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# China Tax Center China Tax & Investment Express

*China Tax & Investment Express (CTIE)\** brings you the latest tax and business announcements on a weekly basis. We selected some comparatively key announcements to provide for a synopsis and we also provide a link that leads you to the full content of each latest announcement (in Chinese). Please feel free to contact your EY client service professionals for further assistance if you find the announcements have an impact on your business operations.

CTIE does not replace our *China Tax & Investment News\** which will continue to be prepared and distributed to provide more in-depth analyses of topical tax and business developments in China.

\*If you wish to access the previous issues of CTIE and *China Tax & Investment News*, please contact us.

## Business circulars

- **Decisions on the amendment and abolishment of certain administrative regulations (State Council Order [2022] No. 752)**

### Synopsis

To further deepen the reform of “Delegate Power, Streamline Administration and Optimize Government Services” and stimulate the vitality of market entities, the State Council released State Council Order [2022] No. 752 (hereinafter referred to as the “Order 752”) on 29 March 2022 to announce the decisions on the amendment and abolishment of certain administrative regulations.



According Order 752, 14 administrative regulations are revised and 6 administrative regulations are abolished. It is worth-noting that certain stipulations of the Regulations on Administration of Foreign-invested Telecommunications Enterprises (FITEs) (hereinafter referred to as the “Regulations”) are revised, among which, some key changes are highlighted as follows:

	Prevailing provisions	Revised provisions	Highlights
Definition of “FITE”	FITEs refer to enterprises engaging in telecommunications business which are established according to law with joint investment and in the form of “Sino-foreign joint venture” by foreign and Chinese investors within the territory of the People’s Republic of China (PRC).	FITEs refer to enterprises engaging in telecommunications business established according to law by <u>foreign investors</u> within the territory of the PRC.	The revision means that “Sino-foreign joint venture” is no longer the only form of FITEs that can be invested by foreign investors from 1 May 2022.
Ratio of foreign investment	<p>The ratio of foreign investment in a FITE providing basic telecommunications services (excluding radio paging) shall ultimately not exceed 49%.</p> <p>The ratio of foreign investment in a FITE providing value-added telecommunications services (including radio paging in basic telecommunications services) shall ultimately not exceed 50%.</p>	<p>The ratio of foreign investment in a FITE providing basic telecommunications services (excluding radio paging) shall ultimately not exceed 49%, <u>except as otherwise prescribed by law.</u></p> <p>The ratio of foreign investment in a FITE providing value-added telecommunications services (including radio paging in basic telecommunications services) shall ultimately not exceed 50%, <u>except as otherwise prescribed by law.</u></p>	The amendments no longer strictly limit the ratio of foreign investment in basic and value-added telecommunications services, unless otherwise stipulated by law, that means the above investment ratio may be exceeded.
Conditions of foreign investors	The major foreign investor shall have a good performance record and experience in providing basic and value-added telecommunications services.		The condition is removed.
Application materials and procedures	The major Chinese investor shall submit the “Examination Opinions on the Foreign Investment in Telecommunications Services Provision” and “Approval Certificate for Foreign-invested Enterprise” to the competent department of the State Council or the competent department of the province, autonomous region or municipality directly under the Central Government.	<p>The application materials and relevant application procedures for FITEs providing telecommunications services are simplified:</p> <p>FITEs shall complete the registration of market entities according to law and make an application to the competent information industry department of the State Council for telecommunications business operation license with required documents.</p>	According to the principle of “national treatment”, the “Examination Opinions on the Foreign Investment in Telecommunications Services Provision” and “Approval Certificate for Foreign-invested Enterprise” are no longer required for FITEs applying for conducting telecommunications business.

The amended Regulations shall become effective on 1 May 2022. Relevant foreign investors are advised to read the Regulations for details and consider leveraging the changes into their investment plan.

You can click this link to access the full content of Order 752:

[http://www.gov.cn/zhengce/content/2022-04/07/content\\_5683886.htm](http://www.gov.cn/zhengce/content/2022-04/07/content_5683886.htm)

You can click this link to access the full content of the Regulations:

[http://www.gov.cn/gongbao/content/2016/content\\_5139480.htm](http://www.gov.cn/gongbao/content/2016/content_5139480.htm)

► **Notice issued by the State Administration of Foreign Exchange (SAFE) Beijing Branch regarding the “Implementation Rules of Beijing on the Policies for Deepening the Pilot Reform of Capital Accounts Facilitation” (Jinghui [2022] No. 12)**

**Synopsis**

To further facilitate the cross-border investment and financing of Beijing, promote the open-up of the finance industry in Beijing and support the construction of China (Beijing) Free Trade Pilot Zone (“the Beijing FTPZ”), the SAFE Beijing Branch released the “Implementation Rules of Beijing on the Policies for Deepening the Pilot Reform of Capital Accounts Facilitation” (hereinafter referred to as the “Beijing Implementation Rules”) via Jinghui [2022] No. 12 on 4 April 2022.

Key features of the Beijing Implementation Rules include:

- Improve the prevailing Qualified Foreign Limited Partner (QFLP) scheme and implement a “balance management”. In this respect, the managing enterprise may adjust the scale of multiple QFLP funds within the total amount of QFLP scale filed with the supervising authority.
- Foreign employees of Beijing companies listed overseas or in China may directly handle the registration, alteration, de-registration of their stock incentive plans with the commercial banks.
- The scope of pilot cash-pooling service for multinational companies that integrate domestic and foreign capital shall be further expanded (details are prescribed in the attachment of the Beijing Implementation Rules.)
- The scope of pilot one-time foreign debt registration<sup>1</sup> that currently implemented in Haidian Park of Zhongguancun Science and Technology Park shall be expanded to the Beijing FTPZ.
- Enterprises located in Beijing that are not engaging in the finance industry may set up one bank account for foreign debt for the settlement of multiple foreign loans.

