific non-financial institutions as investigation targets and allows investigators to seek assistance from their supervisory authorities.
- Article 44 introduces detailed procedures for sealing documents and materials during investigations.
- Article 45 strengthens requirements for transferring leads to law enforcement and standardizes temporary freezing measures.

#### **Chapter V: International Cooperation on Anti-Money Laundering**

This chapter added the following two new provisions, clarifying principles of reciprocity and data protection in international cooperation,

which aim to strengthen China's capacity to participate in global anti-money laundering efforts:

- Requirements for foreign institutions to cooperate in investigations (Article 49);
- Procedures for handling information requests from foreign governments or organizations (Article 50).

### **Chapter VI: Legal Liability**

The number of articles increased from 4 to 12, introducing significantly stricter penalties and more detailed legal responsibilities to raise the cost of money laundering violations. Key additions include:

- Specific penalty provisions for financial institutions failing to fulfil anti-money laundering obligations (Articles 52-55);
- Penalties for specific non-financial institutions and other entities or individuals (Articles 58-59);
- Penalties for violations related to beneficial ownership information (Article 60);
- Clear administrative penalty standards (Article 61).

### **Chapter VII: Supplementary Provisions**

This chapter further clarifies the scope of financial and specific non-financial institutions:

- Articles 63 and 64 expand anti-money laundering obligations to non-bank payment institutions, real estate intermediaries, accounting firms, law firms, notary offices, precious metals dealers, and other specific non-financial institutions.
- The State Council's anti-money laundering administrative department is authorized to dynamically adjust the scope of application based on money laundering risks.

## **Conclusion**

The revised Anti-Money Laundering Law significantly strengthens regulations on supervision, international cooperation, and legal liability. It marks a shift from rule-based to risk-based money laundering regulation, which intends to align with the current domestic and international anti-money laundering landscape. Wenfei will keep observing its practical enforcement and impact in the years to come.

### **III. Interpretation on Legal Application of Criminal Cases Involving Refusal to Execute Judgments and Rulings**

The Supreme People's Court and the Supreme People's Procuratorate of China jointly issued the Interpretation on Legal Application of Criminal Cases Involving Refusal to Execute Judgments and Rulings (hereinafter referred to as the "Interpretation"), which took effect on December 1, 2024.

Article 313 of the Chinese Criminal Law stipulates: "Whoever has the ability to execute a judgment or ruling of a people's court but refuses to do so, and the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, or a fine; if the circumstances are especially serious, a sentence of fixed-term imprisonment of not less than three years but not more than seven years shall be imposed, along with a fine. If a unit commits the aforementioned crime, the unit shall be fined, and the person directly in charge and other persons directly responsible shall be punished according to the preceding provisions."

In this article, we will analyze the Interpretation which focuses on such crime from the following perspectives.

- **Broadening the Scope of Criminal Subjects**

Article 1 of the Interpretation expands the scope of criminal subjects for the crime of refusing to execute judgments or rulings. It clarifies that the subjects are not limited to the judgment debtor but also include "persons assisting in execution, guarantors, and all other subjects obligated to perform in the execution process." Furthermore, individuals and entities are both recognized as subjects bearing execution obligations.

- **Specifying Circumstances of "Having the Ability to Execute but Refusing to Execute, with Serious Consequences"**

The Interpretation lists 10 specific circumstances where an individual or entity has the ability to execute but refuses to do so, resulting in serious consequences:

1. Maliciously disposing of property rights without compensation, such as abandoning claims or collateral, maliciously extending the repayment term of due debts, or disposing of property rights through fraudulent settlements or transfers, making the judgment or ruling unenforceable.
2. Engaging in behaviors that maliciously deplete enforceable assets, such as acquiring others' property at an obviously unreasonably high price or guaranteeing others' debts, thereby rendering the judgment or ruling unenforceable.
3. Forging, destroying, or concealing crucial evidence related to fulfillment capability, or using violence, threats, or bribery to obstruct testimony or induce/coerce others to provide false testimony, hindering the court from ascertaining the obligated person's assets, leading to the inability to execute the judgment or ruling.
4. Refusing to report or falsely reporting assets, or violating court-imposed consumption restrictions, and continuously refusing to execute after being subjected to fines, detention, or other enforcement measures.



5. Refusing to deliver designated items, tickets, vacate premises, or relinquish land as stipulated in legal documents, even after enforcement measures such as fines or detention have been applied, resulting in the judgment or ruling remaining unenforced.
6. Refusing to assist in exercising personal rights-related obligations after enforcement measures, leading to severe consequences.
7. Violating personal safety protection orders or professional prohibition orders and causing physical harm or severely impacting the victim's normal work and life.
8. Obstructing execution by means such as intimidation, abuse, mob disturbances, or passive resistance (e.g., pulling or pushing staff), thereby preventing execution.
9. Destroying or seizing case materials, official vehicles, equipment, uniforms, or certificates, hindering the execution process.
10. Other circumstances of having the ability to execute but refusing to do so, resulting in serious consequences.

- **Establishing Criminal Liability for Concealing or Transferring Assets Before Judgment or Ruling Takes Effect**

Article 6 of the Interpretation stipulates: "If, to evade obligations, a person hides or transfers assets during litigation or after a court decision but before it takes effect, and it is verified post-judgment or ruling that they refuse to execute despite having the ability, the act constitutes refusal to execute judgments or rulings with serious consequences, and criminal liability may be pursued under this crime." For this clause, litigation typically begins when the defendant receives a court summons.

- **Jurisdiction Over Cases**

Article 15 of the Interpretation specifies that criminal cases involving refusal to execute judgments or rulings are generally under the jurisdiction of the people's court where the enforcement court is located.

This ensures timeliness in evidence collection and preservation and facilitates the timely prosecution of offenders.

- **Conclusion**

The new Interpretation provides clear and explicit guidance on the judicial application of the crime of refusing to execute judgments and rulings, with the aim to enhance the operability and enforceability of the law. It also helps curb illegal acts by judgment debtors and ensures that parties can obtain appropriate remedies swiftly.

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