



Technical Assistance Report

Project Number: 47042-001
Policy and Advisory Technical Assistance (PATA)
October 2013

People's Republic of China: Promotion of a Legal Framework for Financial Consumer Protection

Asian Development Bank

CURRENCY EQUIVALENTS

(as of 23 October 2013)

Currency unit	–	yuan (CNY)
CNY1.00	=	\$0.1641
\$1.00	=	CNY6.0930

ABBREVIATIONS

ADB	–	Asian Development Bank
EU	–	European Union
FCPB	–	Financial Consumer Protection Bureau
PBC	–	People's Bank of China
PRC	–	People's Republic of China
TA	–	technical assistance

TECHNICAL ASSISTANCE CLASSIFICATION

Type	–	Policy and advisory technical assistance (PATA)
Targeting classification	–	General intervention
Sector (subsector)	–	Public sector management (economic and public affairs management)
Themes (subthemes)	–	Governance (public administration [national, decentralized, and regional]); economic growth (promoting economic efficiency and enabling business environment)
Location (impact)	–	National (high), urban (low), rural (low)

NOTE

In this report, "\$" refers to US dollars.

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I. INTRODUCTION

1. In December 2012, during the country program consultation, the Government of the People's Republic of China (PRC) requested the Asian Development Bank (ADB) to provide technical assistance (TA) for Promotion of a Legal Framework for Financial Consumer Protection.¹ Following a reconnaissance mission in June 2013 and a fact-finding mission in July 2013, ADB and the government reached an understanding on the objectives, scope, implementation arrangements, costs, and terms of reference for the TA. The design and monitoring framework is in Appendix 1.²

II. ISSUES

2. Since the global financial crisis in 2008, financial consumer protection has become more widely recognized as a significant factor in contributing to the long-term stability of the financial system and aiding economic development. Many countries have established new frameworks or improved their existing financial consumer protection mechanisms through new legislation and creation of stronger new supervision schemes. Among others, Canada, the European Union (EU), the United Kingdom, and the United States made notable changes to financial consumer protection. Internationally, the Financial Consumer Protection Net of the Group of Twenty (G-20) was upgraded with the Global Partnership for Financial Inclusion to promote the communication and collaboration of members on financial consumer protection. The PRC is a co-chair of the subgroup on financial consumer protection and financial literacy.

3. This TA on enhancing financial consumer protection is the first of its kind in the PRC for ADB. Financial consumer protection and financial literacy are key elements for financial inclusion. ADB has already performed much work in support of financial inclusion in the PRC through ongoing projects in rural and microfinance, and financial services for small and medium-sized enterprises. Various other donor entities have generally performed work on financial literacy issues.

4. The government has nationally designated that each September will be a month of financial literacy education, beginning in 2013. This action signifies the high priority that the government has placed on financial consumer protection, including financial literacy and inclusion. The government aims to further reform, broaden, and deepen the finance sector. A specific focus will be on improving access to financial services by individuals, and particularly the poor. ADB's assistance at this time is opportune.

5. Each of the PRC's top four financial regulators was required by the central government to create individual units for financial consumer protection. The China Securities Regulatory Commission created one in December 2011, and China Insurance Regulatory Commission in November 2011, while the China Banking Regulatory Commission created a Banking Consumer Protection Bureau in 2012. The People's Bank of China (PBC) created the Financial Consumer Protection Bureau (FCPB) in June 2012. Despite numerous entities being involved, an overall legal framework and cooperation mechanism is lacking. Each entity is generally responsible for supervision of financial consumer protection within its own mandate. However, supervision responsibilities of the FCPB and other entities are sometimes unclear; they either overlap or leave gaps. The legal basis and the scope of financial consumer rights are not clear enough for

¹ The TA is included in ADB. 2013. *Country Operations Business Plan: People's Republic of China, 2013–2015*. Manila.

² The TA first appeared in the business opportunities section of ADB's website on 10 October 2013.

the four regulators to properly oversee the rapidly expanding range of products and services in the finance sector.

