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RECENT REGULATIONS ON FOREIGN INVESTMENTS IN CHINA'S RMB FUND VEHICLES

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Recent Chinese regulations have provided further substantive guidelines, within an emerging regulatory framework, to permit foreign investment in RMB funds organized as Chinese limited liability partnerships for the purpose of making private equity investments in China.

At the end of November 2009, the State Council issued the anticipated *Measures for Administration of Establishment of Partnership Enterprises by Foreign Enterprises or Individuals in China* (the "**FIP Measures**"). In January, 2010, the State Administration of Industry and Commerce of the PRC ("**SAIC**") promulgated the *Administrative Rules for Registration of Foreign-Invested Partnerships* ("**FIP Registration Rules**") in furtherance of the *FIP Measures*. Both came into effect on March 1, 2010.

The *FIP Measures* and *FIP Registration Rules* are significant in that they potentially open the door for foreign investors to invest directly in partnership entities in China through new investment vehicles called "foreign invested partnerships" ("**FIPs**"). This may signal a new era for foreign private equity ("**PE**") players in terms of their investment activities in China.

However, the *FIP Measures* are lacking in detail, and follow-up regulations will likely be needed for PE players to widely adopt the use of FIPs. For example, it remains unclear how the new rules will be applied to foreign invested partnerships that are established for PE investment purposes, and whether the *FIP Measures* will in fact permit foreign PE sponsors to structure their onshore PE investment funds as FIPs. Despite these uncertainties, however, the *FIP Measures* are expected to benefit foreign fund sponsors wishing to enter or increase their exposure to the Chinese market.

This article is intended to provide: (i) a review of the Chinese regulatory regime applicable to foreign-invested PE funds making equity investments in China prior to the issuance of the *FIP Measures*; (ii) a summary of the key points under the *FIP*

This bulletin is designed to provide a summary of some of the recent regulatory developments in China that we believe may be of interest to our clients. It does not purport to be comprehensive or offer legal advice.

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Measures and *FIP Registration Rules*, highlighting significant developments in the legal landscape; and (iii) a brief discussion of the hurdles that foreign PE sponsors may still face in utilizing FIPs in the foreseeable future.

I. Regulatory Regime Prior to the FIP Measures

Over the past decade, China has witnessed a significant increase in inbound investments, particularly by offshore PE funds. However, the cumbersome PRC regulatory approval procedures that apply to direct investments by offshore PE funds, as well as the restrictions on foreign investments in general, have made it increasingly difficult to execute investments in China in recent years. In particular, offshore PE funds have had to compete with onshore funds established under PRC laws – commonly referred to as “Renminbi funds” (“RMB funds”) – for the same investment opportunities. The simplified governmental filing and approval process applicable to RMB funds has given them a comparative advantage over offshore PE funds. Additionally, unlike offshore PE funds, RMB funds are permitted to raise capital within China.

Before the introduction of the *FIP Measures*, foreign investors were only permitted to establish RMB funds in the form of “venture capital companies” (创业投资公司) pursuant to the *Administrative Rules for Foreign Invested Venture Capital Investment Enterprises of the PRC* (“FIVCIE Rules”).¹ The *FIVCIE Rules* were intended to encourage equity investments in Chinese start-up companies in the high-tech sector, and funds formed under the *FIVCIE Rules* (referred to as foreign-invested venture capital investment enterprises, or “FIVCIEs”), are limited to being set up as either “limited liability companies” or “non-legal-person entities.”²

However, neither the FIVCIE Rules nor the various local rules expressly granted authorization for foreign sponsors to set up limited liability partnerships (“LLPs”) – typically the structure of choice for PE funds outside of the PRC. In fact, until the 2007 amendment to the PRC’s *Partnership Law*, there was not even a legally recognized LLP concept under the Chinese legal regime; only general partnerships were permitted.

Although the 2007 amendment to the *Partnership Law* represented a significant advance by officially recognizing the form of the LLP, it still did not contemplate the establishment of any partnership (LLP or general partnership) in China by foreign entities or individuals.³ The 2007 amendments did, however, expressly authorize the State Council to issue special administrative rules applicable to FIPs. The *FIP Measures* therefore represent a significant legal development for foreign PE sponsors.

II. Highlights of the FIP Measures and FIP Registration Rules

Although the *FIP Measures* represent a meaningful advance, their mere 16 articles are markedly lacking in detail. Nonetheless, the *FIP Measures* do contain several significant substantive provisions, the details of which are discussed below.

A. The FIP Measures apply to foreign-invested partnerships engaged in equity investments within China.

After the promulgation of the *FIP Measures*, there were doubts as to whether the State Council intended the *FIP Measures* to apply to FIPs formed to be RMB funds, since the *FIP Measures* do not expressly contemplate that. The *FIP Registration Rules* removed this doubt by stating that an FIP engaged in the business of making equity investments should be registered with the administration of industry and commerce (“AIC”) at the provincial or equivalent level.

¹ Jointly promulgated by the Ministry of Commerce (formerly, Ministry of Foreign Trade and Economic Cooperation), Ministry of Science and Technology, State Administration of Industry and Commerce, State Administration of Taxation and State Administration of Foreign Exchange on January 30, 2003, the FIVCIE Rules came into effect on March 1, 2003.

² The investor in such “non-legal-person entity” is jointly and severally liable for the debts and obligations of the entity. However, the *FIVCIE Rules* permit the FIVCIE’s investors to agree among themselves that certain investors will be jointly liable while others will be liable only to the extent of their respective subscription amounts.

³ Despite this lack of authorization, a handful of foreign PE fund sponsors have recently established LLPs under the *Partnership Law* with general partners that are directly or indirectly foreign-owned. However, the limited partners of such LLPs generally consist solely of PRC investors.

It should be noted, however, that Article 14 of the *FIP Measures* leaves open the possibility that the central government may subsequently promulgate regulations specifically aimed at RMB funds organized as FIPs. Any such regulations may deviate from the provisions of the *FIP Measures* and the *FIP Registration Rules*.⁴

B. Investors in an FIP are only required to register the FIP with the AIC.

The *FIP Measures* introduce a significant and somewhat unexpected development. Unlike other foreign-invested entities, which are subject to a more costly and time-consuming approval process with the Ministry of Commerce (“MOC”),⁵ investors in an FIP may form the partnership by simply registering with the local AIC (or with the AIC at the provincial level, if the FIP will mainly engage in the business of making equity investments).

C. FIPs are subject to the same industrial policies regulating other vehicles for foreign investment.

Under the *FIP Measures*, a foreign investor intending to set up an FIP must submit a statement to the competent AIC confirming that the business activities of the proposed FIP are or will be in compliance with all PRC foreign investment policies. This suggests that a foreign investor may not utilize an FIP to circumvent the restrictions under the *Foreign Investment Industrial Guidance Catalogue of the PRC* (the “**Guidance Catalogue**”), particularly those imposed upon “restricted” and “prohibited” categories of foreign investment.⁶

The *FIP Registration Rules* further clarify that an FIP is not a permissible legal form in those industries in which the *Guidance Catalogue* (i) restricts foreign investments to equity joint ventures or cooperative joint ventures only, (ii) specifies a maximum foreign ownership percentage, or (iii) requires Chinese parties to own a majority or other controlling stake.

The *FIP Registration Rules* further suggest that any onshore equity investment by an RMB fund established as an FIP must comply with all national laws, regulations, and administrative rules applicable to foreign investments.⁷ We would caution that equity investment activities by an FIP RMB fund may, in the future, be subject to the same MOC approval procedures that are currently applied to other forms of foreign investments.

D. Foreign investors are offered considerable flexibility in the capitalization of an FIP.

Another significant development in the new *FIP Measures* is that there is no minimum registered capital requirement for an FIP, which is a departure from the traditional stance taken by the PRC authorities with respect to foreign-invested enterprises in general. In contrast, an FIVCIE incorporated pursuant to the *FIVCIE Rules* must have registered capital of no less than US\$5 million (or US\$10 million, in the case of a non-legal-person FIVCIE).

The general partner of an FIP may choose to contribute services in exchange for its partnership interest, with the value such services to be agreed upon by all the partners. In an FIVCIE, neither personal services nor labor is recognized as a form of capital contribution.

E. An FIP may be formed solely by foreign investors, or as a joint venture partnership between foreign investors and domestic investors.

Foreign investors may cooperate with Chinese partners to form an FIP, or they may instead choose to establish a wholly foreign-owned partnership. Although the *FIP Measures* do not explicitly provide that an FIP may be established as an LLP, it is implicit that foreign partners may form general partnerships and limited partnerships, since both are authorized under the *Partnership Law*.

F. An FIP is a pass-through entity for PRC tax purposes.

⁴ Article 14 states that “[i]f other provisions are issued by the Chinese government regarding partnership enterprises established by foreign enterprises or individuals in China to engage in investment as their primary business, such provisions shall prevail.”

⁵ Traditionally, the establishment of a foreign-invested entity (an “FIE”) in a legal form other than a partnership would require the review and approval by the MOC, followed by registration with the AIC. If the proposed FIE will engage in manufacturing, pre-approval by the National Development and Reform Commission may be required before the proposed FIE may apply to the MOC for approval.

⁶ The *Guidance Catalogue* categorizes industries for foreign investment purposes as follows: *encouraged*, *permitted*, *restricted* and *prohibited*, each of which is subject to a different level of administrative scrutiny and regulatory control.

⁷ After the issuance of the *FIP Registration Rules*, the SAIC issued the *Circular on Strengthening the Implementation of the FIP Measures* on February 10, 2010, which instructs local AICs to diligently review MOC approval documents when registering entities to be invested in by RMB funds formed as FIPs. This statement suggests that proposed equity investments in China by an RMB fund formed as an FIP may be subject to the same approval process that applies with respect to investments made by other foreign-invested enterprises.

An FIP, like other PRC partnership entities (as well as FIVCIEs established as non-legal-person cooperative joint ventures), is entitled to tax pass-through treatment, *i.e.*, an FIP's income is not subject to PRC income tax, but instead is taxable only in the hands of each individual partner to the extent of such partner's share of partnership income.⁸

III. What to Expect from the FIP Measures

From a regulatory perspective, the *FIP Measures* may offer a liberal path forward for foreign PE sponsors, particularly in light of the streamlined registration process for FIPs. FIPs also offer the flexibility of limited partnerships in terms of their governance structure and profit allocations and distributions. Nevertheless, uncertainties remain due to potentially changing governmental rules and policies in China.

In particular, foreign PE sponsors and investors alike will be subject to controls over the conversion of foreign exchange into RMB that have made other forms of equity investment inside China by foreign investors increasingly difficult. In this regard, the State Administration of Foreign Exchange ("SAFE") in recent years has strengthened regulatory controls over foreign currency inflows arising in relation to foreign investments. Driven primarily by concerns relating to the escalation of foreign money flowing into China, SAFE issued a series of rules with the goal of more effectively monitoring foreign currency inflows. One such rule was SAFE's *Circular on Relevant Implementing Issues Concerning the Improvement of the Administration of Payment and Settlement of Foreign Exchange of Foreign Invested Enterprises* ("SAFE Circular No. 142").⁹ As a result of those policies, where a foreign-invested entity intends to convert its foreign-currency-denominated capital into RMB, an application, including a detailed explanation of the business purpose and intended use of such RMB proceeds, must be approved by SAFE.

