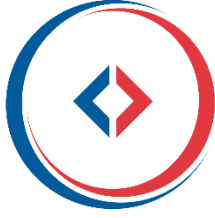


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THE US-CHINA BUSINESS COUNCIL

美 中 贸 易 全 国 委 员 会

Foreign Investment Law of the People's Republic of China

Thirteenth National People's Congress meeting by March 15, 2019

(Note: This document, which serves as a translation of [China's Foreign Investment Law](#) is an unofficial translation by the US-China Business Council, to be used for reference only. The official Chinese-language version is the authoritative version.)

Table of Contents

Chapter I General Provisions	1
Chapter II Investment Promotion.....	3
Chapter III Investment Protection.....	4
Chapter IV Investment Management	5
Chapter V Legal Liability	6
Chapter VI Supplementary Provisions.....	7

Chapter I General Provisions

Article 1: This Law is enacted in accordance with the Constitution in order to further expand opening up, actively promote foreign investment, protect the legitimate rights and interests of foreign investment, regulate foreign investment management, promote the formation of a comprehensive new opening pattern, and promote the healthy development of the socialist market economy.

Article 2: This Law applies to foreign investment in the territory of the People's Republic of China (hereinafter referred to as China).

Foreign investment referred to in this Law refers to the investment activities of foreign natural persons, enterprises or other organizations (hereinafter referred to as foreign investors) directly or indirectly in China, including the following situations:

- (1) Foreign investors set up foreign-invested enterprises in China alone or jointly with other investors;
- (2) Foreign investors obtain stocks, shares, property shares, other forms of equity, or other similar rights and interests of enterprises within the territory of China;
- (3) Foreign investors investing in new projects in China alone or jointly with other investors;
- (4) Investment in laws, administrative regulations or other methods prescribed by the State Council.

Foreign-invested enterprises referred to in this Law are defined as enterprises that are wholly or partly invested in by foreign investors and registered in China in accordance with Chinese law.

Article 3: The State shall adhere to the basic national policy of opening to the outside world and encourages foreign investors to invest in China.

The State shall implement a high-level investment liberalization and facilitation policy, establishes and improves foreign investment promotion mechanisms, and creates a stable, transparent, predictable and fair market environment.

Article 4: The state shall implement a foreign investment management system addressing pre-entry national treatment to include a foreign investment negative list.

Pre-entry national treatment referred to in the preceding paragraph is defined as treatment given to foreign investors at the stage of entry in which the investment standards are not lower than that of domestic investors and their investments; the negative list refers to state regulations for foreign investment in specific areas to include special management measures for investment implementation approval. The state shall ensure equal national treatment to foreign investment excluded from the negative list.

The negative list shall be issued or approved by the State Council.

Where international treaties or agreements acceded to by the People's Republic of China contain provisions more preferential to the admission of foreign investors, those provisions shall take precedence.

Article 5: The State protects the investment, income, and other legitimate rights and interests of foreign investors in China in accordance with the law.

Article 6: Foreign investors and foreign-invested enterprises that conduct investment activities within China shall abide by Chinese laws and regulations and shall not endanger China's national security or harm the public interest.

Article 7: The operative authorities of the commerce department of the State Council and the operative authorities of the department of investment shall, in accordance with the delineated responsibilities of each, carry out the work of promoting, protecting, and managing foreign investment; other relevant departments of the State Council shall be responsible for the promotion, protection, and management of foreign investment within their respective functions and responsibilities.

The relevant departments of local governments at or above the county level shall, in accordance with laws and regulations and the division of responsibilities determined by the people's government at the same level, carry out the work of promoting, protecting, and managing foreign investment.

Article 8: Workers of foreign-invested enterprises shall establish trade union organizations in accordance with the law, carry out trade union activities, and safeguard the legitimate rights and interests of employees. Foreign-invested enterprises shall provide necessary business conditions for the trade unions of the enterprise.

Chapter II Investment Promotion

Article 9: The policies of the state supporting the development of enterprises shall equally apply to foreign-invested enterprises in accordance with the law.

Article 10: The process for the formulation of laws, regulations and rules related to foreign investment shall make use of appropriate methods to solicit opinions and suggestions from foreign-invested enterprises.

Normative documents and documents of legal judgement related to foreign investment shall be announced in a timely manner according to law.

Article 11: The State shall establish and improve a foreign investment service system and provide consultation and other services to foreign investors and foreign-invested enterprises on information pertaining to laws and regulations, policy measures, and investment projects.

Article 12: The State shall establish multilateral and bilateral investment promotion cooperation mechanisms with other countries, regions, and international organizations, and strengthen international exchange and cooperation in the field of investment.

Article 13: The State shall establish special economic zones as is deemed necessary, or implement pilot policies and measures for foreign investment in some areas, and shall additionally promote foreign investment, and expand opening up policies.