6. Laws or regulations have not been enacted for financial consumer protection in the PRC. Only selective parts of some existing laws relate indirectly to financial consumer protection. For example, if there is conflict between consumers and financial institutions, it currently falls under the Law of Protection of the Rights and Interests of Consumers enacted in 1993. However, the term “consumer,” as used in this law, is generally defined as someone consuming to support his or her livelihood. So, under the current law, small and medium-sized enterprises and retail clients obtaining loans for participation in a commercial activity (including farming) cannot have their rights effectively protected. Overall, this law does not contain sufficient details relating to financial consumer protection. There is significant debate over whether it should be applicable to conflicts between consumers and financial institutions. This law is currently being revised.

7. The FCPB is charged with carrying out financial consumer protection work within the PBC’s legal mandate of authorities. Applicable authorities for financial consumer protection include renminbi administration; financial market regulation, including foreign exchange and gold markets; administration of loans, deposits, bankcards and accounts; payment and settlement systems; anti-money-laundering measures; and credit information systems. Some municipal and provincial governments have also initiated various financial consumer protection activities despite the lack of legal clarity. Certain branches of PBC have additionally run pilot projects in financial consumer protection since 2010, with some producing a marked effect.

8. The TA will help promote the establishment of a coordinated and consistent financial consumer protection framework in the PRC. It will ease dialogue between the various consumer protection entities that have varying, and sometimes overlapping, authorities. The primary output will be the creation of guidelines to support preparation of a guidance, law, or regulation governing the role of the FCPB in financial consumer protection. National workshops and initial coordination meetings will foster the dialogue between pertinent agencies. The coordination mechanisms will support interagency discussion and possible creation of agreements that delineate supervision responsibilities. An assessment of the gaps and overlaps in the current regulatory framework will be performed. An unequivocal definition of “financial consumer” will be established. An inventory of the most applicable financial products requiring coverage under financial consumer protection will be completed. This inventory will help define supervisory responsibilities and gaps. Additionally, the results of pilot projects run in various PRC provinces by PBC branches will be used as empirical evidence to help tailor final recommendations.

9. A high-level international conference is planned to bring international and domestic experts on the topic into one forum to share best practices and help solidify the final approach. The primary aim of this conference is to allow all agencies and stakeholders to uniformly understand the importance of the topic globally, its link to the successful development of the PRC financial system, and the need for harmonization between supervision authorities. The FCPB’s final legal framework is expected to define and integrate the functions of various regulatory authorities within the existing regulatory context. This will help bridge supervision gaps and allow other agencies to define their roles more cohesively. A knowledge product will be produced that outlines the current state of financial consumer protection in the PRC and recommendations for improvements.

10. The TA is closely aligned with ADB's Strategy 2020, where finance has been identified as one of ADB's core areas of operations.³ In the country partnership strategy, 2011–2015 for the PRC, the first pillar is inclusive growth and improving access to finance.⁴ This TA supports access to finance by aiding the development of a clearer policy framework for protection of consumers as they use these products and services.

III. THE TECHNICAL ASSISTANCE

A. Impact and Outcome

11. The impact will be stronger protection of consumers of financial products and services. The outcome will be a regulatory framework and cooperation mechanism for financial consumer protection.

B. Methodology and Key Activities

12. Three main TA outputs will help promote a coordinated and consistent financial consumer protection framework in the PRC. They will bolster overall financial consumer protection by ensuring that gaps and overlaps in supervision are minimized. The FCPB will disseminate TA activities and serve as the center point for discussions across agencies and stakeholders.

13. The first output will include a review of domestic conditions and practices and a compilation of global best practices. The domestic review will assess gaps and overlaps in the existing regulatory and supervision structure. It will make an inventory of financial consumer products and services. Additionally, the results of pilot projects run in various PRC regions by PBC branches will be gathered and evaluated.

14. The compilation of global best practices will cover financial consumer protection legislation and systems in relevant countries and regions. The TA will finance a study tour to the most pertinent ADB member country in the region and also to the EU. The EU has been chosen because ADB considers that its framework for financial consumer protection, and its use of directives, may be compatible with the PRC's financial and legal system. Current global achievements and lessons learned in the field of financial consumer protection will be assessed. This review will cover legal systems, information exchange, the concepts of financial consumer rights, and alternative dispute resolution mechanisms.