It should be noted that *SAFE Circular No. 142* was promulgated before the *FIP Measures*, and thus the extent to which *SAFE Circular No. 142* and other pre-existing SAFE rules will be applied or enforced with respect to FIPs remains unclear, particularly since certain SAFE regulations appear to run counter to the articulated policy goals of the new FIP rules. However, given that the circumstances giving rise to SAFE's increased control over the RMB settlement process have largely not changed, existing SAFE rules may continue to apply. At the same time, it should be noted that efforts are underway at both the central and local levels of government to simplify RMB settlements by foreign sponsors and foreign limited partners of FIP RMB funds.¹⁰

⁸ Notwithstanding the explicit statement in Article 6 of the *Partnership Law* that tax pass-through treatment applies to PRC partnership enterprises, and that such treatment should also apply to FIPs, a host of tax-related issues still remain with respect to the tax treatment of an FIP. For example, the *Circular on Partners' Income Tax in Partnership Enterprise*, jointly issued by the Ministry of Finance and the State Administration of Taxation on December 23, 2008 with retroactive effect from January 1, 2008, does not address the tax treatment of foreign corporate partners. It only confirms the tax pass-through treatment of PRC partnerships, and provides that tax rates ranging from 5% to 35% apply to various types of income of partners, including foreign partners, that are individuals. However, the tax treatment of an offshore corporate investor in an RMB fund may have to be determined with reference to the general provisions of the corporate income tax law. In this regard, depending on the RMB fund's management structure, there may be a risk that an offshore corporate investor in an RMB fund may be deemed, under PRC general taxing provisions, to have a "permanent establishment" in China for PRC tax purposes, and therefore may be subject to, among other things, a tax of 25% on such offshore investor's income arising from its China portfolio investments held through the RMB fund. A withholding tax of only 10% would apply if there is no such "permanent establishment".

⁹ The core concept underlying *SAFE Circular No. 142* is that no amount of RMB converted from a foreign-invested entity's foreign-currency denominated registered capital shall be used for equity investments within China; provided, however, that an FIE (such as an FIVCIE) with an approved business scope that includes the making of equity investments may apply to SAFE to transfer (划转) its foreign currency capital contribution into the target portfolio company. However, a subsequent SAFE circular clarified that an FIVCIE may invest its foreign currency denominated capital directly into a domestic enterprise without first converting such capital into RMB, but that the domestic portfolio company must open and maintain a foreign currency capital account into which all the foreign currency capital is remitted. As a result, the portfolio company becomes subject to the same restrictive rules as other FIEs under *SAFE Circular No. 142* when deploying such foreign currency capital.

¹⁰ To surmount the obstacles posed by *SAFE Circular No. 142*, for example, certain local governments (reportedly including Shanghai, Tianjin and Beijing) have, through "negotiations" with SAFE, developed pilot programs that envisage "Qualified Foreign Limited Partnerships" ("QFLPs"). Shanghai is expected to be the first to release implementing rules for a QFLP pilot program in the Pudong District. Reportedly, an approved QFLP will be entitled to a quota of up to US\$ 100 million, which may be converted into RMB for the purpose of allowing qualified foreign limited partners to make capital contributions to the QFLP. However, the administrative procedures required to convert such foreign exchange into RMB, as well as the PRC tax treatment of qualified foreign limited partners, require further clarification.

**合格境外机构投资者境内
证券投资外汇管理规定**
(2009年9月29日实施)

第一章 总则

第一条 为规范合格境外机构投资者（以下简称合格投资者）在中国境内证券市场的外汇管理，根据《中华人民共和国外汇管理条例》以及《合格境外机构投资者境内证券投资管理办法》（中国证券监督管理委员会、中国人民银行、国家外汇管理局2006年第36号令），制定本规定。

第二条 合格投资者应当委托其境内托管人（以下简称托管人）代为办理本规定所要求的相关手续。

第三条 合格投资者和托管人应当遵守中国外汇管理有关规定。

第四条 国家外汇管理局及其分局、外汇管理部（以下简称外汇局）依法对合格投资者境内证券投资的投资额度、资金账户、资金收付及汇兑等实施监督、管理和检查。

第二章 投资额度管理

第五条 国家对合格投资者的境内证券投资实行额度管理。国家外汇管理局批准单个合格投资者的投资额度，鼓励中长期投资。

第六条 合格投资者申请投资额度、开立外汇账户和人民币特殊账户，应向国家外汇管理局提供以下材料：

（一）托管人及合格投资者提交的书面申请，书面申请的内容包括：合格投资者基本情况、资金来源说明与投资计划、合格投资者在锁定期内不撤资的承诺函等，并附《国家外汇管理局合格境外机构投资者登记表》（样表见附件一）；

（二）中国证券监督管理委员会（以下简称证监会）颁发的《合格境外机构投资者证券投资业务许可证》复印件；

（三）经公证的合格投资者对托管人的授权委托书；

（四）国家外汇管理局要求的其他材料。

合格投资者申请增加投资额度的，除提供上述第（一）、（四）项材料外，还需提供《合格境外机构投资者外汇登记证》

（以下简称《外汇登记证》）和已有投资额度在境内的投资情况说明，内容包括：资产配置及变动情况、投资损益情况、合同履行情况和股票交易平均换手率等。

第七条 单个合格投资者申请投资额度每次不得低于等值5000万美元，累计不得高于等值10亿美元。国家外汇管理局可根据经济金融形势、外汇市场供求关系和国际收支状况等对上述限额进行调整。

**Regulations on Administration of Foreign Exchange in Onshore
Securities Investments by Qualified Foreign Institutional Investors**

(effective as of September 29, 2009)

Chapter 1 General Rules

Article 1 These Regulations are formulated in accordance with the Regulations on Administration of Foreign Exchange of the People's Republic of China and the Measures on Administration of Onshore Securities Investment by Qualified Foreign Institutional Investors (Order No. 36, 2006) issued by the China Securities Regulatory Commission, the People's Bank of China and the State Administration of Foreign Exchange ("SAFE"), in order to regulate the administration of foreign exchange of qualified foreign institutional investors ("QFIIs") in the securities market in China.

Article 2 A QFII shall entrust its onshore trustee ("Trustee") to complete relevant formalities required hereunder on its behalf.

Article 3 A QFII and its Trustee shall comply with relevant provisions of China on foreign exchange administration.

Article 4 The SAFE and its branches and foreign exchange administrative departments ("SAFE Bodies") shall supervise, administer and inspect the investment quota, fund account, fund receipt/payment and fund remission/conversion of the QFIIs for onshore securities investments.

Chapter 2 Administration of Investment Quota

Article 5 The State implements the quota-based administration of onshore securities investments by the QFIIs. The SAFE shall approve investment quota for the QFIIs on an individual basis and encourage the long/medium term investments.

Article 6 In applying for an investment quota and an opening of foreign exchange account and special Renminbi account, a QFII shall submit the SAFE with the following materials:

(1) the written application documents submitted by the Trustee and the QFII, including the basic information, the explanation of fund sources and the investment plan of the QFII, the covenant letter of the QFII on no capital exit in locked-period, and the SAFE QFII Registration Form (a sample of which is attached as Schedule 1);

(2) a photocopy of the QFII Securities Investment Service License issued by the China Securities Regulatory Commission ("CSRC");

(3) the notarized proxy letter issued by the QFII to the Trustee; and

(4) other materials required by the SAFE.

If a QFII applies for an increase of investment quota, in addition to the materials required under Articles 6(1) and 6(4), it shall submit the QFII Foreign Exchange Registration Certificate ("QFII Forex Registration Certificate") and a statement of its onshore investments using its existing investment quota, specifying its assets allocation and any change thereto, loss and profit in investment, performance of compliance obligation and average stock trading rate, etc.

Article 7 A QFII may apply for an investment quota no less than US\$ 50 million or the equivalence each time and no more than US\$ 1 billion or the equivalence aggregately. The SAFE may make adjustment to such required amounts based on the economic and financial situations, the supply and demand relationship in the foreign exchange market and the international balance.

(to be continued)

合格投资者在上次投资额度获批后 1 年内不得再次提出增加投资额度的申请。

第八条 合格投资者应在每次投资额度获批之日起 6 个月内汇入投资本金，未经批准逾期不得汇入。在规定时间内未足额汇入本金但超过等值 2000 万美元的，以实际汇入金额作为其投资额度。

合格投资者汇入本金为非美元货币时，应参照汇入当月国家外汇管理局公布的各种货币对美元折算率表计算汇入的等值美元投资额度。

第九条 养老基金、保险基金、共同基金、慈善基金、捐赠基金、政府和货币管理当局等类型的合格投资者，以及合格投资者发起设立的开放式中国基金的投资本金锁定期为 3 个月；其他合格投资者的投资本金锁定期为 1 年。

合格投资者的投资本金锁定期自其足额汇入本金之日起计算；未在规定时间内汇足本金的，自投资额度获批之日起 6 个月后开始计算。

上述所称“开放式中国基金”是指在境外以公募形式发起设立，且至少 70% 以上基金资产投资于中国境内的开放式证券投资基金。合格投资者发起设立开放式中国基金后 20 个工作日内，应将基金招募说明书原件及其核心内容中文译文报国家外汇管理局备案。

上述所称“投资本金锁定期”是指禁止合格投资者将投资本金汇出境外的期限。

第三章 账户管理

第十条 合格投资者凭国家外汇管理局投资额度及开户批复文件，可以在托管人处为自有资金或由其提供资产管理服务的客户资金分别开立一个外汇账户和一个对应的人民币特殊账户。

合格投资者设立开放式中国基金的，每只开放式中国基金应单独开立一个外汇账户和一个对应的人民币特殊账户。

托管人应在合格投资者外汇账户和人民币特殊账户开立后 5 个工作日内向托管人所在地外管局备案，并向国家外汇管理局报送正式托管协议、为合格投资者领取《外汇登记证》。

第十一条 合格投资者外汇账户的收入范围是：合格投资者从境外汇入的本金、利息收入、从合格投资者人民币特殊账户购汇划入的资金及经国家外汇管理局核准的其他收入；支出范围是：结汇划入合格投资者人民币特殊账户的资金、原路汇回境外的资金及经国家外汇管理局核准的其他支出。

A QFII shall not apply for an increase of investment quota within one year after its investment quota is approved.

Article 8 A QFII shall remit its investment capital into its account within 6 months from the date when its investment quota is approved each time and, if overdue, shall make no remittance unless approved. If the QFII remits its investment capital within the required time in an amount not in full but more than US\$ 20 million or the equivalence, then the actually remitted amount shall be its investment quota.

If the QFII remits its investment capital other than in US dollar, the remitted investment quota fund in equivalent US dollar shall be calculated according to the exchange rate published by the SAFE in the same month between the applicable currency and the US dollar.

Article 9 The QFIIs in form of Pension fund, insurance fund, mutual fund, charity fund, donation fund, government or money administrative authority, or the open-end Chinese fund promoted and established by the QFIIs, shall be subject to a 3-month investment capital lockup period and other QFIIs shall be subject to a 1-year investment capital lockup period.

The QFIIs' investment capital lockup period shall be calculated starting from the full principal fund remittance day or, if failing to remit principal fund in full in the required time, upon expiry of 6 months from the approval of the investment quota.

The open-end Chinese fund referred to above means an open-end securities investment fund which is promoted and established through offshore public offerings and has at least 70% of its assets invested in the open-end securities funds in China. Within 20 business days after promoting and establishing an open-end Chinese fund, a QFII shall file the origin of funds prospectus and the translation of core contents thereof with the SAFE for recordation.

The investment capital lockup period referred to above means a period during which the QFIIs are prohibited from remitting their investment capital abroad.

Chapter 3 Account Management

Article 10 With the investment quota and the reply approving the account opening issued by the SAFE, a QFII may open a foreign exchange account and relative special Renminbi account at the Trustee for its self-owned funds or the funds of its assets management service clients.

If a QFII establishes the open-end Chinese funds, it may open a foreign exchange account and relative special Renminbi account separately for each of the open-end Chinese funds.

Within 5 business days after the QFII opens such foreign exchange account and relative special Renminbi account, the Trustee shall file the same with its local SAFE Body and submit the definitive trust agreement to the SAFE and get the QFII Forex Registration Certificate from the SAFE on behalf of the QFII.

