
**IMPLEMENTING RULES OF THE FOREIGN INVESTMENT LAW
OF THE PEOPLE'S REPUBLIC OF CHINA**





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Chapter I General Provisions

Article 1

The Implementing Rules are formulated under the Foreign Investment Law of the People's Republic of China (hereinafter referred to as the Foreign Investment Law).

Article 2

The State encourages and facilitates foreign investment, protects lawful rights and interests of foreign investors, conducts proper administration of foreign investment and continues to improve the environment of foreign investment to advance the opening-up of China.

Article 3

"Other investors" as stated in 2(1) and 2(3) of Article 2 of the Foreign Investment Law include Chinese natural persons.

Article 4

The Negative List for Foreign Investment Access (hereinafter referred to as the Negative List) is proposed to the State Council by the authorities for investment under the State Council in collaboration with, among others, the authorities for commerce under the State Council, to be issued by the State Council or the authorities for investment and commerce under the State Council per approval by the State Council.

The State may make adjustment as is necessary on the Negative List based on the need for further opening-up and economic and social development. Adjustment of the Negative List follows the same procedure as described above.

Article 5

The commerce, investment and other competent authorities under the State Council shall, in accordance with their respective mandates, work together in close cooperation and coordination to promote, protect and regulate foreign investment. The local people's governments at and above the county level shall strengthen organization and leadership in promoting, protecting and regulating foreign investment, urge relevant departments to promote, protect and regulate foreign investment in accordance with laws, regulations and their respective mandates and provide support to their

work. They shall coordinate efforts to promptly address major issues concerning foreign investment promotion, protection and regulation.

Chapter II Investment Promotion

Article 6

The government and its competent departments shall treat foreign-invested enterprises and Chinese-invested enterprises as equals in accordance with the law, in policies concerning funding, land supply, tax and fee exemptions and reductions, qualifications certifying and licensing, standard formulation, project application, human resources, etc.

Policies and measures adopted by the government and its competent departments to support business growth shall be made public in accordance with the law. For matters that require application by businesses during the implementation of these policies and measures, the government and its competent departments shall make public application criteria, processing procedures and time frame, and treat foreign-invested and Chinese-invested enterprises as equals when reviewing their applications.

Article 7

When formulating regulations, rules and normative documents (policy documents issued by the CPC Central Committee, the central government or competent authorities under the State Council without going through any legislative process译者注) or drafting laws and local regulations relating to foreign investment, the government and its competent departments shall solicit views and suggestions from foreign-invested enterprises, relevant chambers of commerce and trade associations, etc., by collecting written opinions, holding workshops, consultations or hearings or in any other ways as appropriate. The government shall provide feedback in appropriate forms about its consideration and decision on views and suggestions so collected on prevalent issues and issues concerning major rights and interests of foreign-invested enterprises.

Normative documents related to foreign investment shall be made public promptly in accordance with the law. Unpublished documents shall not be taken as the basis for enforcing regulation. Appropriate implementation lead time shall be de-

terminated and published based on specific circumstances for normative documents that are closely related to business activities of foreign-invested enterprises.

Article 8

The people's governments at all levels shall establish and improve a foreign investment service system which is led by the government and composed of multiple stakeholders in a continuous effort to improve their capability and performance in service of foreign investment.

Article 9

The government and its competent departments shall publish laws, regulations, rules, normative documents, policy measures and information on investment projects through government websites and the national integrated online government service platform. Consultancy, guidance and other services shall be offered to foreign investors and foreign-invested enterprises with improved communication and interpretation of the above-mentioned documents through various channels and means.

Article 10

"The special economic zones", as specified in Article 13 of the Foreign Investment Law, refer to specific zones with more liberalized policies and measures for foreign investment established with the State's approval.

Experimental policies and measures on foreign investment adopted by the State in some regions that prove viable will be applied to other regions or nationwide as appropriate.

Article 11

Based on the need for national economic and social development, the State develops the Catalogue of Industries that Encourage Foreign Investment which specifies the industries, sectors and regions where foreign investment is encouraged. The Catalogue is drafted by the competent authorities for investment together with, among others, the competent authorities for commerce of the State Council and published by the investment and commerce authorities per approval by the State Council.