15. The second output will be the establishment of a legal and regulatory framework for the FCPB's financial consumer protection and supervision. This output will include preparing recommendations and drafting regulatory notes for the possible financial consumer protection schemes that may work best for the PRC, as well as discussing the role of the FCPB. The framework will consider the current legal system and the diverse role of national and provincial supervisors. It will integrate the need for transparency, equal credit opportunity, alternative dispute resolution mechanisms, and financial privacy protection. Recommendations will be made on methods for interagency cooperation and the scope of issues each agency may cover.

³ ADB. 2008. *Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank, 2008–2020*. Manila

⁴ ADB. 2012. *Country Partnership Strategy: People's Republic of China, 2011–2015*. Manila.

16. The third output will be the promotion of coordinated financial consumer protection in the PRC. This will support communication between the various entities and stakeholders for financial consumer protection in the PRC. National and international workshops and conferences will be held and the TA results will be shared with the financial consumer protection units in other regulatory agencies in the PRC. This will encourage coordination and enable agreements between agencies to further delegate and define their respective responsibilities. A national workshop will be used to discuss current issues within the PRC and propose solutions.

17. The aforementioned international conference (para. 9) will ensure that all agencies and stakeholders collectively understand the importance of the topic. It will show how financial consumer protection links to the successful development of the PRC financial system, support for financial inclusion, and the need for harmonization among other agencies involved in financial consumer protection. A knowledge product will be produced to describe the current issues in financial consumer protection and the recommendations made for the overall framework.

C. Cost and Financing

18. The total cost of the TA is estimated at \$430,000, of which \$400,000 will be financed on a grant basis by ADB's Technical Assistance Special Fund (TASF-other sources). The government will provide counterpart support in the form of counterpart staff and management time, office space, remuneration, per diem of counterpart staff, other support costs required for project management and consultant teams, full access to all materials required subject to proper confidentiality, and other in-kind contributions. The cost estimates and financing plan are in Appendix 2.

D. Implementation Arrangements

19. The FCPB will be the executing agency and the implementing agency.

20. The TA will be implemented from 15 November 2013 to 28 February 2015. The TA will require one international consultant for a total of 6 person-months, and one national consultant for a total of 10 person-months.

21. ADB will engage the international and national consultants, as well as any resource persons, in accordance with ADB's Guidelines on the Use of Consultants (2013, as amended from time to time). The proceeds of the TA will be disbursed in accordance with *ADB's Technical Assistance Disbursement Handbook* (2010, as amended from time to time). An advance payment facility will be used for training, seminar, and conference administration by the executing agency.

22. The TA will be monitored and evaluated based on the implementation of activities and satisfactory delivery of outputs as per the agreed timeline and budget. To support monitoring and evaluation, consultants will submit inception and interim reports. TA review missions will be used to aid in monitoring progress, as will regular communication with the executing and implementing agencies and consultants.

23. The TA is based on the main assumption that good coordination will exist between the various financial consumer protection entities established by the PBC, China Banking Regulatory Commission, China Securities Regulatory Commission, and China Insurance

Regulatory Commission. Another key assumption is that the TA team will be able to obtain and draw upon any prior work by these agencies on financial consumer protection.

24. The key risk is the inability to effectively delineate and clarify the respective authorities of all agencies concerned with consumer protection, and the resulting delay in mobilizing qualified consultants. However, these risks will be partially mitigated by holding an inception coordination workshop between the agencies to plan working mechanisms, share information, and encourage cooperation. The risks will also be mitigated by holding interim and final workshops where stakeholders and other agencies will be invited to jointly participate, and by ongoing monitoring and close engagement between the FCPB, the consultants, and ADB.

IV. THE PRESIDENT'S DECISION

25. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$400,000 on a grant basis to the Government of the People's Republic of China for Promotion of a Legal Framework for Financial Consumer Protection, and hereby reports this action to the Board.