Article 14: The State encourages and guides foreign investors to invest in specific industries, fields, and regions in accordance with the needs of national economic and social development. Foreign investors and foreign-invested enterprises may enjoy preferential treatment in accordance with laws, administrative regulations, or provisions of the State Council.

Article 15: The State shall guarantee that foreign-invested enterprises shall participate in work pertaining to the setting of standards on an equal footing in accordance with the law, and strengthen information disclosure and social supervision of the setting of standards.

Mandatory standards set by the state are equally applicable to foreign-invested enterprises.

Article 16: The State guarantees that foreign-invested enterprises may fairly and equally compete or participate in government procurement activities in accordance with the law. Government procurement shall ensure equal treatment of domestic products and services provided and produced by foreign-invested enterprises in China in accordance with law.

Article 17: Foreign-invested enterprises may, in accordance with the law, raise capital through public offering of stocks, corporate bonds and other securities.

Article 18: Local governments at or above the county level may, in accordance with the provisions of laws, administrative regulations, and local regulations, formulate policies and measures for the promotion of foreign investment promotion and facilitation within statutory jurisdiction.

Article 19: Government, including relevant departments, at all levels shall, in accordance with the principles of convenience, efficiency, and transparency, simplify procedures, improve efficiency, optimize government services, and further improve the level of foreign investment services.

The relevant operative authorities shall prepare and publish foreign investment guidelines to provide services and facilities for foreign investors and foreign-invested enterprises.

Chapter III Investment Protection

Article 20: The state shall not impose levies on any investment from foreign investors.

In special circumstances, the state may levy or expropriate the investment of foreign investors in accordance with the law as deemed necessary for the public interest. Expropriation and requisition shall be conducted in accordance with legal procedures wherein timely and reasonable compensation shall be given.

Article 21: Foreign investors' capital contribution, profits, capital gains, assets disposal income, intellectual property license fees, legally obtained compensation or compensation, and liquidation income may be freely remitted in RMB or foreign currency in accordance with the law.

Article 22: The State shall protect the intellectual property rights of foreign investors and foreign-invested enterprises, protect the legitimate rights and interests of intellectual property rights holders and related rights holders, and pursue legal liability for intellectual property rights infringements in strict accordance with the law.

The State shall encourage technical cooperation based on voluntary principles and business rules in the process of foreign investment. The conditions for technical cooperation are determined by equal negotiation between the parties to the investment in accordance with the principle of fairness. Administrative agencies and their staff shall not use administrative means to force the transfer of technology.

Article 23: Administrative organs and their staff members shall keep confidential the business secrets of foreign investors and known foreign-invested enterprises during the performance of their duties, and shall not disclose or illegally provide them to others.

Article 24: Governments at all levels and their relevant departments shall formulate normative documents concerning foreign investment, which shall comply with provisions of laws and regulations. Such documents shall not derogate from the legitimate rights and interests of foreign-invested enterprises or increase their obligations absent the basis of other laws and administrative regulations. Market access and exit conditions shall not be established, and normal production and operation activities of foreign-invested enterprises shall not be interfered with.

Article 25: Local governments at various levels and their relevant departments shall carry out policy commitments made to foreign investors and foreign-invested enterprises in accordance with the law and relevant contracts in accordance with the law.

If the interests of the State or public warrant the need to amend policy commitments or contractual agreements, those changes shall be conducted in accordance with the statutory authority and procedures, and compensate foreign investors and foreign-invested enterprises for losses suffered as a result.

Article 26: The State shall establish a complaint mechanism for foreign-invested enterprises, promptly address problems raised by foreign-invested enterprises or their investors, and accordingly coordinate and improve relevant policies and measures.

If a foreign-invested enterprise or its investors believe that the administrative actions of the administrative organ and its staff members infringe upon their legitimate rights and interests, they may apply for a coordinated resolution through the aforementioned foreign-invested enterprise complaint mechanism.

If a foreign-invested enterprise or its investors believe that the administrative actions of the administrative organ and its staff members infringe upon their legitimate rights and interests, in addition to applying for a coordinated solution through the complaints working mechanism of the foreign-invested enterprise pursuant to the provisions of the preceding paragraph, may additionally apply for administrative reconsideration and file an administrative lawsuit in accordance with the law.

Article 27: Foreign-invested enterprises may establish and voluntarily participate in chambers of commerce and other associations according to the law. The chambers of commerce or associations shall carry out relevant activities in accordance with various provisions of laws, regulations, and articles of association that safeguard the legitimate rights and interests of members.

Chapter IV Investment Management

Article 28: The foreign investment negative list stipulates areas where investment is prohibited.