Article 11 A QFII foreign exchange account's income scope shall include the capital remitted by the QFII from abroad, the interest income, the funds allocated from the QFII special Renminbi account and other income approved by the SAFE, and its payment scope shall include the funds allocated to the QFII special Renminbi account upon settlement of foreign exchange, the funds remitted back to their original source abroad and other payments approved by the SAFE.

(to be continued)

合格投资者人民币特殊账户的收入范围是：从合格投资者外汇账户结汇划入的资金、出售证券所得价款、现金股利、利息收入及经国家外汇管理局核准的其他收入；支出范围是：买入规定的证券类产品的支付价款（含印花税、手续费等）、支付税款、托管费、审计费和管理费等有关税费、购汇划入合格投资者外汇账户的资金及经国家外汇管理局核准的其他支出。

合格投资者外汇账户和人民币特殊账户内的资金不得用于境内证券投资以外的其他目的。

第十二条 合格投资者的自有资金账户、客户资金账户及其开放式中国基金资金账户之间不得进行资金划转，同一合格投资者多只开放式中国基金资金账户之间也不得进行资金划转。

第十三条 合格投资者外汇账户和人民币特殊账户的存款利率参照中国人民银行有关规定执行。

第十四条 合格投资者有下列情形之一的，应在 1 个月内变现资产并关闭其在托管人处开立的外汇账户和人民币特殊账户，其相应的投资额度同时作废：

（一）证监会已收缴其证券投资业务许可证；

（二）合格投资者在首次投资额度获批后 6 个月内汇入的投资款低于等值 2000 万美元的；

（三）合格投资者因将投资撤回境外，使得境内剩余本金之和低于等值 2000 万美元的；

（四）国家外汇管理局依据本规定取消合格投资者原有投资额度的；

（五）国家外汇管理局规定的其他情形。

托管人应在合格投资者外汇账户和人民币特殊账户关闭后 5 个工作日内向托管人所在地外汇局备案，并将《外汇登记证》缴还国家外汇管理局。

第四章 汇兑管理

第十五条 合格投资者可根据申请额度时提供的投资计划及有关说明，在实际投资前 10 个工作日内通知托管人直接将投资所需外汇资金结汇并划入其人民币特殊账户

合格投资者汇入投资本金累计未满足等值 2000 万美元的，不得结汇投资。

第十六条 开放式中国基金可以在锁定期结束后，根据每月申购或赎回的轧差净额，按月办理相关的资金汇入或汇出。

A QFII special Renminbi account's income scope shall include the funds allocated from the QFII foreign exchange account upon settlement of foreign exchange, the income from securities sale, the cash dividends, the interests income and other income approved by the SAFE and its payment scope shall include the payments for purchased securities and other related products as required (including stamp taxes and handling fees), the payments of tax, trust fee, audit fee, management fee and other related taxes and expenses, the funds allocated into the QFII foreign exchange account upon purchase of foreign exchange, and other payments approved by the SAFE.

The funds in the QFII foreign exchange account and special Renminbi account shall not be used for any purpose other than the domestic securities investment.

Article 12 No funds shall be allocated or transferred between/among a QFII's self-owned funds account, client funds account and its open-end China fund's funds account, nor shall funds be allocated or transferred between/among the funds accounts of multiple open-end China funds of a QFII.

Article 13 The deposit interest rate for the QFII foreign exchange account and special Renminbi account shall be set according to the relevant provisions of the People's Bank of China.

Article 14 A QFII shall realize its assets and close its foreign exchange account and special Renminbi account at the Trustee within one month and its relative investment quota shall be void at the same time if it is involved in any of the following events:

- (1) the CSRC has taken back its securities investment business license;
- (2) the QFII has remitted its investment funds of less than US\$ 20 million or the equivalence within 6 months after its initial investment quota has been approved;
- (3) the QFII has withdrawn its investment funds back to the abroad, causing the sum of its total remaining capital in China to be less than US\$ 20 million or the equivalence;
- (4) the SAFE has cancelled the existing investment quota of the QFII according to these Provisions; or
- (5) other event set forth by the SAFE.

Within 5 business days after the QFII foreign exchange account and special Renminbi account has been closed, the Trustee shall file the same with its local SAFE Body for recordation and hand over the QFII Forex Registration Certificate back to the SAFE.

Chapter 4 Administration of Foreign Exchange Conversion

Article 15 Based on the investment plan and related statement provided in applying for the quota, a QFII may notify the Trustee within 10 business days prior to the actual investment to have the foreign exchange funds required for investment be settled and allocated to its special Renminbi account directly.

If the aggregated amount of the investment capital remitted by a QFII from abroad is less than US\$ 20 million or the equivalence, it shall not settle its foreign exchange or start investment.

Article 16 Upon expiry of the lockup period, an open-end China fund may remit funds into or out of China on a monthly basis according to the monthly netted balance of purchase and redemption.

(to be continued)

出现净赎回的，应根据托管人确认的汇出前一月最后一个交易日合格投资者投资本金和损益的比例计算其中汇出的本金数额，作为今后允许再次汇入投资款的额度。

开放式中国基金发生净申购，每次汇入结汇金额不超过等值 5000 万美元（含）的，托管人可直接为其办理相关手续后报托管人所在地外汇局备案；超过等值 5000 万美元的，须提前 10 个工作日，持《外汇登记证》复印件向托管人所在地外汇局提出申请，经托管人所在地外汇局核准后方可办理相关手续。

开放式中国基金发生净赎回，每次购汇汇出金额不超过等值 5000 万美元（含）的，托管人可直接为其办理相关手续后报托管人所在地外汇局备案；超过等值 5000 万美元的，须提前 10 个工作日，持书面申请、《外汇登记证》复印件及有关投资损益情况的说明，经托管人所在地外汇局核准后方可办理相关手续。

第十七条 除开放式中国基金外，其他合格投资者在投资本金锁定期结束后如需购汇汇出本金的，应持以下材料向国家外汇管理局提出申请：

- （一）书面申请；
- （二）《外汇登记证》原件；
- （三）有关本金汇入及既往投资情况的说明；
- （四）国家外汇管理局要求的其他材料。

国家外汇管理局经审核同意后出具批复文件，并相应调减合格投资者的投资额度。托管人凭国家外汇管理局批复文件为合格投资者办理购汇及资金汇出手续。

第十八条 除开放式中国基金外，其他合格投资者如需购汇汇出已实现的累计收益，应在取得经中国注册会计师出具的专项审计报告后，委托托管人代其持以下材料向托管人所在地外汇局提出申请：

- （一）书面申请及决定汇出收益的相关证明文件；
- （二）《外汇登记证》原件；
- （三）中国注册会计师出具的投资收益专项审计报告；
- （四）收益完税凭证；
- （五）外汇局要求的其他材料。

托管人所在地外汇局经审核同意后，出具批复文件，托管人凭以为合格投资者办理购汇及资金汇出手续。

If a net redemption occurs, the amount of capital remitted out in the month prior thereto shall be calculated as per the ratio of the investment capital and the loss/profit of the QFII on the last trading day of the month immediately prior to the remittance and shall be deemed as the quota of the investment capital permitted to be remitted into China again.

If a net purchase occurs to the open-end China fund and the amount of the settled foreign exchange funds in each inbound remittance is less than US\$ 50 million (inclusive) or the equivalence, the Trustee may directly complete relevant formalities on its behalf and thereafter file the same with the Trustee's local SAFE for recordation; if such amount is more than US\$ 50 million or the equivalence, the Trustee shall apply to its local SAFE Body by presenting the copy of the QFII Forex Registration Certificate 10 business day in advance and may effectuate relevant formalities upon approval of its local SAFE only.

If a net redemption occurs to the open-end China fund and the amount of the purchased foreign exchange funds for outbound remittance is less than US\$ 50 million (inclusive) or the equivalence each time, the Trustee may directly complete relevant formalities on its behalf and thereafter file the same with the Trustee's local SAFE Body for recordation; if such amount is more than US\$ 50 million or the equivalence, the Trustee shall apply to its local SAFE Body by presenting the copy of the QFII Forex Registration Certificate 10 business day in advance and may effectuate relevant formalities upon approval of its local SAFE Body only.

Article 17 If a QFII other than the open-end China fund need purchase foreign exchange for outbound remittance of its investment capital upon expiry of the investment capital lockup period, it shall apply to the SAFE with the following materials:

- (1) a written application;
- (2) the original copy of the QFII Forex Registration Certificate;
- (3) a description of inbound remittance of the capital and prior investment activities; and
- (4) other materials required by the SAFE.

Upon its review and approval, the SAFE shall issue the approving reply and reduce the investment quota of the QFII accordingly. The Trustee shall complete the formalities for purchase of foreign exchange and outbound remittance of funds on behalf of the QFII by presenting the approving reply issued by the SAFE.

Article 18 If a QFII other than the open-end China fund need purchase foreign exchange for outbound remittance of its realized accumulative profits, it shall, upon receipt of the special-purpose audit report issued by an accountant certified in China, authorize the Trustee to act on its behalf to apply to its local SAFE Body by presenting the following materials:

- (1) a written application and relevant certifying document for decision on outbound remittance of the profits;
- (2) the original copy of the QFII Forex Registration Certificate;
- (3) the special-purpose audit report of the investment profits issued by an accountant certified in China;
- (4) the certificate for full payment of taxes on the profits; and
- (5) other materials required by the SAFE Body.

Upon its review and approval, the Trustee's local SAFE Body shall issue the approving reply with which the Trustee shall complete the formalities for purchase of foreign exchange and outbound remittance of funds on behalf of the QFII.

(to be continued)

第十九条 托管人应准确、及时在《外汇登记证》上记录合格投资者的资金汇兑和收付情况。

第二十条 国家外汇管理局可以根据我国经济金融形势、外汇市场供求关系和国际收支状况，对合格投资者资金汇出时间、金额及汇出资金的期限予以调整。

第五章 统计与监督管理

第二十一条 合格投资者有下列情形之一的，应在 5 个工作日内到国家外汇管理局办理外汇登记证变更手续并提交书面报告：

- (一) 合格投资者名称、负责人、主要股东或实际控制人等基本情况变更的；
- (二) 合格投资者或其主要股东、实际控制人受到其他监管部门（含境外）重大处罚，会对合格投资者投资运作造成重大影响或相关业务资格被暂停或取消的；
- (三) 托管人、境内委托投资机构（经纪商）变更或其相关信息发生变更的；
- (四) 账户名称、开户行信息等发生变更的；
- (五) 开放式中国基金招募说明书发生变更的；
- (六) 国家外汇管理局规定的其他情形。

合格投资者变更托管人的，新托管人还应提供新签订的托管协议草案和新托管人基本情况及资产托管业务方面相关情况的说明，以及新的经公证的授权委托书，并在外汇账户和人民币特殊账户开立之日起 5 个工作日内报送正式托管协议。

第二十二条 托管人应按照下列规定及时、准确报送有关合格投资者资金汇兑及境内证券投资情况的相关报表：

- (一) 在合格投资者发生资金汇出入或结购汇行为后 2 个工作日内，填报《合格境外机构投资者资金汇出入明细表》（样表见附表二）；
- (二) 每月结束后 8 个工作日内，报送《合格境外机构投资者境内证券投资月报表（一）、（二）》（样表见附表三）；
- (三) 每个会计年度结束后 3 个月内，报送上一年度经中国注册会计师审计的《合格境外机构投资者境内证券投资年度财务报表（一）、（二）》（样表见附表四）。

第二十三条 合格投资者具有下列行为之一的，由外汇局依据《中华人民共和国外汇管理条例》等相关规定予以处罚，并可调减其投资额度直至取消：

- (一) 转让或转卖投资额度等非法使用外汇行为的；
- (二) 向托管人或外汇局提供虚假信息或材料的；

Article 19 A Trustee shall make accurate and timely records on the QFII Forex Registration Certificate of the remittance/conversion and receipt and payment of funds of the QFII.