DESIGN AND MONITORING FRAMEWORK

Design Summary	Performance Targets and Indicators with Baselines	Data Sources and Reporting Mechanisms	Assumptions and Risks
<p>Impact Stronger protection of consumers of financial products and services</p>	<p>Efficient application of financial consumer protection framework and mechanisms by end of 2016</p>	<p>FCPB, PBC, and PBC branches for baseline data</p> <p>Final consultant report received and accepted by the FCPB</p>	<p>Assumption Coordination between the FCPB and the various financial consumer protection entities established by CBRC, CSRC, and CIRC</p> <p>Risk Inability to clearly delineate and clarify respective authorities of all agencies concerned with financial consumer protection</p>
<p>Outcome A regulatory framework and cooperation mechanism for financial consumer protection</p>	<p>Financial consumer protection framework of FCPB prepared and shared by end of 2015</p>	<p>FCPB, PBC, and PBC branches</p> <p>Inception and interim progress reports; summary reports from training and final workshops</p> <p>Final consultant report received and accepted by the FCPB and final workshop held</p>	<p>Assumption FCPB commitment to serve as the center point for agencies in garnering a cooperative framework</p> <p>Risk Inability to clearly delineate and clarify respective authorities of relevant agencies regarding financial consumer protection</p>
<p>Outputs 1. Assessment of current financial consumer protection practices in the PRC</p>	<p>Interim subreports prepared by end of February 2014:</p> <p>(i) Conducted analytic study of global best practices in financial consumer protection schemes, definitions of “consumer,” alternative dispute resolution mechanisms, and supervision and regulatory frameworks</p> <p>(ii) Compiled existing regulatory and legal framework for financial consumer protection in the PRC</p> <p>(iii) Established an unequivocal definition of “financial consumer and compiled a list of most relevant financial consumer products</p>	<p>Consultant reports and FCPB documentation</p> <p>Study tour report submitted by the executing agency to ADB</p> <p>Consultant subreports and interim reports submitted to the FCPB and ADB</p>	<p>Assumptions Access to prior work and output completed on the topic by other agencies and PBC branches</p> <p>Access to pertinent legal documents, regulatory information, and court findings</p> <p>Ongoing outreach and communication between the FCPB, PBC, CBRC, CSRC, and CIRC</p> <p>Risks Lack of coordination and communication between the various agencies</p>

Design Summary	Performance Targets and Indicators with Baselines	Data Sources and Reporting Mechanisms	Assumptions and Risks
<p>2. Assistance to the establishment of a legal and regulatory framework for financial consumer protection and supervision by the FCPB</p>	<p>and services in the PRC and their associated consumer protection supervision schemes, gaps and overlap of coverage, and issues requiring attention</p> <p>Study tour held to ADB member countries by end of April 2014</p> <p>Prepared interim summary outlining final report format and covering international best practices with key case studies applicable to the PRC, financial consumer practices and issues in the PRC, alternative dispute resolution schemes, and local products and services requiring better coverage by end of May 2014</p> <p>Prepared interim draft of the final report by end of September 2014</p> <p>Produced a final report to (i) expand on previous summaries and subreports; (ii) outline a proposed financial consumer protection and supervision framework, including scope and coverage for the FCPB; (iii) provide drafting notes for a new legal or regulatory act on financial consumer protection to identify the key competing models of supervision in this area, the issues to be considered, which agencies can best manage them, and to define the role of the FCPB within it; and (iv) make recommendations on methods for interagency cooperation by end of December 2014</p> <p>Inception meeting and coordination forum held with other regulatory and supervisory stakeholders by end of December 2013</p>	<p>Interim reports submitted to the FCPB and ADB</p> <p>Final report submitted to the FCPB and ADB, and final meeting held</p> <p>Inception report prepared by consultants and submitted to the FCPB and ADB</p>	<p>Delay in mobilizing qualified consultants</p>

Design Summary	Performance Targets and Indicators with Baselines	Data Sources and Reporting Mechanisms	Assumptions and Risks
3. Promotion of coordinated financial consumer protection in the PRC	<p>National workshop held with key participants and stakeholders sharing results to date and proposals by end of March 2014</p> <p>High-level international conference held with global and national experts to express best practices and help solidify the final approach by end of August 2014</p> <p>FCPB prepared a knowledge product and final framework for distribution to other supervisory entities in the PRC by end of February 2015</p>	<p>Workshop summary report prepared by consultants and submitted to the FCPB and ADB</p> <p>Conference summary report prepared by consultants and submitted to the FCPB and ADB</p> <p>FCPB's confirmation of distribution sent to ADB</p> <p>Knowledge product published</p>	