Article 12

Foreign investors and foreign-invested enterprises

may enjoy preferential treatment in fiscal, taxation, financial, land use and other areas in accordance with laws, administrative regulations or regulations of the State Council.

Foreign investors who expand investment in China with proceeds from investment made in China are entitled to corresponding preferential treatment in accordance with the law.

Article 13

Foreign-invested enterprises shall have the right to participate in the setting and revision of national, industrial, local and group standards on an equal footing with Chinese-invested enterprises in accordance with the law. Foreign-invested enterprises may set company-level standards by themselves or jointly with other companies if the need arises.

Foreign-invested enterprises may file proposals for developing specific standards to the administrative department in charge of standardization and other relevant administrative authorities. They may offer views and suggestions during the process of standard selection, standard drafting, technical review and feedbacks and evaluation on standard enforcement, and undertake work related to standard drafting, technical review and translation of standards into other languages in accordance with regulations.

The administrative department in charge of standardization and other relevant administrative authorities shall establish sound working mechanisms to enhance the transparency of standard setting and revision and disclose all relevant information during the entire process of standard setting and revision.

Article 14

The mandatory standards set by the State shall apply equally to foreign-invested enterprises and Chinese-invested enterprises. Foreign-invested enterprises shall not be purposefully placed under technical standards higher than the mandatory standards.

Article 15

The government and its relevant departments shall not obstruct or restrict free access of foreign-invested enterprises to the government procurement market in their respective regions and industries.

Government procurers and procurement agents

shall not treat foreign-invested enterprises in a differentiated or discriminatory manner in such areas as disclosure of government procurement information, requirements and qualifications review for suppliers and appraisal standards. They shall not set restrictions on suppliers regarding business ownerships and structures, equity structures of suppliers, nationalities of investors, product or service brands, etc. or by setting other unreasonable conditions. Products made and services delivered in China by foreign-invested enterprises shall not be treated differently from those of Chinese-invested enterprises.

Article 16

Foreign-invested enterprises may raise questions and queries with government procurers and procurement agencies and file complaints with the government procurement regulatory authorities on government procurement matters in accordance with the Law on Government Procurement of the People's Republic of China (hereinafter referred to as the Government Procurement Law) and its Implementing Rules. Procurers, procurement agencies and government procurement regulatory authorities shall make response or decisions on the issues raised within the prescribed time frame.

Article 17

Government procurement regulatory agencies and other relevant departments shall strengthen supervision and inspection of government procurement activities, and correct and punish in accordance with the law such violations as differentiated or discriminatory treatment of foreign-invested enterprises.

Article 18

Foreign-invested enterprises may, in accordance with the law, finance in or outside China through public offering of securities such as stocks and corporate bonds, public or non-public offering of other financing tools and borrowing foreign debt.

Article 19

The local people's governments at and above the county level may, in accordance with laws, administrative regulations and local regulations, adopt policies and measures for foreign investment promotion and facilitation in fees reduction and cancellation, land supply, public service, etc. within

their statutory mandate.

Policies and measures for foreign investment promotion and facilitation adopted by the local people's governments at and above the county level shall aim at promoting high-quality development and facilitating economic growth, social welfare, environmental conservation and a better environment for foreign investment.

Article 20

The competent authorities shall formulate and release corresponding foreign investment guidelines to serve and facilitate foreign investment. Foreign investment guidelines shall include, among others, investment environment analysis, government service guide, investment projects information and relevant data, and shall be updated on a regular basis.

Chapter III Investment Protection

Article 21

The State does not expropriate investment made by foreign investors.

When the State, under extraordinary circumstances, lawfully expropriates investment made by foreign investors because of public interests, it shall do so in accordance with the legal procedures and in an indiscriminatory manner. Compensation shall be given to foreign investors promptly based on the market value of the expropriated investment.

Foreign investors may apply for administrative appeal or file administrative litigations against such expropriations decisions in accordance with the law.

Article 22

Foreign investors' capital contribution, profits, capital gains, proceeds from assets disposal, intellectual property license fees, lawfully obtained compensation or indemnities, liquidation proceeds, etc. may be freely remitted into and out of China in RMB or foreign exchange in accordance with the law. No organizations or individuals shall impose restrictions on the denomination, amount or frequency of remittance.