Article 20 The SAFE may make adjustment to the time, amount and time limit of the funds remittance by a QFII based on the economic and financial situations, the supply and demand relationship in the foreign exchange market and the international balance of China.

Chapter 5 Statistics and Regulation/Administration

Article 21 A QFII shall effectuate the formalities for change to the QFII Forex Registration Certificate and submit the written report to the SAFE within 5 business days after any of the following events occurs:

- (1) a change to the name, person-in-charge, major shareholder, actual controller or other basics of the QFII;
- (2) the QFII or its major shareholder or actual controller has been subject to material penalties by other (including offshore) regulatory authorities, which would cause major affects on the QFII's investment operation or a suspension or revocation of the QFII's relevant business qualification;
- (3) a change to its Trustee or authorized onshore investment institution (broker) or to their relevant major information;
- (4) a change to the name of its bank account or the information of its bank;
- (5) a change to the prospectus of its open-end China fund; or
- (6) other events specified by the SAFE.

If the QFII changes its Trustee, the new Trustee shall also provide the newly signed draft trust agreement, the basic information of the new Trustee and relevant information of the assets trust business, together with the notarized new authorization proxy, and submit the definitive trust agreement within 5 business days after the opening of the foreign exchange account and the special Renminbi account.

Article 22 A Trustee shall submit relevant statements on relevant QFII's remittances and conversions of foreign exchange funds and onshore securities investments timely and accurately as required below:

- (1) The QFII Inbound and Outbound Remittances of Funds Breakdown Form (a sample of which is attached as Schedule 2) shall be filled and submitted within 2 business days after the QFII is involved in any inbound or outbound remittance of funds or purchase or settlement of foreign exchange;
- (2) The QFII Onshore Securities Investment Monthly Statement (1) and (2) (a sample of which is attached as Schedule 3) shall be submitted within 8 business days after the end of each month; and
- (3) The QFII Onshore Securities Investment Annual Financial Statement (1) and (2) (a sample of which is attached as Schedule 4) for the preceding accounting year audited by a certified accountant of China shall be submitted within 3 months after the end of each accounting year.

Article 23 The SAFE Bodies shall impose penalties on a QFII and reduce or cancel (as applicable) its investment quota pursuant to the Regulations of the People's Republic of China on Administration of Foreign Exchange and other relevant rules if such QFII is involved in any of the following activities:

- (1) transferring or reselling the investment quota or otherwise using foreign exchange illegally;
- (2) providing false information or materials to the Trustee or the SAFE Body;

(to be continued)

(三) 未按规定办理投资结汇或购付汇的;

(四) 未按外汇局要求提供其资金汇兑及境内证券投资相关信息或材料的;

(五) 有其他违反外汇管理规定的行为。

第二十四条 托管人具有下列行为之一的, 由外汇局依据《中华人民共和国外汇管理条例》等相关规定予以处罚; 情节严重的, 将会同证监会取消其合格投资者托管人资格:

(一) 超过国家外汇管理局批准的投资额度或逾期为合格投资者办理本金汇入的;

(二) 未按规定为合格投资者办理本金和收益汇出手续的;

(三) 未按规定为合格投资者开立或关闭外汇账户和人民币特殊账户, 或未按规定账户收支范围为合格投资者办理资金汇兑和划转手续的;

(四) 未按规定向外汇局报送报表和有关资料或未按规定向外汇局报告有关情况的;

(五) 未按规定进行国际收支统计申报的;

(六) 有其他违反外汇管理规定的行为。

第六章 附 则

第二十五条 根据本规定向外汇局报送的材料应为中文文本。同时具有外文和中文译文的, 应以中文文本为准。

第二十六条 本规定由国家外汇管理局负责解释。

第二十七条 本规定自发布之日起实施。

《合格境外机构投资者境内证券投资外汇管理暂行规定》(国家外汇管理局 2002 年第 2 号公告) 及《国家外汇管理局综合司关于 QFII 外汇管理操作问题的通知》(汇综发 [2003] 124 号) 同时废止。

(3) effectuating incompliantly the settlement, purchase or payment of foreign exchange for investment;

(4) failing to provide information or materials in relation to its remittance and conversion of foreign exchange funds and onshore securities investments as required by the SAFE Body; or

(5) being involved in other activities in violation of foreign exchange administrative rules.

Article 24 The SAFE Bodies shall impose penalties on a Trustee and, in a serious case, work with the CSRC to revoke its QFII trustee qualification pursuant to the Regulations of the People's Republic of China on Administration of Foreign Exchange and other relevant rules if such Trustee is involved in any of the following activities:

(1) effectuating inbound remittance of funds for the QFII in an amount exceeding the investment quota approved by the SAFE or on an overdue basis;

(2) effectuating incompliantly the formalities for outbound remittance of investment capital or profits on behalf of the QFII

(3) effectuating incompliantly the opening or closing of the foreign exchange account or the special Renminbi account on behalf of the QFII, or effectuating the formalities for remitting, converting, allocating or transferring funds on behalf of the QFII beyond the account's receipt and payment scopes as provided;

(4) failing to submit the statements and relevant materials or report relevant matters to the SAFE Body as required;

(5) failing to make the international receipt and payment statistics and report as required; or

(6) being involved in other activities in violation of foreign exchange administrative rules.

Chapter 6 Miscellaneous

Article 25 Materials submitted to the SAFE Bodies shall be written in Chinese. If any materials are provided in foreign language together with the Chinese translation thereof, the Chinese translation shall prevail.

Article 26 These Regulations shall be subject to the construction and interpretation by the SAFE.

Article 27 These Regulations shall take effect as of the issuing date hereof and the Interim Provisions on Administration of Foreign Exchange in Onshore Securities Investments by Qualified Foreign Institutional Investors (the SAFE No. 2 Announcement 2002) and the Circular of the SAFE General Office on Issues in QFII Foreign Exchange Administration Practices (hui zong fa [2003] No. 124) shall be void and null simultaneously.

**国家外汇管理局关于调整部分
资本项目外汇业务审批权限的通知**

(2009年5月6日发布
2009年6月1日实施)

国家外汇管理局各省、自治区、直辖市分局、外汇管理部，深圳、大连青岛厦门、宁波市分局：

为简化行政审批手续和程序，促进投资贸易便利化，根据《中华人民共和国行政许可法》《中华人民共和国外汇管理条例》及相关外汇管理规定，国家外汇管理局（以下简称总局）决定对部分资本项目外汇业务审批权限进行调整。现就有关问题通知如下：

一、外商投资企业申请异地开立资本金账户，由所在地分局、外汇管理部（以下简称所在地分局）负责审批。

二、历史遗留的外商投资企业固定回报项目外方资金购付汇，由固定回报项目所在地分局负责审批。

三、非银行金融机构和企业为境外企业逐笔提供融资性（发行债券除外）和非融资性对外担保，符合规定的，由担保人所在地分局逐笔审批。

四、境内机构为境外机构发行债券（包括商业票据）提供的对外担保，由担保人所在地分局审批。

五、证券公司基金管理公司申请不涉及调整经营范围的《证券业务外汇经营许可证》的更换，由所在地分局负责审批。

六、证券公司基金管理公司终止外汇业务，由所在地分局负责审批。

七、合格境外机构投资者设立的开放式中国基金，其每月净申购或净赎回金额超过等值 5000 万美元的，由托管人所在地分局负责审批。

八、企业集团财务公司申请停止办理即期结售汇业务，由企业集团财务公司所在地分局负责审批。

九、移民财产转移购付汇核准，由移民原户籍所在地分局负责审批。其中，对外转移总金额超过等值人民币 50 万元的，所在地分局应将批准复函报总局备案。

**State Administration of Foreign Exchange's Circular on Adjustment
to the Examining and Approving Power over
Certain Capital Account-related Foreign Exchange Businesses**

(effective as of June 1, 2009)

The branches of the State Administration of Foreign Exchange ("SAFE") and the foreign exchange administrative authorities in all provinces, autonomous regions and directly controlled cities, and the branches of the SAFE in the cities of Shenzhen, Dalian, Qingdao, Xiamen and Ningbo:

Pursuant to the Administrative Permit Law of the People's Republic of China, the Regulations of the People's Republic of China on Foreign Exchange Administration and other related provisions on foreign exchange administration, the SAFE has decided to make certain adjustments to the examining and approving power over certain foreign exchange businesses under capital account in order to simplify the administrative examination and approval formalities and processes and to facilitate investment and trade. Now, this circular with respect to relevant issues is hereby issued as follows:

1. Any application of foreign invested enterprises ("FIEs") for opening a capital fund account other than in their domicile location shall be subject to the examination and approval by the SAFE's branch or foreign exchange administrative authority ("SAFE Branch") serving the locality where the FIEs are located.

2. Any purchase of foreign exchange using foreign investor's funds in an FIE fixed return project that is left over historically shall be subject to examination and approval by the SAFE Branch serving the locality where the fixed return project is located.

3. Any financing (other than bond issue) and non-financing guarantee provided compliantly on a one-by-one basis by non-bank financial institutions and enterprises on behalf of offshore enterprises shall be subject to the examination and approval on a one-by-one basis by the SAFE Branch serving the locality where the guarantors are located.

4. Any guarantee provided by onshore institutions for the offering of bonds (including commercial papers) by offshore institutions shall be subject to the examination and approval by the SAFE Branch serving the locality where the guarantor is located.

5. Any application of securities company funds management companies for a change to the Securities Business Foreign Exchange Operation License involving no adjustment to the business scope shall be subject to the examination and approval by the SAFE Branch serving the locality where the companies are located.

6. Any termination of foreign exchange business by securities company funds management companies shall be subject to the examination and approval by the SAFE Branch serving the locality where the companies are located.

7. Any China open-end fund set up by qualified foreign institutional investors shall be subject to the examination and approval by the SAFE Branch serving the locality where the trustees are located if the fund has a monthly net purchase or redemption amount exceeding US\$ 50 million or equivalence thereof.

8. Any application of enterprise group financial companies for suspending the immediate foreign exchange settlement and sale businesses shall be subject to the examination and approval by the SAFE Branch serving the locality where the companies are located.

9. Any purchase and payment of foreign exchange for transfer of immigrant property shall be subject to the examination and approval by the SAFE Branch serving the locality where the immigrant's original registered residence is located; if the total amount to be transferred abroad exceeds US\$ 500,000 or equivalence thereof, the SAFE Branch shall file its approval letter with the SAFE.

(to be continued)

十、继承财产转移购付汇核准，由被继承人生前户籍所在地分局负责审批。其中，对外转移总金额在等值人民币 50 万元以上的，所在地分局应将批准复函报总局备案。

所在地分局可根据辖区内具体情况，按照有关内控制度的要求，对辖内中心支局（支局）进行相应授权。

以上审批权限调整后，总局要按照“权责明确配置科学、风险可控便利主体”的原则，制定完善操作程序和政策标准，加强对分局的指导，强化对分局的监督。各分局要建立相应的内控管理制度，加强人员培训，加大对有关审批事项的事后监督和检查力度，并按照相关规定履行报备手续。在办理具体审批事项时，需严格执行有关规章和资本项目外汇业务操作规程的规定。在遇到重大情况和政策问题时，须及时向总局请示报告。各分局应进一步加强统计监测，严格按照有关规定及时、准确地向总局报送有关数据。

本通知自 2009 年 6 月 1 日起执行。

10. Any purchase and payment of foreign exchange for transfer of inherited property shall be subject to the examination and approval by the SAFE Branch serving the locality where the ancestor's before-death registered residence is located; if the total amount to be transferred abroad exceeds US\$ 500,000 or equivalence thereof, the SAFE Branch shall file its approval letter with the SAFE.

Based on the specific conditions of the locality where it serves and subject to the requirements of the relevant internal control rules, the SAFE Branch may delegate relevant power to the central sub-branch (sub-branch) of the SAFE in the locality.