Activities with Milestones	Inputs																	
<p>1. Assessment of current financial consumer protection practices in the PRC</p> <p>1.1 Recruit consultants by November 2013.</p> <p>1.2 Hold inception meeting and coordination forum by end December 2013.</p> <p>1.3 Conduct research on international best practices for financial consumer protection and alternative dispute resolution mechanisms in relevant countries and regions and issue subreports by February 2014.</p> <p>1.4 Hold national workshop by March 2014.</p> <p>1.5 Organize and hold study tour by end of April 2014.</p> <p>2. Assistance to the establishment of a legal and regulatory framework for financial consumer protection and supervision by the FCPB</p> <p>2.1 Prepare interim summary report by May 2014.</p> <p>2.2 Hold high-level international conference with global and national experts by end of August 2014.</p> <p>3. Promotion of coordinated financial consumer protection in the PRC</p> <p>3.1 Prepare interim draft of the final report by end of September 2014.</p> <p>3.2 Prepare draft final report by end of November 2014.</p> <p>3.3 Finalize draft report, hold final meeting by end of December 2014.</p> <p>3.4 Prepare a knowledge product by end of January 2015.</p> <p>3.5 Distribute the knowledge product and results to other supervisory entities by end of February 2015.</p>	<p>ADB: \$400,000 (TASF-other sources)</p>																	
		<table border="1"> <thead> <tr> <th>Item</th> <th>Amount (\$'000)</th> </tr> </thead> <tbody> <tr> <td>International consultant (6 person-months)</td> <td>150.00</td> </tr> <tr> <td>National consultant (10 person-months)</td> <td>70.00</td> </tr> <tr> <td>International and local travels</td> <td>20.00</td> </tr> <tr> <td>Reports and communication</td> <td>10.00</td> </tr> <tr> <td>Seminars and conferences</td> <td>125.00</td> </tr> <tr> <td>Miscellaneous and support costs</td> <td>5.00</td> </tr> <tr> <td>Contingencies</td> <td>20.00</td> </tr> </tbody> </table>	Item	Amount (\$'000)	International consultant (6 person-months)	150.00	National consultant (10 person-months)	70.00	International and local travels	20.00	Reports and communication	10.00	Seminars and conferences	125.00	Miscellaneous and support costs	5.00	Contingencies	20.00
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ADB = Asian Development Bank, CBRC = China Banking Regulatory Commission, CIRC = China Insurance Regulatory Commission, CSRC = China Securities Regulatory Commission, FCPB = Financial Consumer Protection Bureau, PBC = People's Bank of China, PRC = People's Republic of China, TASF = Technical Assistance Special Fund.

Source: Asian Development Bank.

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Amount
Asian Development Bank^a	
1. Consultants	
a. Remuneration and per diem	
i. International consultant (6 person-months)	150.00
ii. National consultant (10 person-months)	70.00
b. International and local travels	20.00
c. Reports and communication ^b	10.00
2. Seminars and conferences	
a. National workshops	25.00
b. International conference ^c	100.00
3. Miscellaneous administration and support costs ^d	5.00
4. Contingencies	20.00
Total	400.00

Note: The technical assistance is estimated to cost \$430,000, of which contributions from the Asian Development Bank (ADB) are presented in the table above. The government will provide counterpart support in the form of counterpart staff and management time, office space, full access to all materials needed subject to proper confidentiality arrangements, and other in-kind contributions. The value of government contribution is estimated to account for 7% of the total technical assistance (TA) cost.

^a Financed by ADB's Technical Assistance Special Fund (TASF-other sources).

^b Includes translation and interpretation.

^c Includes provision for a study tour in ADB member countries, honoraria for resource persons, and international and national expert speakers at conference and workshops, subject to prior approval from ADB. Study tour expenses will not exceed \$40,000.

^d May include office operations and other support costs, and the cost of disseminating the final report and knowledge product.

Source: Asian Development Bank estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. The individual consultants—one international (6 person-months total) and one national consultant (10 person-months total) will be individually selected and engaged by the Asian Development Bank in accordance with the Guidelines on the Use of Consultants (2013, as amended from time to time). Consultants will be required to provide (i) an inception report defining a detailed work plan and milestones consistent with the design and monitoring framework (DMF); (ii) deliverables consistent with the DMF activities, outputs, and delivery dates; (iii) other reports and updates as needed by the executing agency. Reports should be of high quality and produced in English, with copies in Chinese also produced by the report delivery dates.

