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Cryptography Law

(Draft for Comments)

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Chapter I General Provisions

Article 1 This Law is formulated with a view to regulating the use and administration of cryptography, ensuring network and information security, protecting the lawful rights and interests of citizens, legal persons and other organisations, and preserving national security and interests.

Article 2 This Law applies to the scientific research, production, sale, import and export, testing, certification, utilisation, as well as supervision and administration of, cryptography.



Article 3 For the purposes of this Law, 'cryptography' means products and technology using specific transformations to carry out the encrypted protection or security certification of data and other information.

Article 4 Cryptography work shall be performed in a way that respects the fundamental principles of unified leadership, graded responsibility, innovative development, overall interests serving, administration by law and security safeguarding.

Article 5 The leadership of the Communist Party of China (CPC) over cryptography work shall be adhered to. The central cryptography work leading authority centrally leads cryptography work nationwide, and is responsible for formulating China's major cryptography policies and measures, coordinating all efforts in China's major cryptography matters and work, and enhancing the construction of rule of law in the field of cryptography.

Cryptography work leading authorities in provinces, autonomous regions and municipalities directly under the Central Government, as well as those authorities in relevant departments within central and national organs, lead the cryptography work in their respective regions and departments (systems).

Article 6 The national cryptography administration department is in charge of cryptography work nationwide.

Local cryptography administration departments above the county level are in charge of the cryptography work in their respective administrative areas.

Authorities in charge of cryptography administration within central and national organs are in charge of the cryptography work in their respective departments (systems) within the scope of their duties.



Article 7 China classifies cryptography into core cryptography, common cryptography and commercial cryptography, and implements classified administration.

Article 8 People's governments above the county level shall integrate cryptography work into their national economic and social development plans, incorporating costs of which into their respective budgets.

Chapter II Application of Cryptography

Article 9 China actively regulates and promotes the application of cryptography, enhances the standards of cryptography utilisation in protecting network and information security, and safeguards the right of citizens, legal persons and other organisations to use cryptography according to the law.

Article 10 Core cryptography and common cryptography can be used to protect state secrets. Commercial cryptography is used to protect information other than state secrets.

Article 11 China implements a licensing system for commercial cryptography products sold or used in business activities, as well as institutions providing commercial cryptography services. The administrative catalogues on commercial cryptography products and services are formulated and published by the national cryptography administration department.

Article 12 Critical information infrastructures shall be protected by cryptography in accordance with the provisions of laws, regulations and mandatory requirements in relevant national cryptography standards, ensuring synchronised planning, construction and functioning of cryptography security system.



Article 13 The national cryptography administration department is responsible for the administration of the use of electronic signatures and data messages in administrative activities, and accredits institutions providing electronic government-related electronic authentication services using cryptography technology.

Article 14 Commercial cryptography service institutions and electronic government-related electronic authentication service institutions shall abide by the provisions of laws, regulations and mandatory requirements in relevant national cryptography standards, when providing services.

Chapter III Security of Cryptography

Article 15 China strengthens the construction of cryptography security mechanism, perfects administrative measures for cryptography security, and enhances the capability to safeguard cryptography security.

Article 16 China controls the import and export of cryptography. Core cryptography and common cryptography are prohibited from being exported. The competent commerce department under the State Council and the national cryptography administration department license the import and export of commercial cryptography according to the law. The import and export control list of commercial cryptography is formulated and published by the competent commerce department under the State Council, together with the national cryptography administration department and the General Administration of Customs (GAC).

Article 17 China promotes the construction of the cryptography testing and certification system, formulating rules for the testing and certification of cryptography. Cryptography testing and certification institutions shall lawfully obtain relevant qualifications, and carry out the testing and certification of



cryptography in accordance with the provisions of laws and regulations as well as the rules for the testing and certification of cryptography.

Article 18 China conducts classified and graded assessments for the security of cryptography applications in critical information infrastructures, and conducts security review for cryptography products, cryptography services and cryptography security systems that affect or possibly affect national security in accordance with the requirements of the National Security Review.

Article 19 Cryptography administration departments and relevant departments establish mechanisms for cryptography security monitoring and alert, information notification, major affairs consultation and emergency handling, ensuring coordinated, orderly and highly efficient administration of cryptography security.

Article 20 Where national security or investigation into criminal offences warrants, people's procuratorates, public security organs and national security organs can lawfully require telecommunications business operators and internet service providers to provide technical assistance for decryption. Telecommunications business operators and internet service providers shall cooperate, and keep relevant information confidential.

Article 21 No organisation or individual shall illegally attack the encrypted information or cryptography security systems of others, exploit cryptography to carry out activities that endanger national security and social public interests, or other illegal criminal activities.

Chapter IV Development and Promotion of Cryptography

Article 22 China supports cryptography scientific technology research, promotes development of cryptography industry, encourages academic research and exchange of cryptography, protects



intellectual property rights of cryptography according to the law and enhances improvement and innovation of cryptography scientific technology.

Article 23 China establishes and perfects cryptography standards system. The competent administrative department of standardisation under the State Council and the national cryptography administration department organise and formulate the national and industry standards of cryptography according to their respective duties. Other standards involving cryptography shall synchronise and be consistent with the national and industry standards of cryptography.