Wages and other lawful income of foreign nationals and natives of Hong Kong, Macao and Taiwan employed by foreign-invested enterprises may be remitted freely in accordance with the law.

Article 23

The State shall increase punishment on acts of intellectual property infringement, continue to strengthen law enforcement on IPR, and push for the creation of a mechanism for quick coordination on IPR protection. It shall improve the multi-channel IPR disputes settlement mechanism and grant equal protection to IPRs of foreign investors and foreign-invested enterprises.

Matters concerning patents of foreign investors and foreign-invested enterprises shall be handled in accordance with relevant regulations on standards related to patents.

Article 24

Administrative agencies (including organizations authorized by laws and regulations to perform the functions of public affairs management, the same below) and their staff shall not take advantage of administrative licensing, inspection, punishment and enforcement, or other administrative means to force, either overtly or covertly, foreign investors or foreign-invested enterprises to transfer their technologies.

Article 25

Administrative agencies shall perform their duties in accordance with the law. In circumstances where foreign investors and foreign-invested enterprises are required to provide materials and information that may involve trade secrets, the required materials and information shall be used within the scope essential to performing their duties. Access to the materials and information shall be strictly limited and shall be kept confidential to staff unrelated to performing such duties.

Administrative agencies shall set up and improve their internal control systems and take effective measures to protect trade secrets of foreign investors and foreign-invested enterprises collected while performing their duties. Additional protection must be added for trade secrets contained in information that is required by law to be shared with other administrative agencies to prevent leakage.

Article 26

Reviews shall be conducted in accordance with regulations of the State Council of the normative documents on foreign investment formulated by the government and its relevant departments on

their legality.

When foreign investors and foreign-invested enterprises apply for administrative appeal or file law suits in accordance with the law against administrative acts which they believe are based on illegal normative documents formulated by the State Council departments, the local people's governments and their departments, they may also request for review of the normative documents concerned at the same time.

Article 27

The "policy commitments" as stated in Article 25 of the Foreign Investment Law refers to commitments made by the local people's governments at all levels and their relevant departments within their statutory mandate on policy support, preferential treatment and conveniences that may apply to investment made by foreign investors and foreign-invested enterprises in their respective jurisdictions. The policy commitments shall comply with laws and regulations.

Article 28

The local people's governments at all levels and their relevant departments shall honor their policy commitments to foreign investors and foreign-invested enterprises and all types of contracts concluded with them in accordance with the law. The contracts shall not be breached or terminated on the ground of changes of administrative areas, government and its institutions, or personnel in charge. When there is a need to change policy commitments and contract agreement out of national or public interests, the government shall act in accordance with its statutory mandate and due process, and give prompt, fair and reasonable compensation to foreign investors and foreign-invested enterprises for any loss incurred.

Article 29

The people's governments at and above the county level and their relevant departments shall, in the principle of openness, transparency, efficiency and convenience, establish sound complaint settlement mechanisms for foreign-invested enterprises for prompt handling of issues raised by foreign-invested enterprises or their investors, and coordinate efforts to improve relevant policies and measures. The competent authorities for commerce, in coordination with other relevant departments of the

State Council, shall establish an inter-agency joint meeting mechanism to coordinate and facilitate complaint settlement for foreign-invested enterprises at the national level, and guide and supervise such work at the local level. The people's governments at and above the county level shall designate departments or institutions to settle complaints filed by foreign-invested enterprises and their investors in their respective jurisdictions. The competent authorities for commerce under the State Council and the departments or institutions designated by the people's governments at and above the county level shall have in place rules of complaints handling and channels of complaints filing, and set time frame for complaints settlement, all of which shall be made available to the public.

Article 30

When coordinating applications for mediation filed by foreign-invested enterprises or their investors through the complaints settlement mechanisms on administrative acts of government agencies and their staff accused of infringing upon their lawful rights and interests, the relevant departments may collect information from the accused agencies and their staff, and their cooperation is required. Applicants for mediation shall be notified of the results of mediation in writing.

Applications filed by foreign-invested enterprises and their investors for mediation on relevant issues in accordance with the provision above will not affect their applications for administrative appeal or filing of administrative litigations.

Article 31

No organization or individual shall mistreat or retaliate foreign-invested enterprises or their investors for raising relevant issues or applying for mediation through the complaint settlement mechanisms.