After adjustment to the examination and approval power referred to above, the SAFE will formulate and perfect the operative procedures, policies and standards, enhance guidance of the branches and strengthen supervision over the branches pursuant to the principle of "making power and duty specified clearly and allocated scientifically, risk controllable and convenience available to the clientele". Each branch shall work out relevant internal control rules, enhance training of staff, intensify supervision and inspection of relevant matters after examination and approval and complete filing formalities as required. In handling particular matters of examination and approval, each branch shall follow rigidly provisions of the relevant regulations and the operative procedures for foreign exchange business under capital account. If a major event or policy issue is involved, it shall be reported to the SAFE for instruction. All branches shall further intensify statistic monitoring and submit relevant data to the SAFE timely and accurately as required.

This Circular shall take effect as of June 1, 2009.

外商投资合伙企业登记管理规定 (2010年3月1日实施)

第一章 总则

第一条 为了规范外国企业或者个人在中国境内设立合伙企业的行为，便于外国企业或者个人以设立合伙企业的方式在中国境内投资，扩大对外经济合作和技术交流，依据《中华人民共和国合伙企业法》

（以下简称《合伙企业法》）、《外国企业或者个人在中国境内设立合伙企业管理办法》和《中华人民共和国合伙企业登记管理办法》（以下简称《合伙企业登记管理办法》），制定本规定。

第二条 本规定所称外商投资合伙企业是指2个以上外国企业或者个人在中国境内设立的合伙企业，以及外国企业或者个人与中国的自然人、法人和其他组织在中国境内设立的合伙企业。

外商投资合伙企业的设立、变更、注销登记适用本规定。

申请办理外商投资合伙企业登记，申请人应当对申请材料的真实性负责。

第三条 外商投资合伙企业应当遵守《合伙企业法》以及其他有关法律、行政法规、规章的规定，应当符合外商投资的产业政策。

国家鼓励具有先进技术和管理经验的外国企业或者个人在中国境内设立合伙企业，促进现代服务业等产业的发展。

《外商投资产业指导目录》禁止类和标注“限于合资”、“限于合作”、“限于合资、合作”、“中方控股”、“中方相对控股”和有外资比例要求的项目，不得设立外商投资合伙企业。

第四条 外商投资合伙企业经依法登记，领取《外商投资合伙企业营业执照》后，方可从事经营活动。

第五条 国家工商行政管理总局主管全国的外商投资合伙企业登记管理工作。

国家工商行政管理总局授予外商投资企业核准登记权的地方工商行政管理部门（以下称企业登记机关）负责本辖区内的外商投资合伙企业登记管理。

省、自治区、直辖市及计划单列市、副省级市工商行政管理部门负责以投资为主要业务的外商投资合伙企业的登记管理。

第二章 设立登记

第六条 设立外商投资合伙企业，应当具备《合伙企业法》和《外国企业或者个人在中国境内设立合伙企业管理办法》规定的条件。

Regulations on Registration of Foreign Invested Partnership Enterprises (effective as of March 1, 2010)

Chapter I General Rules

Article 1 These Regulations are formulated pursuant to the Partnership Enterprise Law of the People's Republic of China ("Partnership Enterprise Law"), the Administrative Measures on Establishment of Partnership Enterprises by Foreign Enterprises or Individuals in China ("FIP Administrative Measures") and the Administrative Measures on Registration of Partnership Enterprises in the People's Republic of China ("Partnership Enterprise Registration Measures"), in order to regulate the activities of foreign enterprises or individuals in establishing partnership enterprises in China, to facilitate the investment by foreign enterprises or individuals in China by way of establishing partnership enterprises, and to expand the foreign economic cooperation and technical exchanges.

Article 2 A foreign invested partnership enterprise ("FIP") referred to herein means a partnership enterprise established by two or more foreign enterprises or individuals in China, or a partnership enterprise established jointly by a foreign enterprise(s) or individual(s) in China and a Chinese natural person(s), legal person(s) or other entity(ies).

All establishments of FIP or changes of registration or deregistrations of FIP shall be governed by these Regulations.

All applicants shall be liable for the authenticity of the application materials in applying for FIP registration.

Article 3 FIPs shall comply with the Partnership Enterprise Law and other relevant laws, regulations and rules, as well as the foreign investment industry policy

Foreign enterprises or individuals having advanced technologies and management experiences are encouraged by the Chinese government to establish partnership enterprises in China to facilitate the development of modern service and other industries.

No FIP shall be established on any project that falls in the prohibited category, or is marked as "equity joint venture only", "cooperative joint venture only", "equity joint venture and cooperative joint venture only", "controlled by the Chinese party", "relatively controlled by the Chinese party", or subject to required foreign capital percentage under the Foreign Investment Industry Guidance Catalogue.

Article 4 No FIP shall commence business activities until it has been registered according to the law and received its Foreign Invested Partnership Enterprise Business License.

Article 5 The State Administration of Industry and Commerce ("SAIC") shall be in charge of administration of the countrywide FIP registrations.

The local industry and commerce administrative authorities authorized by SAIC to approve FIP registration ("Enterprise Registry") shall be in charge of FIP registrations in the localities where they serve respectively.

Industry and commerce administrative authorities at the levels of province, autonomous region, directly-controlled city and sub-provincial city shall be in charge of registration of FIPs engaging in investment as their principal business.

Chapter II Establishment Registration

Article 6 To establish an FIP, the requirements set forth in the Partnership Enterprise Law and the FIP Administration Measures shall be satisfied.

(to be continued)

国有独资公司、国有企业、上市公司以及公益性的事业单位、社会团体不得成为普通合伙人。

第七条 外商投资合伙企业的登记事项包括：

- (一) 名称；
- (二) 主要经营场所；
- (三) 执行事务合伙人；
- (四) 经营范围；
- (五) 合伙企业类型；
- (六) 合伙人姓名或者名称、国家（地区）及住所、承担责任方式、认缴或者实际缴付的出资数额、缴付期限、出资方式

和评估方式。
合伙协议约定合伙期限的，登记事项还应当包括合伙期限。

执行事务合伙人是外国企业、中国法人或者其他组织的，登记事项还应当包括外国企业、中国法人或者其他组织委派的代表（以下简称委派代表）。

第八条 外商投资合伙企业的名称应当符合国家有关企业名称登记管理的规定。

第九条 外商投资合伙企业主要经营场所只能有一个，并且应当在其企业登记机关登记管辖区域内。

第十条 合伙协议未约定或者全体普通合伙人未决定委托执行事务合伙人的，全体普通合伙人均为执行事务合伙人。

有限合伙人不得成为执行事务合伙人。

第十一条 外商投资合伙企业类型包括外商投资普通合伙企业（含特殊的普通合伙企业）和外商投资有限合伙企业。

第十二条 设立外商投资合伙企业，应当由全体合伙人指定的代表或者共同委托的代理人向企业登记机关申请设立登记。

申请设立外商投资合伙企业，应当向企业登记机关提交下列文件：

- (一) 全体合伙人签署的设立登记申请书；
- (二) 全体合伙人签署的合伙协议；
- (三) 全体合伙人的主体资格证明或者自然人身份证明；
- (四) 主要经营场所证明；
- (五) 全体合伙人指定代表或者共同委托代理人的委托书；
- (六) 全体合伙人对各合伙人认缴或者实际缴付出资的确认书；
- (七) 全体合伙人签署的符合外商投资产业政策的说明；

None of the state-solely-owned companies, the state-owned enterprises, the listed companies and the pro bono none-commercial entities and social groups shall be an ordinary partner.

Article 7 The registrable matters of an FIP shall include:

- (1) name;
- (2) principal business premise,
- (3) executive partner,
- (4) business scope,
- (5) type of partnership, and
- (6) each partner's name, country (region) and domicile, assumption of liability, subscribed or paid-in amount of contribution, time limit of payment, method of capital contribution and method of assessment.

If the term of partnership is agreed in the partnership agreement, the term of partnership shall also be included in the registrable matters.

If the executive partner is a foreign enterprise, Chinese legal person or other organization, the registrable matters shall also include the representative appointed by the foreign enterprise, Chinese legal person or other organization ("Appointed Representative").

Article 8 The name of an FIP shall meet the administrative requirements on registration of enterprise name in China.

Article 9 Each FIP shall have only one principal business premise located in the region where its Enterprise Registry serves.

Article 10 If no executive partner has been agreed on in the partnership agreement or authorized by all the ordinary partners, then each of all the ordinary partners shall be the executive partner.

No limited partner shall be a executive partner.

Article 11 There are two types of FIP, including the foreign invested ordinary partnership enterprises (including the special ordinary partnership enterprises) and the foreign invested limited partnership enterprises.

Article 12 To establish an FIP, all the ordinary partners shall designate a representative, or jointly authorize an agent, to apply to the Enterprise Registry for its establishment registration.

In applying for establishment of an FIP, the following documents shall be submitted to the Enterprise Registry:

- (1) an application for establishment registration signed by all the partners;
- (2) a partnership agreement signed by all the partners;
- (3) a qualification certificate or natural person identification certificate of each partner,
- (4) a principal business premise certificate;
- (5) a power of attorney signed by all the partners to designate a representative or jointly authorize an agent;
- (6) a confirmation letter signed by all the partners to confirm each partner's subscribed or paid-in capital contribution;
- (7) a foreign investment industry policy compliance statement signed by all the partners;

(to be continued)

(八) 与外国合伙人有业务往来的金融机构出具的资信证明;

(九) 外国合伙人与境内法律文件送达接受人签署的《法律文件送达授权委托书》;

(十) 本规定规定的其他相关文件。

法律、行政法规或者国务院规定设立外商投资合伙企业须经批准的,还应当提交有关批准文件。

外国合伙人的主体资格证明或者自然人身份证明和境外住所证明应当经其所在国家主管机构公证认证并经我国驻该国使

(领)馆认证。香港特别行政区、澳门特别行政区和台湾地区合伙人的主体资格证明或者自然人身份证明和境外住所证明应当依照现行相关规定办理。

《法律文件送达授权委托书》应当明确授权境内被授权人代为接受法律文件送达,并载明被授权人姓名或者名称、地址及联系方式。被授权人可以是外国合伙人在中国境内设立的企业、拟设立的外商投资合伙企业(被授权人为拟设立的外商投资合伙企业的,外商投资合伙企业设立后委托生效)或者境内其他有关单位或者个人。

第十三条 外商投资合伙企业的经营范围中有属于法律、行政法规或者国务院规定在登记前须经批准的行业的,应当向企业登记机关提交批准文件。

第十四条 外国合伙人用其从中国境内依法获得的人民币出资的,应当提交外汇管理部门出具的境内人民币利润或者其他人民币合法收益再投资的资本项目外汇业务核准件等相关证明文件。

第十五条 以实物、知识产权、土地使用权或者其他财产权利出资,由全体合伙人协商作价的,应当向企业登记机关提交全体合伙人签署的协商作价确认书;由全体合伙人委托法定评估机构评估作价的,应当向企业登记机关提交中国境内法定评估机构出具的评估作价证明。

外国普通合伙人以劳务出资的,应当向企业登记机关提交外国人就业许可文件,具体程序依照国家有关规定执行。

第十六条 法律、行政法规规定设立特殊的普通合伙企业,需要提交合伙人的职业资格证明的,应当依照相关法律、行政法规规定,向企业登记机关提交有关证明。

第十七条 外商投资合伙企业营业执照的签发日期,为外商投资合伙企业成立日期。

(8) a credibility certificate issued by financial institutions with which foreign partner(s) have business transactions;

(9) a power of attorney for service of process signed by the foreign partner and the domestic agent for acceptance of service; and

(10) other relevant documents provided hereunder.

Relevant approval documents shall also be submitted if an establishment of FIP is subject to approval under relevant laws, regulations or the State Council's requirements.

The qualification certificate or natural person identification certificate and the offshore domicile certificate of a foreign partner shall be notarized and authenticated by the competent authorities of its domicile country and authenticated by the embassy (consulate) of China accredited in such country. The qualification certificate or natural person identification certificate and the offshore domicile certificate of a partner from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan region shall be handled as per the relevant provisions in effect currently.

