

Notice on Further Improvement and Revision of Foreign Exchange Regulatory Policies concerning Foreign Direct Investment

November 19, 2012.

On November 19th, 2012, State Administration of Foreign Exchange (SAFE) issued a Notice on Further Improvement and Revision of Foreign Exchange Regulatory Policies concerning Foreign Direct Investment (hereinafter referred to as the Notice) which shall be implemented since December 17th, 2012.

By improving the foreign exchange (FX) regulatory system concerning foreign direct investment (FDI) as well as nullifying and revising some relevant administrative licensing items, the Notice was designed to deepen the FX regulatory system reform, simplify the administrative examination and approval procedures and promote the investment and trade facilitation.

Key Points

The key points of the Notice are as follows:

1. Cancellation of Some FDI-related FX Regulatory Measures
 - 1.1. Cancellation of the approval requirements for the opening of FDI-related FX accounts, FX receipts, FX settlement, FX purchase and FX payment;
 - 1.2. Cancellation of the approval requirements for FX transfer from within China regarding FDI-related routine transactions;
 - 1.3. Cancellation of the approval requirements for reinvestment of legitimate income which foreign investors derived from within China;
 - 1.4. Cancellation of confirmation requests for capital verification involved in capital reduction;
 - 1.5. Cancellation of FX registration and confirmation requests for capital verification regarding the reinvestment in China by foreign-funded investment companies.
2. Simplification of the Current FX Regulatory Procedures
 - 2.1. Simplification of the categories of FDI-related FX accounts;
 - 2.2. Simplification of the regulatory procedures regarding the settlement of capital funds;
 - 2.3. Simplification of confirmation requests for capital verification and the foreign investment and FX registration on receipt of foreign exchange for share transfers;
 - 2.4. Simplification of required documents and shortening of processing time.
3. Further Liberalization of the Using of FDI-related Funds
 - 3.1. Relax the limits on the number of FDI-related FX accounts and the restriction on opening FX accounts in places other than the domiciles;

UB & Co Limited

- 3.2. Relax the restriction on FDI-related FX purchase and payment from places other than the domiciles;
- 3.3. Relax the restriction on the fund sources of overseas loan and the loaner qualification, allowing the domestic enterprises to grant overseas loans with domestic FX loans and the foreign-funded enterprises to grant loans to their overseas parent companies.

General Comment:

Currently, the FDI in China faces restrictions by various Chinese regulatory authorities. According to SAFE data, FDI in China has been in decline for the fifth straight month. From January to October, the investment rate fell by 3.45 percent compared to the same period in 2011, totaling about \$91 billion.

The Notice is aimed at attracting more foreign investment. In brief, 35 administrative examination and approval requirements will be nullified and 14 of these requirements will be either simplified or merged under the Notice. Such significant reduction in administrative licensing items will conduce to the decline of social costs, further promote the facilitation of trade and investment and contribute to the development of the real economy.