Besides the complaint settlement mechanisms for foreign-invested enterprises, foreign-invested enterprises and their investors may also raise issues with the government and its relevant departments through other lawful channels.

Article 32

Foreign-invested enterprises may establish chambers of commerce and business associations in accordance with the law. Unless otherwise prescribed by laws or regulations, foreign-invested enterprises have the right to decide on their own whether to

join or withdraw from chambers of commerce and business associations. Their decisions shall not be interfered with by any organization or individual.

Chambers of commerce and business associations shall, in accordance with laws, regulations and their respective charters, strengthen industry self-regulation, promptly forward to authorities requests from industries, provide members with services including information, consultancy, market promotions, training, market expansion, business exchanges, rights protection, dispute settlement, etc. The State shall ensure that chambers of commerce and business associations are in a position to carry out activities in accordance with laws, regulations and their respective charters.

Chapter IV Investment Administration

Article 33

Foreign investors shall not invest in sectors that are closed to foreign investment as specified in the Negative List. In sectors under the Negative List where foreign investment is restricted, foreign investors shall comply with the special administrative measures for restrictive access set in the Negative List on equity ratio, senior management, etc. when making investment.

Article 34

In performing their duties in accordance with the law, the competent authorities shall not process applications for license, business registration, etc. or approve fixed assets investment project applications by foreign investors who fail to meet requirements set by the Negative List for such investment. The competent authorities shall strengthen supervision and inspection on the Negative List regulations compliance. Article 36 of the Foreign Investment Law shall apply to any foreign investors who are found to have invested in sectors closed to them or conducted investment activities in violation of the special administrative measures for restrictive access set in the Negative List.

Article 35

Unless otherwise prescribed by laws or administrative regulations, foreign investors which apply for licenses as required by the law for investment in relevant industries and sectors shall be treated as

equals to Chinese-invested enterprises, with the same conditions and procedures. The competent authorities shall not set discriminatory requirements on foreign investors on license qualifications, application materials, review process, and time frame.

The competent authorities in charge of license approval shall improve their service and increase efficiency through multiple means. License applications that meet the conditions and requirements may be approved on the basis of a written affidavit of compliance, as indicated in relevant regulations.

Article 36

Approval and record filing for foreign investment projects as needed shall follow relevant regulations of the State.

Article 37

The market regulatory department of the State Council or the market regulatory departments of the local people's governments with the authorization thereof shall be responsible for handling registration of foreign investors in accordance with the law. The market regulatory department of the State Council shall release the list of local market regulatory departments that it has authorized.

Registered capital of foreign-invested enterprises may be denominated in RMB or freely convertible currencies.

Article 38

Foreign investors or foreign-invested enterprises shall report their investment information to the competent authorities for commerce through the enterprise registration system and the enterprise credit information publicity system. The competent authorities for commerce and the market regulatory department, both under the State Council, shall coordinate on relevant government services and work procedures, and provide guidance on foreign investment information reporting to foreign investors or foreign-invested enterprises.

Article 39

The content and scope of foreign investment information and the frequency and specific procedures of its reporting shall be determined and made public by the competent authorities for commerce under the State Council in consultation with the market regulatory and other departments of the

State Council, in the principle of collecting information that is truly necessary. The competent authorities for commerce and other relevant departments shall enhance information sharing. Foreign investors or foreign investment enterprises shall not be required to report again their investment information which is available through cross-agency information sharing.

Investment information reported by foreign investors or foreign-invested enterprises shall be truthful, accurate and complete.

Article 40

The State shall establish a foreign investment security review system and carry out security reviews on foreign investment that affects or may affect national security.

Chapter V Legal Liabilities

Article 41

The government, its relevant departments and their staff will be held accountable in accordance with laws and regulations for any of the following conducts.

1. Failing to treat foreign-invested enterprises and Chinese-invested enterprises as equals when formulating or implementing relevant policies;
2. Restricting equal participation in standard setting or revision for foreign-invested enterprises in violation of law, or applying only to foreign-invested enterprises technical standards that are higher than mandatory standards;
3. Imposing unlawful restrictions on remittance of fund into and out of China by foreign investors;
4. Failing to honor policy commitments to foreign investors and foreign-invested enterprises and lawful contracts of all types concluded with them, making policy commitments that go beyond their statutory mandates or run contrary to laws and regulations.