A power of attorney for service of process shall authorize expressly the authorized agent to accept the service of process and shall specify the name, address and contact details of the authorized agent. The authorized agent may be an enterprise already set up or an FIP to be established by the foreign partner in China (in the latter case, the authorization shall be of no effect until the FIP is established), or any other relevant entity or individual in China.

Article 13 Relevant approval documents shall be submitted to the Enterprise Registry if the business scope of an FIP covers any industry that is subject to approval prior to registration as required under relevant laws, regulations or the State Council's requirements.

Article 14 In case that a foreign partner makes capital contribution using its lawful income received in China, it shall submit relevant certifying documents issued by the foreign exchange administrative authority, including but not limited to the approval of foreign exchange business under the capital account for reinvestment using the onshore Renminbi profits or other lawful Renminbi proceeds.

Article 15 In case of a capital contribution in kind or using intellectual property, land use right or other proprietary right, a confirmation letter for negotiated price signed by all the partners shall be submitted to the Enterprise Registry if the price is fixed by all the partners through negotiation, or a certificate for appraised price issued by a legal appraiser qualified in China shall be submitted to the Enterprise Registry if the price is fixed by such legal appraiser as entrusted by all the partners.

In case that a foreign ordinary partner makes capital contribution by providing labor service, the relevant alien employment permit shall be submitted to the Enterprise Registry, subject to the relevant national rules on specific procedures.

Article 16 In case that the professional qualification certificate of a partner is required under relevant laws and regulations for establishing a special ordinary partnership enterprise, the relevant certificate shall be submitted to the Enterprise Registry pursuant to the relevant laws and regulations.

Article 17 An FIP's business license issuing date shall be the establishment date of the FIP.

(to be continued)

第三章 变更登记

第十八条 外商投资合伙企业登记事项发生变更的，该合伙企业应当自作出变更决定或者发生变更事由之日起15日内，向原企业登记机关申请变更登记。

第十九条 外商投资合伙企业申请变更登记，应当向原企业登记机关提交下列文件：

（一）执行事务合伙人或者委派代表签署的变更登记申请书；

（二）全体普通合伙人签署的变更决定书或者合伙协议约定的人员签署的变更决定书；

（三）本规定规定的其他相关文件。

法律、行政法规或者国务院规定变更事项须经批准的，还应当提交有关批准文件。变更执行事务合伙人、合伙企业类型、合伙人姓名或者名称、承担责任方式、认缴或者实际缴付的出资数额、缴付期限、出资方式 and 评估方式等登记事项的，有关申请文书的签名应当经过中国法定公证机构的公证。

第二十条 外商投资合伙企业变更主要经营场所的，应当申请变更登记，并提交新的主要经营场所使用证明。

外商投资合伙企业变更主要经营场所原企业登记机关辖区外的，应当向迁入地企业登记机关申请办理变更登记；迁入地企业登记机关受理的，由原企业登记机关将企业登记档案移送迁入地企业登记机关。

第二十一条 外商投资合伙企业执行事务合伙人变更的，应当提交全体合伙人签署的修改后的合伙协议。

新任执行事务合伙人是外国企业、中国法人或者其他组织的，还应当提交其委派代表的委托书和自然人身份证明。

执行事务合伙人委派代表变更的，应当提交继任代表的委托书和自然人身份证明。

第二十二条 外商投资合伙企业变更经营范围的，应当提交符合外商投资产业政策的说明。

变更后的经营范围有属于法律、行政法规或者国务院规定在登记前须经批准的行业的，合伙企业应当自有关部门批准之日起30日内，向原企业登记机关申请变更登记。

外商投资合伙企业的经营范围中属于法律、行政法规或者国务院规定须经批准的项目被吊销、撤销许可证或者其他批准文件，或者许可证、其他批准文件有效期届满的，合伙企业应当自吊销、撤销许可证、其他批准文件或者许可证、其他批准文件有效期届满之日起30日内，向原企业登记机关申请变更登记或者注销登记。

Chapter III Change of Registration

Article 18 If there is a change to the registered matters of an FIP, the FIP shall apply to the original Enterprise Registry for change of registration within 15 days after the decision of change is made or the cause of change occurs.

Article 19 In applying for change of registration, an FIP shall submit the following documents to the original Enterprise Registry:

(1) an application for change of registration signed by the executive partner or its authorized representative;

(2) a decision of change signed by all the ordinary partners, or by persons agreed in the partnership agreement; and

(3) other relevant documents provided hereunder.

Relevant approval documents shall also be submitted if a change to any matter is subject to approval under relevant laws, regulations or the State Council's requirements.

If there is a change to the registered matters, including executive partner, type of FIP, name of partner, assumption of liability, amount of the subscribed or paid-in capital contribution, time limit on payment, method of capital contribution, method of appraisal or otherwise, the signatures on the relevant application documentation shall be notarized by a statutory public notary in China.

Article 20 If an FIP changes its principal business premise, it shall apply for change of registration and submit the new principal business premise use certification.

If the FIP relocates its principal business premise outside the region where the original Enterprise Registry serves, it shall apply to the Enterprise Registry serving its relocated region for change of registration; if the Enterprise Registry serving its relocated region accepts the application, the original Enterprise Registry shall hand over the enterprise registration files to the Enterprise Registry serving the FIP-relocated region.

Article 21 If an FIP changes its executive partner, it shall submit the amended partnership agreement signed by all the partners.

If the new executive partner is a foreign enterprise, Chinese legal person or other organization, the power of attorney and the natural person identification certificate for its authorized representative shall also be submitted.

If there is a change to the authorized representative of the executive partner, the power of attorney and the natural person identification certificate for the succeeding representative shall be submitted.

Article 22 If an FIP changes its business scope, it shall submit a foreign investment industry policy compliance statement.

If the changed business scope covers any industry that is subject to approval prior to registration as required under relevant laws, regulations or the State Council's requirements, the FIP shall apply to the original Enterprise Registry for change of registration within 30 days after the approval by the relevant authority.

If any business in the FIP's business scope that is subject to approval prior to registration as required under relevant laws, regulations or the State Council's requirements is revoked or deprived of license or other approval document, or the license or approval document expires, the FIP shall apply to the original Enterprise Registry for change of registration or deregistration within 30 days after the license or other approval document is revoked, deprived, or expires.

(to be continued)

第二十三条 外商投资合伙企业变更合伙企业类型的，应当按照拟变更企业类型的设立条件，在规定的期限内向企业登记机关申请变更登记，并依法提交有关文件。

第二十四条 外商投资合伙企业合伙人变更姓名（名称）或者住所的，应当提交姓名（名称）或者住所变更的证明文件。

外国合伙人的姓名（名称）、国家（地区）或者境外住所变更证明文件应当经其所在国家主管机构公证认证并经我国驻该国使（领）馆认证。香港特别行政区、澳门特别行政区和台湾地区合伙人的姓名（名称）、地区或者境外住所变更证明文件应当依照现行相关规定办理。

第二十五条 合伙人增加或者减少对外商投资合伙企业出资的，应当向原企业登记机关提交全体合伙人签署的或者合伙协议约定的人员签署的对该合伙人认缴或者实际缴付出资的确认书。

第二十六条 新合伙人入伙的，外商投资合伙企业应当向原登记机关申请变更登记，提交的文件参照本规定第二章的有关规定。

新合伙人通过受让原合伙人在外商投资合伙企业中的部分或者全部财产份额入伙的，应当提交财产份额转让协议。

第二十七条 外商投资合伙企业的外国合伙人全部退伙，该合伙企业继续存续的，应当依照《合伙企业登记管理办法》规定的程序申请变更登记。

第二十八条 合伙协议修改未涉及登记事项的，外商投资合伙企业应当将修改后的合伙协议或者修改合伙协议的决议送原企业登记机关备案。

第二十九条 外国合伙人变更境内法律文件送达接受人的，应当重新签署《法律文件送达授权委托书》，并向原企业登记机关备案。

第三十条 外商投资合伙企业变更登记事项涉及营业执照变更的，企业登记机关应当换发营业执照。

第四章 注销登记

第三十一条 外商投资合伙企业解散，应当依照《合伙企业法》的规定由清算人进行清算。清算人应当自被确定之日起 10 日内，将清算人成员名单向企业登记机关备案。

第三十二条 外商投资合伙企业解散的，清算人应当自清算结束之日起 15 日内，向原企业登记机关办理注销登记。

第三十三条 外商投资合伙企业办理注销登记，应当提交下列文件：

- (一) 清算人签署的注销登记申请书；

Article 23 If an FIP changes the type of partnership, it shall apply to the Enterprise Registry for change of registration within the time as required as per the establishment requirements applicable to the type of the enterprise which it is to be changed to.

Article 24 If a partner of an FIP changes its name or domicile, it shall submit the document certifying the change of its name or domicile.

The documents certifying the change of a foreign partner's name, country (region) or offshore domicile shall be notarized and authenticated by the competent authorities of the country where it is located and authenticated by the embassy (consulate) of China in that country. The documents certifying change of the name, country (region) or offshore domicile of a partner from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan region shall be handled pursuant to the relevant regulations in effect currently.

Article 25 If a partner increases or decreases its capital contribution to the FIP, it shall submit to the original Registration Registry a letter signed by all the partners or the persons agreed in the partnership agreement confirming such partner's subscribed or paid-in capital contribution.

Article 26 If a new partner joins the partnership, the FIP shall apply to the original Registration Registry for change of registration and submit relevant documents as referred to in Chapter II hereof.

If the new partner joins the partnership by purchase part or all of the equity shares of an original partner in the FIP, an equity share transfer agreement shall be submitted.

Article 27 If all of the foreign partners of an FIP withdraw from the partnership and the partnership enterprise continues to exist, it shall apply for change of registration pursuant to the procedures set forth under the Partnership Enterprise Registration Measures.

Article 28 If the partnership agreement is amended without involving any registrable matter, the FIP shall file the amended partnership agreement or the resolution on amendment to the partnership agreement with the original Enterprise Registry for recordation.

Article 29 If a foreign partner changes its domestic agent for acceptance of service, it shall sign a new Power of Attorney for Service of Process and have the same filed with the original Enterprise Registry for recordation.

Article 30 If an FIP makes a change to the registrable matters involving changes to the business license, the business license shall be replaced by the Enterprise Registry.

Chapter IV Deregistration

Article 31 If an FIP is dissolved, it shall be liquidated by the liquidation group pursuant to the Partnership Enterprise Law. the liquidation group shall submit a list of the members of the group to the Enterprise Registry for recordation within 10 days after the liquidation group is appointed. .

Article 32 If an FIP is dissolved, the liquidation group shall effectuate the deregistration with the original Enterprise Registry within 15 days after the liquidation is completed.