China supports enterprises, social groups and research institutions in participating in the formulation of national and industry standards of cryptography, and encourages engagement in international standardisation activities of cryptography.

Article 24 China establishes the cryptography scientific technology award scheme to reward organisations and individuals who have outstanding contributions towards enhancing cryptography scientific technology.

Article 25 China strengthens the cultivation of cryptography talent, focusing on nurturing, recruiting and managing specialists and special talent of cryptography.

Article 26 China adopts various measures to strengthen promotion and education of cryptography, incorporating cryptography into the national education system and the civil service education and training system, encouraging and supporting social groups and the public to carry out and participate in the dissemination and promotion of cryptography knowledge.

Chapter V Supervision and Administration



Article 27 Cryptography administration departments organise and implement the application, safety supervision and inspection, and the legal enforcement of cryptography according to the law, centrally organise and implement the investigation of cases concerning the leakage and disclosure of cryptography secrets, guiding and supervising cryptography work of relevant national organs and units. Cryptography administration departments carry out supervision and administration according to the law, relevant organisations and individuals shall ensure cooperation.

Article 28 Cryptography administration departments and relevant departments establish coordination mechanism for supervision and law enforcement of cryptography, coordinating and implementing supervision and inspection as well as legal enforcement of cryptography.

Article 29 In the course of lawfully executing duties of supervision and administration, cryptography administration departments can exercise the following authorities:

- (1) Enter the site of cryptography production, sale, import and export, testing, certification and utilisation to perform on-site inspection;
- (2) Investigate and comprehend relevant circumstances with major responsible staff and relevant staff responsible for cryptography production, sale, import and export, testing, certification and utilisation units;
- (3) Access and copy relevant contracts, receipts, account book and other relevant materials;
- (4) Close down and seize products of illegal cryptography production, sale, import and export, testing, certification and utilisation, as well as equipment and facilities for illegal cryptography production, sale, import and export, testing and certification;
- (5) Close down venues illegally carrying out cryptography production, sale, import and export, testing, certification and utilisation activities.

Following the close-down and seizure, cryptography administration departments shall promptly



investigate the facts and make decision according to the law within the prescribed time limit.

Article 30 Cryptography supervision and inspection, and law enforcement that involve specific cryptography matters in need of evaluation shall be delegated to qualified cryptography testing institutions.

Chapter VI Legal Responsibility

Article 31 Where one violates this Law or provisions of relevant laws and regulations, and leakage and disclosure of cryptography secrets occur, national organs and units shall penalise or handle the directly responsible competent staff and other directly responsible staff according to the law.

Article 32 Where one uses cryptography against Articles 10 and 12 of this Law, cryptography administration departments shall demand correction or halt the illegal behaviour, and give warning. National organs and units shall penalise or handle the directly responsible competent staff and other directly responsible staff according to the law in serious circumstances.

Article 33 Where one violates Articles 11 and 13 of this Law, selling commercial cryptography products or offering commercial cryptography services and electronic government-related electronic authentication services without permission or accreditation, cryptography administration departments or industry and commerce administration departments shall demand correction or halt the illegal behaviour, give warning, confiscate illegal products and gains, and may collaterally fine the violator.

Article 34 Where commercial cryptography service institutions and electronic government-related electronic authentication service institutions violate Article 14 of this Law carrying out relevant cryptography services, cryptography administration departments shall demand correction or halt the



illegal behaviour, give warning, confiscate illegal gains, and may collaterally fine the violators. The national cryptography administration department shall revoke relevant cryptography qualifications according to the law in serious circumstances.

Article 35 Where one violates Article 16 of this Law importing and exporting cryptography, the competent commerce department under the State Council or the Customs shall penalise the violator according to the law.

Article 36 Where cryptography testing and certification institutions violate Article 17 of this Law carrying out cryptography testing and certification, cryptography administration departments shall demand correction or halt the illegal behaviour and give warning, confiscate illegal gains, and may collaterally fine the violators. The department shall revoke relevant cryptography qualifications according to the law in serious circumstances.

Article 37 Where telecommunications business operators and internet service providers violate Article 20 of this Law failing to provide technical assistance for decryption and to disclose relevant circumstances, the competent department shall fine the respective unit, directly responsible competent staff of the unit and other directly responsible staff. Public security organs or national security organs may detain directly responsible competent staff of the unit and other directly responsible staff for more than five but less than fifteen days in serious circumstances.

Article 38 Where one violates this Law or provisions of relevant laws and regulations, illegally attacking encrypted information or cryptography security system of others, exploiting cryptography to carry out activities that endanger national security and social public interests or other illegal criminal activities, the violator shall be held legally liable according to the law. Where needed, People's procuratorates, public security organs, national security organs, and other relevant secrecy and cryptography departments may



adopt measures to prevent illegal criminal activities from occurring or prevent the harm from spreading.

Article 39 Staff of national organs shall be penalised according to the law for abusing power, neglecting duties and practising favouritism in the course of their cryptography work.

Article 40 Violators shall be held criminally liable according to the law for violation that constitutes a crime.

Chapter VII Supplementary Provisions

Article 41 The national cryptography administration department formulates cryptography regulations in accordance with the provisions of laws and regulations.

Article 42 The Central Military Commission formulates the Chinese People's Liberation Army Cryptography Regulation according to this Law.

Article 43 This Law will execute on _____.