A. International Financial Consumer Protection Expert and Team Leader (6 person-months, intermittent)

2. **Purpose, scope of work, and qualifications.** The consultant will facilitate project completion and design an overall financial consumer protection framework. This involves providing details on best international practices and case studies of applicable frameworks; providing recommendations to facilitate coordination and communication between relevant agencies and stakeholders; taking the lead in preparing the international conference; preparing draft notes for a revised legal or regulatory act for the Financial Consumer Protection Bureau (FCPB); and managing the international study tour. The expert will have a tertiary degree in finance, law, or economics and demonstrated expertise in financial consumer protection with a particular focus on recent international developments in institutional structure and regulatory aspects of financial consumer protection. The expert will have at least 10 years of experience in handling the review of finance sector laws and regulations, including alternative dispute resolution mechanisms and financial privacy protection, and experience in designing regulatory frameworks. The expert will have strong English writing and speaking skills, and have worked in developing countries on financial consumer protection at a national level with financial regulators and financial consumer protection agencies. Knowledge of Chinese, experience in Asia, and particularly in the People's Republic of China (PRC), will be an advantage.

3. **Tasks.** The consultant will perform the following tasks:

- (i) Manage overall technical assistance implementation and oversee other consultants and resource persons, ensure the timely conduct of conferences, and, with the national consultant, complete the inception, subreports, interim, and final reports in good quality.
- (ii) Conduct research on international best practices for financial consumer protection frameworks, regulatory systems, and alternative dispute resolution mechanisms. Compile information on policy, legal, regulatory, and supervisory systems for financial consumer protection and useful lessons, and prepare comprehensive case studies and materials for key countries.
- (iii) Based on issues defined by the FCPB and on research, schedule and manage a study tour to ADB member countries that have established leading financial consumer protection schemes and incorporate results into final output.
- (iv) Participate in team discussions, and in national seminars and the international conference to help ensure that international good practice is taken into account.
- (v) Ensure completion of all outputs as indicated in the DMF, in high quality and on time.
- (vi) Prepare interim, draft, and final reports with recommendations on how findings and lessons can be applied within the PRC.

- (vii) Prepare a knowledge product for publication to describe the current issues in financial consumer protection and the recommendations made for the overall framework.
- (viii) Perform quality control for all outputs in English.

B. National Financial Consumer Protection Expert (10 person-months, intermittent)

4. **Purpose, scope of work, and qualifications.** The expert will have at least 10 years of experience and a tertiary degree in finance, law, or economics and demonstrated expertise in financial consumer protection. The expert will have experience with finance sector law and regulations, especially alternative dispute resolution mechanisms and financial privacy protection, and have clear knowledge of the current situation in financial consumer protection in the PRC. The expert must be comfortable working with international experts, participating in international forums and in hands-on field research work, and will have strong Chinese language skills. The expert must have good English speaking and writing skills.

5. **Tasks.** The expert will perform the following tasks in collaboration with the team leader as appropriate:

- (i) Conduct research and set up an inventory of relevant laws, regulations, and judicial findings related to financial consumer protection in the PRC, and local products and services requiring improved coverage. Categorize the inventories and assess the strengths and weaknesses of the existing framework, and outline issues that must be rectified.
- (ii) Review literature and studies on financial consumer protection in the PRC, and present and discuss findings with other national experts and during workshops, meetings, and conferences.
- (iii) Conduct surveys of consumers and visit representative financial institutions directly concerned with financial consumer protection, and compile results and findings.
- (iv) Arrange and be responsible for national meetings and national workshops in cooperation with the FCPB.
- (v) Assist the team leader in arranging and managing the international conference.
- (vi) Work with the team leader to prepare interim, draft, and final reports, with recommendations on how findings and lessons can be applied within the PRC.
- (vii) Ensure completion of all outputs as indicated in the DMF, in high quality and on time.
- (viii) Assist in preparing a knowledge product for publication to describe the current issues in financial consumer protection and the recommendations made for the overall framework.
- (ix) Perform quality control on the final Chinese version of all reports and outputs.