Article 33 In effectuating deregistration, an FIP shall submit the following documents:

- (1) an application for deregistration signed by the liquidation group;
(to be continued)

(二) 人民法院的破产裁定、外商投资合伙企业依照《合伙企业法》作出的决定、行政机关责令关闭、外商投资合伙企业依法被吊销营业执照或者被撤销的文件;

(三) 全体合伙人签名、盖章的清算报告(清算报告中应当载明已经办理完结税务、海关纳税手续的说明)。

有分支机构的外商投资合伙企业申请注销登记,还应当提交分支机构的注销登记证明。

外商投资合伙企业办理注销登记时,应当缴回营业执照。

第三十四条 经企业登记机关注销登记,外商投资合伙企业终止。

第五章 分支机构登记

第三十五条 外商投资合伙企业设立分支机构,应当向分支机构所在地的企业登记机关申请设立登记。

第三十六条 分支机构的登记事项包括:分支机构的名称、经营场所、经营范围、分支机构负责人的姓名及住所。

分支机构的经营范围不得超出外商投资合伙企业的经营范围。

外商投资合伙企业有合伙期限的,分支机构的登记事项还应当包括经营期限。分支机构的经营期限不得超过外商投资合伙企业的合伙期限。

第三十七条 外商投资合伙企业设立分支机构,应当向分支机构所在地的企业登记机关提交下列文件:

- (一) 分支机构设立登记申请书;
- (二) 全体合伙人签署的设立分支机构的决定书;
- (三) 加盖合伙企业印章的合伙企业营业执照复印件;
- (四) 全体合伙人委派执行分支机构事务负责人的委托书及其身份证明;
- (五) 经营场所证明;
- (六) 本规定规定的其他相关文件。

第三十八条 分支机构的经营范围中有属于法律、行政法规或者国务院规定在登记前须经批准的行业的,应当向分支机构所在地的企业登记机关提交批准文件。

第三十九条 外商投资合伙企业申请分支机构变更登记或者注销登记,比照本规定关于外商投资合伙企业变更登记、注销登记的规定办理。

第四十条 外商投资合伙企业应当自分支机构设立登记之日起 30 日内,持加盖印章的分支机构营业执照复印件,到原企业登记机关办理备案。

(2) a ruling of court on bankruptcy, a decision made by the FIP pursuant to the Partnership Enterprise Law, and/or a document of administrative authority ordering a close-up or by which the FIP is revoked or deprived of business license;

(3) a liquidation report signed and sealed by all the partners (which shall specify that formalities for tax and custom duty have been completed).

In case of an application for deregistration by an FIP with branch office(s), the certificate(s) for deregistration of the branch office(s) shall also be submitted.

Its business license shall be handed in by an FIP in effectuating the deregistration.

Article 34 An FIP shall terminate upon completion of deregistration by the Enterprise Registry.

Chapter V Registration of Branch Offices

Article 35 If an FIP establishes a branch office, it shall apply for establishment registration with the Enterprise Registry serving the region where the branch office is to be located.

Article 36 The registrable matters of a branch office shall include name, business premise, business scope, and name and address of chief officer of the branch office.

The business scope of a branch office shall not exceed that of the FIP.

If an FIP has a term of partnership, the registrable matters of the branch office shall also include the term of business. The term of business of a branch office shall not exceed the term of partnership of the FIP.

Article 37 To establish a branch office, an FIP shall submit the following documents to the Enterprise Registry serving the region where the branch office is to be located:

- (1) an application for establishment registration of the branch office;
- (2) a decision signed by all the partners to establish the branch office;
- (3) a photocopy of the business license of the partnership enterprise on which the seal of the partnership enterprise is affixed;
- (4) a power of attorney by which all the partners authorize a person to be in charge of the branch office affairs and the identification certificate of such person;
- (5) a certificate of the business premise; and
- (6) other relevant documents required herein.

Article 38 Relevant approval documents shall be submitted to the Enterprise Registry serving the region where a branch office is located if the business scope of the branch office covers any industry that is subject to approval prior to registration as required under relevant laws, regulations or the State Council's requirements.

Article 39 Applications of FIPs for change of registration or deregistration of branch office shall be governed by the provisions herein on change of registration or deregistration of an FIP accordingly.

Article 40 An FIP shall file with the original Enterprise Registry for recordation by presenting a photocopy of its branch office business license affixed with its seal within 30 days after the establishment registration of its branch office.

(to be continued)

分支机构登记事项变更的，隶属企业应当自变更登记之日起 30 日内到原企业登记机关办理备案。

申请分支机构注销登记的，外商投资合伙企业应当自分支机构注销登记之日起 30 日内到原企业登记机关办理备案。

第四十一条 分支机构营业执照的签发日期，为外商投资合伙企业分支机构的成立日期。

第六章 登记程序

第四十二条 申请人提交的登记申请材料齐全、符合法定形式，企业登记机关能够当场登记的，应予当场登记，发给（换发）营业执照。

除前款规定情形外，企业登记机关应当自受理申请之日起 20 日内，作出是否登记的决定。予以登记的，发给（换发）营业执照；不予登记的，应当给予书面答复，并说明理由。

对于《外商投资产业指导目录》中没有法定前置审批的限制类项目或者涉及有关部门职责的其他项目，企业登记机关应当自受理申请之日起 5 日内书面征求有关部门的意见。企业登记机关应当在接到有关部门书面意见之日起 5 日内，作出是否登记的决定。予以登记的，发给（换发）营业执照；不予登记的，应当给予书面答复，并说明理由。

第四十三条 外商投资合伙企业涉及须经政府核准的投资项目的，依照国家有关规定办理投资项目核准手续。

第四十四条 外商投资合伙企业设立、变更、注销的，企业登记机关应当同时将企业设立、变更或者注销登记信息向同级商务主管部门通报。

第四十五条 企业登记机关应当将登记的外商投资合伙企业登记事项记载于外商投资合伙企业登记簿上，供社会公众查阅、复制。

第四十六条 企业登记机关吊销外商投资合伙企业营业执照的，应当发布公告。

第七章 年度检验和证照管理

第四十七条 外商投资合伙企业及其分支机构应当按照企业登记机关的要求，在每年 3 月 1 日至 6 月 30 日，提交年度检验报告书等文件，接受年度检验。

年检结束后，登记机关应当将外商投资合伙企业年检信息向同级商务主管部门通报。

In case of a change to registrable matters of branch office, the branch office shall file with the original Enterprise Registry for recordation within 30 days after the change of registration.

In case of an application for deregistration of branch office, an FIP shall file with the original Enterprise Registry for recordation within 30 days after the deregistration of the branch office.

Article 41 The establishment date of an FIP branch office shall be the date when the business license of the branch office is issued.

Chapter VI Registration Procedures

Article 42 If the application materials for registration submitted by an applicant are complete and in the formed as required by law, the registration shall be effectuated and the business license shall be issued (replaced) on the spot unless the Enterprise Registry is unable to effectuate the registration on the spot.

Except as set forth in the preceding paragraph, an Enterprise Registry shall make decision either to effectuate or decline registration within 20 days after its acceptance of an application, and shall issue (replace) the business license if registration is effectuated, or give a written reply with relevant reasons if registration is declined.

With respect to the restricted projects in the Foreign Investment Industry Guidance Catalogue, that are not subject to the prior examination and approval required under law, and other projects involving duties and responsibilities of relevant authorities, an Enterprise Registry shall solicit in writing the opinions of such relevant authorities within 5 days after its acceptance of an application and shall make decision either to effectuate or decline registration within 5 days after its receipt of the written opinions from the relevant authorities. The Enterprise Registry shall issue (replace) the business license if registration is effectuated, or give a written reply with relevant reasons if registration is declined.

Article 43 If an FIP is involved in an investment project subject to approval by the government, the approval procedures for the investment project shall be effectuated according to the relevant regulations of China.

Article 44 In case of an establishment, change to registration or deregistration of an FIP, Enterprise Registries shall at the same time inform the same-level commercial competent authority of the information regarding the establishment, change to registration or deregistration of such enterprise.

Article 45 Enterprise Registries shall record the registered registrable matters of FIPs on the register of FIPs and make same available to the public for review and reproduction.

Article 46 Enterprise Registries shall make a public announcement if business license of any FIP is revoked.

Chapter VII Annual Inspection and Certificate & License Control

Article 47 FIPs and their branch offices shall submit annual inspection report and other documents and accept annual inspection during March 1 to June 30 every year as required by relevant Enterprise Registry.

After completion of the annual inspection, the Enterprise Registry shall inform the same-level commercial competent authority of the information regarding the annual inspection of FIPs.

(to be continued)

第四十八条 营业执照分为正本和副本，正本和副本具有同等法律效力。

外商投资合伙企业及其分支机构根据业务需要，可以向企业登记机关申请核发若干营业执照副本。

营业执照正本应当置放在经营场所的醒目位置。

第四十九条 任何单位和个人不得涂改、出售、出租、出借或者以其他方式转让营业执照。

营业执照遗失或者毁损的，应当在企业登记机关指定的报刊上声明作废，并向企业登记机关申请补领或者更换。

第五十条 外商投资合伙企业及其分支机构的登记文书格式和营业执照的正本、副本样式，由国家工商行政管理总局制定。

第八章 法律责任

第五十一条 未领取营业执照，而以外商投资合伙企业名义从事合伙业务的，由企业登记机关依照《合伙企业登记管理办法》第三十六条规定处罚。

从事《外商投资产业指导目录》禁止类项目的，或者未经登记从事限制类项目的，由企业登记机关和其他主管机关依照《无照经营查处取缔办法》规定处罚。法律、行政法规或者国务院另有规定的，从其规定。

第五十二条 提交虚假文件或者采取其他欺骗手段，取得外商投资合伙企业登记的，由企业登记机关依照《合伙企业登记管理办法》第三十七条规定处罚。

第五十三条 外商投资合伙企业登记事项发生变更，未依照本规定规定办理变更登记的，由企业登记机关依照《合伙企业登记管理办法》第三十八条规定处罚。

第五十四条 外商投资合伙企业在使用名称中未按照企业登记机关核准的名称标明“普通合伙”、“特殊普通合伙”或者“有限合伙”字样的，由企业登记机关依照《合伙企业登记管理办法》第三十九条规定处罚。

第五十五条 外商投资合伙企业未依照本规定办理不涉及登记事项的协议修改、分支机构及清算人成员名单备案的，由企业登记机关依照《合伙企业登记管理办法》第四十条规定处罚。

外商投资合伙企业未依照本规定办理外国合伙人《法律文件送达授权委托书》备案的，由企业登记机关责令改正；逾期未办理的，处 2000 元以下的罚款。

Article 48 Business license consists of an origin and a duplication with the same legal effect.

FIPs and their branch offices may apply to relevant Enterprise Registry for additional duplications of business license as required for their business.

The origin of business license shall be put at a remarkable place of business premise.

Article 49 No entity or individual may alter, sell, lease, rent or otherwise assign business license.

In case of a loss or damage of business license, an FIP shall have it invalidated by making a statement on newspaper designated by relevant Enterprise Registry and apply to the Enterprise Registry for a reissue or replacement thereof.

Article 50 The State Administration of Industry and Commerce shall work out the registration documentation form and the sample origin and duplication of business license for FIPs and their branch offices.

Chapter VIII Legal Liabilities

Article 51 Any engagement in partnership business in the name of FIP without having received business license shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 36 of the Partnership Enterprise Registration Measures.

Any engagement in a prohibited project under the Foreign Investment Industry Guidance Catalogue, or any engagement in a restricted project without being registered, shall be subject to penalties to be imposed by relevant Enterprise Registry and other competent authorities pursuant to the Measures for Investigation, Penalization and Suppression of Non-licensed Business Operation, unless otherwise required bylaws, regulations or the State Council in this regard.

Article 52 Any submission of false documents or adoption of other deceiving means in achieving registration of an FIP shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 37 of the Partnership Enterprise Registration Measures.

Article 53 Any failure to effectuate the change of registration as required hereunder when any change occurs to the registrable matters of an FIP shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 38 of the Partnership Enterprise Registration Measures.

Article 54 Any failure by an FIP to use its name marked with wording of “ordinary partnership”, “special ordinary partnership” or “limited partnership” as approved by the Enterprise Registry shall subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 39 of the Partnership Enterprise Registration Measures.

Article 55 Any failure by an FIP to file for recordation of the amendment to agreement involving no registrable matters or the list of members of the branch office or liquidation group as required hereunder shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 40 of the Partnership Enterprise Registration Measures.

Any failure by an FIP to file for recordation of the Power of Attorney for Service of Process issued by foreign partner as required hereunder shall be subject to a correction as ordered by relevant Enterprise Registry and, if such correction is overdue, a fine up to RMB 2000.