It is anticipated that the issuance of the Beijing Implementation Rules shall further promote the cross-border investment and financing of enterprises in Beijing, especially those located in the Beijing FTPZ. It is also worth noting that many local branches of the SAFE, like those in Shanghai, Hainan, have released similar local rules to ease the burden of local enterprises in terms of foreign exchange control, etc. Businesses are encouraged to study local rules and guidelines in this regard. If in doubt, consultations with professionals are always recommended.

<sup>1</sup> Under the pilot one-time foreign debt registration, the debtor may lend foreign debt from creditors within the registered quota instead of applying for foreign debt registration according to each foreign loan agreements.

You can click this link to access the full content of the Beijing Implementation Rules:

<http://www.safe.gov.cn/beijing/2022/0406/1823.html>

- ▶ **Shenzhen Regulatory Bureau of China Securities regulatory commission actively promotes the implementation of the pilot business registration of contractual private equity investment enterprises**

### Synopsis

Currently, in practice, private equity (PE) funds in China are generally established as limited partnerships, limited liability companies, companies limited by shares or contractual funds. However, under the current laws and regulations, a contractual fund is managed by a fund manager and cannot be established as a legal entity, and hence a contractual fund cannot be registered as a shareholder for business registration purpose. Due to these reasons, for the investment of equities in enterprises by contractual funds, normally for business registration purpose, the fund manager would be registered as the shareholder instead of the fund. Under the current practice, IPO applicants would need to eliminate such shareholding structure involving contractual PE funds as it is against the rules of China Securities regulatory commission which require complete clarity in the issuer's equity structure.

According to the official news announced via the official website of Shenzhen regulatory bureau of China Securities regulatory commission (hereinafter referred to as the "Shenzhen regulatory bureau"), the Shenzhen Regulatory Bureau actively promotes the implementation of the pilot business registration of contractual PE investment enterprises (hereinafter referred to as the "Shenzhen Pilot"). Under the Shenzhen pilot, where a fund manager invests in a Shenzhen enterprise via a qualified contractual PE fund, the fund manager shall either be registered as a shareholder of a company or a partner of a partnership enterprise and a remark shall be made indicating that the fund manager is holding the investment in trust of a contractual PE fund. However, the government authorities have not confirmed whether the contractual PE funds registered in the Shenzhen Pilot can be retained in the issuer's equity structure for IPO purpose.

On the other hand, the Shenzhen pilot is not expected to have impacts on the taxation of contractual PE fund products. Unlike partnerships which are considered as "look-through entities" for income tax purposes, and partners are subject to income taxes on their distributive share of the business income/profits earned by the partnership, a contractual PE fund is regarded a form without legal status and therefore is not required to file taxes as a taxing entity. Instead, under most practice, investors behind the contractual PE funds shall file income taxes at their own level when they receive the income distributions.

It is understood that the relevant government authorities are formulating the Measures of the Shenzhen Pilot as well as the guidelines. We will keep an eye on any further developments and advise you accordingly, please stay tuned.

You can click this link to access the full content of the official news:

<http://www.csrc.gov.cn/shenzhen/c101531/c2321604/content.shtml>

### Other tax, business and customs-related circulars publicly announced by central government authorities in the past week:

- ▶ **Public notice (PN) regarding applying the preferential tariff rates under the Regional Comprehensive Economic Partnership Agreement to certain wood and paper products originated from New Zealand (Customs Tariff Commission PN [2022] No. 3)**  
[http://gss.mof.gov.cn/qzdt/zhengcefabu/202204/t20220403\\_3800925.htm](http://gss.mof.gov.cn/qzdt/zhengcefabu/202204/t20220403_3800925.htm)
- ▶ **PN regarding public opinions consultation on the "Decision of the China Banking and Insurance Regulatory Commission on Revising Certain Administrative Licensing Regulations (Discussion Draft)"**  
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1045123>
- ▶ **Opinions on enhancing the collaborative supervision of cross-regional entrusted production of medical devices (Yaojianzongxieguan [2022] No. 21)**  
<https://www.nmpa.gov.cn/xxgk/fgwj/gzwj/gzwjylqx/20220402144923121.html>



- ▶ **Notice regarding public opinions consultation on the “Administrative Measures on State-owned and Listed Companies Selecting and Hiring Accounting Firms (Discussion Draft)” (Caibankuai [2022] No. 10)**  
[http://kjs.mof.gov.cn/gongzuotongzhi/202204/t20220402\\_3800809.htm](http://kjs.mof.gov.cn/gongzuotongzhi/202204/t20220402_3800809.htm)
- ▶ **Notice regarding public opinions consultation on the “Financial Stability Law of the PRC (Discussion Draft)”**  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4525742/index.html>
- ▶ **Notice regarding the implementation plan for the construction of Beibu Gulf urban cluster during the 14th Five-year Plan period (Fagaiguihua [2022] No. 482)**  
[https://www.ndrc.gov.cn/xxgk/zcfb/tz//202204/t20220407\\_1321711.html](https://www.ndrc.gov.cn/xxgk/zcfb/tz//202204/t20220407_1321711.html)
- ▶ **PN regarding the “Revised Administrative Measures of the Customs of the PRC on the Origin of Imported and Exported Goods Under the ‘Free Trade Agreement Between the Government of the PRC and Government of New Zealand’” (GAC PN [2022] No. 32)**  
<http://www.customs.gov.cn/customs/302249/2480148/4274295/index.html>



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