

## **Measures and the Next Step China will Take to Implement G20**

### **High-Level Principles on Beneficial Ownership Transparency**

I. The definition and legislation of “beneficial owner”. Even without literal definition of “beneficial owner”, some laws in China have similar concept and regulations. For instance, both the Company Law of the PRC and the Securities Law of the PRC have the concept of “actual controller” (those who are not shareholders but could ultimately control the company through investment relationship, agreements or other arrangements), and the Law of the PRC on Anti-Money Laundering has the concept of “beneficiary”. In the next stage, learning from relevant international rules and practices of other countries and based on domestic conditions, competent departments in China will put forward suggestions to improve relevant rules, laws and legal explanations, aiming at introducing the definition of “beneficial owner” to meet the requirement of the G20 High-Level Principles on Beneficial Ownership Transparency step by step.

Second, risk assessment. China is always serious to do risk assessment of different types of legal persons or legal arrangements. For the next step, we will explore to establish systemic mechanisms of risk assessment and assessment result sharing and take effective and proportionate measures to mitigate the risks identified.

Third, legal persons maintain beneficial ownership information. China is now advancing the work of enterprise information disclosure. Enterprises are required to publicize and well inform the public and traders of their full information. The transparency of enterprise information is improving. Additionally, social organizations are also required to disclose the information of their stakeholders such as their members, donors and recipients. Among them, those which do charity need to publicize to the society their annual work reports as well as incomes and expenses of charity programs. In the next step, we will improve relevant regulations and gradually ask legal persons to provide information of beneficial ownership. At the same time, we will continue to further information transparency of enterprises and social organizations in particular charity ones.

Fourth, competent authorities have timely access to beneficial ownership information of legal persons. With sophisticated administration systems of industrial and commercial registration **and information disclosure**, we require information registration of companies, enterprises and privately-owned businesses according to the Regulation on Administration of Industrial and Commercial Registration. Registration is also used to social organizations, which are required to disclose all their information to civil authorities and to other ones such as financial, tax, auditing authorities correspondingly.

For the next step, the industrial and commercial authorities in China will lead

the work to establish database for the information of legal persons to load in comprehensive and accurate information, so as to realize information sharing, exchange and checking. We will also set up registration and disclosure systems of beneficial ownership of legal persons step by step.

Fifth, trustees of express trusts maintain beneficial ownership information. In China, trustees refer to the trust investment companies set up with the approval of China Banking Regulatory Commission (CBRC, China's top banking regulator), which are non-banking financial institutions. As to the beneficial right of trusts, the CBRC requires trust investment companies to strictly follow real-name registration system and the system of signing contracts in person, so as to ensure the transparency of beneficial right. For the next step, we will continue to improve relevant systems to ensure those companies maintain adequate, accurate and current information of beneficiaries.

Sixth, competent authorities have timely access to relevant information of legal arrangements. For the next step, China will gradually establish well-formed registration and disclosure systems for the information of beneficial ownership of legal arrangements, so as to ensure that competent authorities could have timely access to adequate, accurate and current information regarding the beneficial ownership of legal arrangements.

Seventh, the work related to financial institutions and DNFBPs. In its Notice on

Clarifying Some Issues Concerning the Implementation of the Suspicious Transaction Reporting System and the Measures on the Administration of Client Identity Identification and Materials and Transaction Recording of Financial Institutions, the People's Bank of China (PBOC, China's central bank) requires financial institutions to identify ultimate beneficiaries. In its Directive on the Administration of Risk Assessment Regarding Money-Laundering and Terrorist Financing and Client Classification, China Insurance Regulatory Commission (CIRC, China's top insurance regulator) has the provision that insurance companies could classify political figures or their relatives or those who are close to them as high-risk clients. The companies could take strengthened risk-control measure, namely, to further investigate, collect more information of or update more frequently the information of the clients and their ultimate controllers or beneficiaries.

For the next step, China will facilitate the access to the information of beneficiaries and controlling rights from financial institutions and DNFBPs and enhance the effectiveness of due diligence and information recording of their clients.

Eighth, effective domestic and international cooperation. Domestically, given that the issue of beneficial ownership concerns various departments, China emphasizes on both work division and cooperation among different departments. Following the requirement of the G20 High-Level Principles on Beneficial

Ownership Transparency, competent authorities have established mechanisms for information exchanges. China is also serious in information exchanges among those departments. Industrial and commercial, civil, and tax authorities are able to share information based on relevant laws or through relevant mechanisms in an effective and timely manner. For the next step, we will further clarify responsibilities of competent authorities and improve the mechanisms for coordination and information exchanges. Internationally, China has signed with 65 countries 113 criminal judicial assistance agreements and extradition agreements, among which 97 have taken into effect. We could conduct judicial cooperation with those countries according to the agreements, including exchanging the information of beneficial ownership.

Meanwhile, China ratified the United Nations Convention Against Corruption in 2005 and began to implement it in February 2006. Emphasizing on using UNCAC to combat corruption crimes, China is making efforts to fulfill its obligations related to enhancing transparency of private entities and actively participating international anti-corruption cooperation within the convention. Next, China will continue to advance the MLA network, and try its best to establish and improve international exchange mechanisms of beneficial ownership information.

Ninth, work related to tax authorities. In recent years, China has done a lot to improve taxation transparency and information exchanges. We have established

extensive bilateral tax information exchange networks, through which we could conduct effective and timely information exchange with foreign tax authorities. Within the G20 framework, China signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which was approved by China National People's Congress in July 2015. China will begin to implement the Standard for Automatic Exchange of Financial Account Information formulated by OECD with the authorization of G20. Next, China will actively participate in the global forum for tax transparency and information exchange and make efforts on the new round of review work including the transparency of beneficial ownership, and meanwhile proactively prepare for the implementation of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and pragmatically advance the implementation of the Standard for Automatic Exchange of Financial Account Information.

At the same time, we will make efforts to amend the law on administration of tax collection to clarify the obligation of financial institution to report relevant information to tax authorities, so as to lay legal basis for tax authorities to have access to mass data of tax information of financial accounts. We will also try to finish the handbooks for information reporting and due diligence of financial institutions, and continue to strengthen cooperation with foreign counterparts in information exchange. Furthermore, we will improve the rules for implementation

of tax treaty for beneficial ownership and strengthen the administration of identifying the identification of beneficial owners, so as to prevent tax evasion with tax treaty treatment.

Tenth, bearer shares, nominee shareholders or nominee directors. Following principles of fairness, justice and transparency, we are implementing appropriate systems in the stock market, namely, real-name securities account system, securities holding system and centralized depository and clearing system, to prevent illicit activities such as corruption, money-laundering and tax evasion brought by unclear beneficial ownership. First, real-name securities account system. Currently, investors are required to use real names when opening accounts to conduct all types of transactions. Second, securities holding system. Although nominee holding is allowed, most of the securities are held directly by investors in China's stock market. Direct holding ensures direct registration of the securities in the name of investors, which could prevent bearer shares or bearer share warrants.

Even with nominee holding, securities settlement agencies and regulators could have access to the information of the ultimate beneficiaries of the securities which could ensure the transparency of the accounts. Third, centralized depository and clearing system. China Securities Depository and Clearing Company is the only legal institution which has the right to maintain all the information regarding securities accounts and the money in those accounts of investors. As the next step, we will

continue to improve relevant systems to prevent misuse of legal persons or legal arrangements.