(to be continued)

第五十六条 外商投资合伙企业的清算人未向企业登记机关报送清算报告,或者报送的清算报告隐瞒重要事实,或者有重大遗漏的,由企业登记机关依照《合伙企业登记管理办法》第四十一条规定处罚。

第五十七条 外商投资合伙企业未依照本规定接受年度检验的,由企业登记机关依照《合伙企业登记管理办法》第四十二条规定处罚。

第五十八条 外商投资合伙企业在年度检验中,隐瞒真实情况,弄虚作假的,由企业登记机关依照《合伙企业登记管理办法》第四十三条规定处罚。

第五十九条 外商投资合伙企业未将其营业执照正本置放在经营场所醒目位置的,由企业登记机关依照《合伙企业登记管理办法》第四十四条规定处罚。

第六十条 外商投资合伙企业涂改、出售、出租、出借或者以其他方式转让营业执照的,由企业登记机关依照《合伙企业登记管理办法》第四十五条规定处罚。

第六十一条 外商投资合伙企业的分支机构有本章规定的违法行为的,适用本章有关规定。

第六十二条 企业登记机关违反产业政策,对于不应当登记的予以登记,或者应当登记的不予登记的,依法追究其直接责任人或者主要负责人的行政责任。

企业登记机关的工作人员滥用职权、徇私舞弊、收受贿赂、侵害外商投资合伙企业合法权益的,依法给予处分。

第九章 附则

第六十三条 中国的自然人、法人和其他组织在中国境内设立的合伙企业,外国企业或者个人入伙的,应当符合本规定,并依法向企业登记机关申请变更登记。

第六十四条 以投资为主要业务的外商投资合伙企业境内投资的,应当依照国家有关外商投资的法律、行政法规、规章办理。

第六十五条 外商投资的投资性公司、外商投资的创业投资企业在中国境内设立合伙企业或者加入中国自然人、法人和其他组织已经设立的合伙企业的,参照本规定。

第六十六条 外商投资合伙企业依照本规定办理相关登记手续后,应当依法办理外汇、税务、海关等手续。

第六十七条 香港特别行政区、澳门特别行政区、台湾地区的企业或者个人在内地设立合伙企业或者加入内地自然人、法人和其他组织已经设立的合伙企业的,参照本规定。

第六十八条 本规定自2010年3月1日起施行。

Article 56 Any failure by the liquidation group of an FIP to submit liquidation report to relevant Enterprise Registry, or any submission of liquidation report concealing material facts or containing material omission, shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 41 of the Partnership Enterprise Registration Measures.

Article 57 Any failure by an FIP to accept annual inspection as required hereunder shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 42 of the Partnership Enterprise Registration Measures.

Article 58 Any concealment of truth or practice of fraud by an FIP in annual inspection shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 43 of the Partnership Enterprise Registration Measures.

Article 59 Any failure by an FIP to put the origin of its business license at a remarkable place of its business premise shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 44 of the Partnership Enterprise Registration Measures.

Article 60 Any alteration, sale, lease, rent or otherwise assignment of business license by an FIP shall be subject to penalties to be imposed by relevant Enterprise Registry pursuant to Article 45 of the Partnership Enterprise Registration Measures.

Article 61 The provisions of this Chapter VIII shall apply if any branch office of FIPs is involved in any illegal activities set forth in this Chapter VIII.

Article 62 If an Enterprise Registry violates relevant industry policy by effectuating registration of what should not be registered, or by declining registration of what should be registered, the direct responsible person or the chief responsible person shall be subject to investigation and imposition of administrative liabilities according to the law.

Staff of Enterprise Registries who is involved in abuse of power, malpractice, acceptance of bribery, infringement of legal interests of FIPs shall be penalized according to the law.

Chapter IX Miscellaneous

Article 63 In case that the Chinese natural persons, legal persons and other organizations establish a partnership enterprise in China and thereafter foreign enterprises or individuals join in the partnership, the requirements hereunder shall be satisfied and an application for change of registration shall be submitted to relevant Enterprise Registry according to the law.

Article 64 Any onshore investment by an FIP engaging in investment as primary business shall be handled according to the Chinese laws, regulations and rules on foreign investment.

Article 65 In case that foreign invested investment-oriented companies or foreign invested venture investment enterprises establish a partnership enterprise in China, or join a partnership enterprise established by the Chinese natural persons, legal persons and other organizations, these Regulations shall be followed accordingly.

Article 66 After completion of relevant registration procedures hereunder, FIPs shall go through formalities for foreign exchange, taxation and custom, etc. according to the law.

Article 67 In case that enterprises and individuals from Hong Kong Special Administrative Region, Macao Special Administrative Region, and Taiwan region establish a partnership enterprise in the mainland or join a partnership enterprise established by the mainland natural persons, legal persons and other organizations, these Regulations shall be observed accordingly.

Article 68 These Regulations shall take effect as of March 1, 2010.

外国企业或者个人在中国境内 设立合伙企业管理办法

第一条 为了规范外国企业或者个人在中国境内设立合伙企业的行为，便于外国企业或者个人以设立合伙企业的方式在中国境内投资，扩大对外经济合作和技术交流，根据《中华人民共和国合伙企业法》（以下称《合伙企业法》），制定本办法。

第二条 本办法所称外国企业或者个人在中国境内设立合伙企业，是指 2 个以上外国企业或者个人在中国境内设立合伙企业，以及外国企业或者个人与中国的自然人、法人和其他组织在中国境内设立合伙企业。

第三条 外国企业或者个人在中国境内设立合伙企业，应当遵守《合伙企业法》以及其他有关法律、行政法规、规章的规定，符合有关外商投资的产业政策。

外国企业或者个人在中国境内设立合伙企业，其合法权益受法律保护。

国家鼓励具有先进技术和管理经验的外国企业或者个人在中国境内设立合伙企业，促进现代服务业等产业的发展。

第四条 外国企业或者个人用于出资的货币应当是可自由兑换的外币，也可以是依法获得的人民币。

第五条 外国企业或者个人在中国境内设立合伙企业，应当由全体合伙人指定的代表或者共同委托的代理人向国务院工商行政管理部门授权的地方工商行政管理部门（以下称企业登记机关）申请设立登记。

申请设立登记，应当向企业登记机关提交《中华人民共和国合伙企业登记管理办法》规定的文件以及符合外商投资产业政策的说明。

企业登记机关予以登记的，应当同时将有关登记信息向同级商务主管部门通报。

第六条 外国企业或者个人在中国境内设立的合伙企业（以下称外商投资合伙企业）的登记事项发生变更的，应当依法向企业登记机关申请变更登记。

第七条 外商投资合伙企业解散的，应当依照《合伙企业法》的规定进行清算。清算人应当自清算结束之日起 15 日内，依法向企业登记机关办理注销登记。

第八条 外商投资合伙企业的外国合伙人全部退伙，该合伙企业继续存续的，应当依法向企业登记机关申请变更登记。

Administrative Measures on Establishment of Partnership Enterprise by Foreign Enterprises or Individuals in China

(effective as of March 1, 2010)

Article 1 These Measures are formulated pursuant to the Partnership Enterprise Law of the People's Republic of China ("Partnership Enterprise Law") in order to regulate the activities of foreign enterprises or individuals in establishing partnership enterprises in China, to facilitate the investment by foreign enterprises or individuals in China by way of establishing partnership enterprises, and to expand the foreign economic cooperation and technical exchanges.

Article 2 The establishment of partnership enterprises by foreign enterprises or individuals in China referred to herein means where two or more foreign enterprises or individuals establish a partnership enterprise in China, or a foreign enterprise(s) or individual(s) establishes a partnership enterprise in China jointly with a Chinese natural person(s), legal person(s) or other entity(ies).

Article 3 To establish a partnership enterprise in China, foreign enterprises or individuals shall comply with the Partnership Enterprise Law and other relevant laws, regulations and rules, as well as the relevant foreign investment industry policy.

Foreign enterprises or individuals who establish a partnership enterprise in China shall be protected by the law with respect to their lawful rights and interests.

Foreign enterprises or individuals who have advanced technologies and management experiences are encouraged by the Chinese government to establish partnership enterprises in China to facilitate the development of modern service and other industries.

Article 4 Foreign enterprises or individuals shall use a free convertible foreign currency or legally procured Renminbi as the currency in capital contribution.

Article 5 Foreign enterprises or individuals who establish a partnership enterprise in China shall apply, via a representative designated or agent authorized jointly by all the partners, to the local industry and commerce administrative authority authorized by the industry and commerce administrative authority under the State Council ("Enterprise Registry") for the establishment registration.

In application for the establishment registration, the required submissions to the Enterprise Registry shall include the documents set forth in the Administrative Measures for Registration of Partnership Enterprise in the People's Republic of China and the foreign investment industry policy compliance statement.

If the Enterprise Registry effects the registration, it shall at the same time notify the same-level competent commerce authority of the relevant registration information.

Article 6 If there is a change to the registered matters of a partnership enterprise established by foreign enterprises or individuals in China ("FIP"), an application for change of registration shall be submitted to the Enterprise Registry according to the law.

Article 7 A dissolution of FIP shall be subject to a liquidation as required under the Partnership Enterprise Law. The liquidator shall effect the deregistration with the Enterprise Registry according to the law within 15 days after the liquidation is completed.

Article 8 In case of a change of registration or deregistration of an FIP, the Enterprise Registry shall at the same time notify the same-level competent commerce authority of the information as to the change of registration or deregistration.

(to be continued)

第九条 外商投资合伙企业变更登记或者注销登记的,企业登记机关应当同时将有关变更登记或者注销登记的信息向同级商务主管部门通报。

第十条 外商投资合伙企业的登记管理事宜,本办法未作规定的,依照《中华人民共和国合伙企业登记管理办法》和国家有关规定执行。

第十一条 外国企业或者个人在中国境内设立合伙企业涉及的财务会计、税务、外汇以及海关、人员出入境等事宜,依照有关法律、行政法规和国家有关规定办理。

第十二条 中国的自然人、法人和其他组织在中国境内设立的合伙企业,外国企业或者个人入伙的,应当符合本办法的有关规定,并依法向企业登记机关申请变更登记。

第十三条 外国企业或者个人在中国境内设立合伙企业涉及须经政府核准的投资项目的,依照国家有关规定办理投资项目核准手续。

第十四条 国家对外国企业或者个人在中国境内设立以投资为主要业务的合伙企业另有规定的,依照其规定。

第十五条 香港特别行政区、澳门特别行政区和台湾地区的企业或者个人在内地设立合伙企业,参照本办法的规定执行。

第十六条 本办法自2010年3月1日起施行。

Article 9 In case of a change of registration or deregistration of an FIP, the Enterprise Registry shall at the same time notify the same-level competent commerce authority of the information as to the change of registration or deregistration.

Article 10 Any matters uncovered herein in relation to administration of the FIP registration shall be subject to the Measures of the People's Republic of China on Administration of the Partnership Enterprise Registration and other relevant provisions issued by the Chinese government.

Article 11 All matters involved in the establishment of partnership enterprises by foreign enterprises or individuals in China, e.g., finance, accounting, tax, foreign exchange, custom and staff's border entry and exit, shall be handled according to the relevant laws, regulations and relevant provisions issued by the Chinese government.

Article 12 Relevant provisions herein shall be satisfied and a relevant application for change of registration shall be submitted to the Enterprise Registry according to the law if a foreign enterprise or individual joins a partnership enterprise established in China by the Chinese natural persons, legal persons or other entities.

Article 13 If an establishment of partnership enterprise by foreign enterprises or individuals in China involves an investment project subject to the government approval, formalities for approving the investment project shall be effectuated according to the relevant provisions issued by the Chinese government.

Article 14 If there are provisions issued otherwise by the Chinese government on the partnership enterprises established by foreign enterprises or individuals in China to engage in investment as the primary business, such provisions shall prevail.

Article 15 These Measures shall be observed accordingly in establishment of partnership enterprises by enterprises or individuals from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region.

Article 16 These Measures shall take effect as of March 1, 2010.