The foreign investment negative list additionally stipulates areas and conditions of restricted foreign investment, wherein foreign investors may only invest upon satisfying relevant conditions.

Foreign investment is restricted to areas other than those stipulated by the negative list, wherein management thereof is implemented in accordance with the principle of consistent domestic and foreign investment.

Article 29: If foreign investment requires the approval and filing of investment projects, it shall be implemented in accordance with relevant state regulations.

Article 30: If a foreign investor invests in an industry or field that requires permission to so according to law, the investor's approval request shall comply with relevant licensing procedures in accordance with the law.

The relevant operative department shall, in accordance with the conditions and procedures consistent with domestic investment, review the foreign investment approval application, except as otherwise provided by laws and administrative regulations.

Article 31: The organizational schemes, structures, and standard operating procedures of foreign-invested enterprises shall be subject to the provisions of the Company Law of the People's Republic of China and the Partnership Enterprise Law of the People's Republic of China.

Article 32: Foreign-invested enterprises engaged in production and other business activities shall abide by the provisions of laws and administrative regulations concerning labor protection and social insurance, and manage affairs related to taxation, accounting, and foreign exchange in accordance with laws, administrative regulations, and relevant State regulations, and accept supervision and inspection activities carried out by supervisory departments as stipulated by law.

Article 33: If a foreign investor acquires a Chinese domestic enterprise or participates in the consolidation of other business operators in other ways, it must comply with anti-monopoly assessments of the business operator in accordance with the provisions of the Anti-Monopoly Law of the People's Republic of China.

Article 34: The State shall establish a foreign investment information reporting system. Foreign investors or foreign-invested enterprises shall submit investment information to the operative commercial authorities through the enterprise registration system and the enterprise credit information publicity system.

The content and scope of the foreign investment information report shall be determined according to any principles necessary. Investment information that can be obtained through cross-departmental information sharing shall not be required to be submitted again.

Article 35: The State shall establish a foreign investment security review system to conduct security reviews of foreign investment that affects or may affect national security.

The security review decision made in accordance with the law shall be final.

Chapter V Legal Liability

Article 36: Where a foreign investor invests in an area prohibited by the foreign investment access negative list, the relevant operative department shall order it to cease the investment activities in question, and dispose of shares, assets, or to take other necessary measures within a specified time limit, before investment can be implemented; If there is illegal income, the illegal income will be confiscated.

Where the investment activities of a foreign investor violate the restricted access special management measures stipulated by the foreign investment negative list, the relevant operative department shall order the investor to correct actions within a time limit and take necessary measures to meet the conditions stipulated by the restricted access special management measures; if the investor fails to make corrections within the time limit, the provisions set forth by the preceding article shall go into effect.

If the investment activities of foreign investors violate the general provisions of the foreign investment negative list, in addition to being held subject to the provisions of the preceding two articles, violators shall also bear corresponding legal liabilities according to law.

Article 37: If a foreign investor or a foreign-invested enterprise violates the provisions of this Law and fails to submit investment information in accordance with the requirements of the foreign investment information reporting system, the competent commercial authority shall order the investor or enterprise to make corrections within a specified time limit; if the investor or enterprise fails to make corrections within the time limit, a fine of at least 100,000 yuan and no more than 500,000 yuan shall be imposed.

Article 38: Any violation of laws and regulations by foreign investors or foreign-invested enterprises shall be investigated and dealt with by relevant departments in accordance with the law and incorporated into the credit information system in accordance with relevant state regulations.

Article 39: If a staff member of an administrative organ abuses his or her power, neglects any duties or engages in malpractices in the promotion, protection, and management of foreign investment, or leaks or illegally provides others with trade secrets that he or she knows in the course of performing duties, he or she shall be punished in accordance with the law and be held criminally responsible if actions are deemed to be in violation of criminal law.

Chapter VI Supplementary Provisions

Article 40: If any country or region adopts discriminatory prohibitions, restrictions, or other similar measures on investment in the People's Republic of China, the People's Republic of China may take corresponding measures against that country or the region.

Article 41: For foreign investors investing in the banking industry, securities industry, insurance industry, and other financial industries in China, or in the securities market, foreign exchange market, and other financial markets, shall act in accordance with other regulations for which the State has otherwise provided.

Article 42: This Law shall enter into force on January 1, 2020. The Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Foreign-Invested Enterprises, and the Chinese and Foreign Cooperative Enterprises Law shall, at that time, cease to be in effect.

Prior to the implementation of this Law, foreign-invested enterprises established in accordance with the Law of the People's Republic of China on the basis of Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Foreign-funded Enterprises, and the Law of the People's Republic of China on Chinese-Foreign Contractual Joint Ventures may continue any present activities up until five years after the implementation of this Law, to include retaining the original business organization configuration. The specific implementation measures of the Law shall be prescribed by the State Council.