Article 42

Government procurers and procurement agencies shall be held legally accountable in accordance with the Government Procurement Law and its Im-

plementing Rules for giving foreign-invested enterprises differentiated or discriminatory treatment by setting unreasonable conditions. The matter shall be dealt with in accordance with the Government Procurement Law and its Implementing Rules if results of the biddings or transactions have been or may have been affected by such acts.

Officials directly in charge of the government procurement regulatory bodies and other staffs directly involved shall be punished in accordance with the law for failing to respond to complaints made by foreign-invested enterprises within the time limit.

Article 43

Officials directly in charge of the administrative agencies and other staffs directly involved shall be punished in accordance with the law for overly or covertly forcing foreign investors and foreign-invested enterprises to transfer technologies through administrative means.

Chapter VI Supplementary Provisions

Article 44

Foreign-invested enterprises which were established prior to the implementation of the Foreign Investment Law, in accordance with the Law on Sino-Foreign Equity Joint Ventures of the People's Republic of China, the Law on Wholly Foreign-owned Enterprises of the People's Republic of China, and the Law on Sino-Foreign Contractual Joint Ventures of the People's Republic of China (hereinafter referred to as the existing foreign-invested enterprises), may make changes to their corporate forms and structures within five years of the implementation of the Foreign Investment Law in accordance with the Company Law of the People's Republic of China and the Law of the Partnership Enterprise of the People's Republic of China, and go through relevant procedures and make the necessary changes for compliance. They may also retain their existing corporate forms and structures.

Starting from January 1, 2025, the market regulatory authorities shall reject registration applications for any other matters made by the existing foreign-invested enterprises that have not made changes in corporate forms and structures and completed relevant procedures, and publish their decisions regarding such acts of non-compliance.

Article 45

The market regulatory department of the State Council shall determine and release specific information concerning registration for changes in corporate form and structure, and strengthen guidance on registration for the changes. The market regulatory departments responsible for processing the registration for the changes shall improve services through various means to facilitate businesses to complete the process.

Article 46

After changes are made in the corporate form and structure of the existing foreign-invested enterprises in accordance with the law, methods on share or equity transfer, distribution of investment returns and residual properties, etc. agreed upon in contracts by all parties of the original joint venture and partnership may still be valid.

Article 47

The Foreign Investment Law and its Implementing Rules shall be applicable to investment by foreign-invested enterprises in China.

Article 48

Unless otherwise prescribed by laws, administrative regulations or State Council policies, investment in the Chinese mainland by investors of the Hongkong SAR and the Macao SAR shall be dealt with by referencing the Foreign Investment Law and its Implementing Rules.

Investment in the Chinese mainland by investors from the Taiwan region shall follow the provisions of the Law on the Protection of Investments by Taiwan Compatriots of the People's Republic of China (hereinafter referred to as the Law on the Protection of Investments by Taiwan Compatriots) and its Implementing Rules. Matters unspecified in the Law on the Protection of Investments by Taiwan Compatriots and its Implementing Rules shall be dealt with by referencing the Foreign Investment Law and its Implementing Rules.

Unless otherwise prescribed by laws, administrative regulations or State Council policies, investment in China by Chinese nationals residing abroad shall be dealt with by referencing to the Foreign Investment Law and its Implementing Rules.

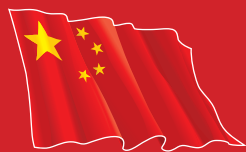
Article 49

The Implementing Rules of the Foreign Investment



Law shall come into force on January 1, 2020. The Regulations on the Implementation of the Law of the People Republic of China on Chinese-Foreign Equity Joint Ventures, the Interim Provisions on the Contract Term of Chinese-foreign Equity Joint Ventures, the Implementing Rules of the Law on Wholly Foreign-owned Enterprises of the People's Republic of China, the Implementing Rules of the Law on Chinese-Foreign Contractual Joint Ventures of the People's Republic of China shall cease to be in effect on the same day.

In case of inconsistencies between the regulations concerning foreign investment formulated before January 1, 2020 and the Foreign Investment Law and its Implementing Rules, the latter shall prevail.



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