

Alerts & Publications



PRC State Council Issues New Rules Encouraging Foreign Investment

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China's State Council has just issued the Several Opinions on Further Improving the Work of Utilizing Foreign Investment, guofa [2010] No. 9, dated April 6, 2010, reaffirming its policy to encourage foreign investment.

The Opinions contain twenty provisions that cover, inter alia, approaches to improve the quality and variety of foreign investment, to redeploy certain foreign capital to the central and western regions, and to streamline the foreign investment regulatory system and improve the efficiency of the approval process.

Of particular note, the Opinions provide that the total investment threshold for foreign-invested projects that require central level approval (i.e., by the Ministry of Commerce and if applicable, by the National Development and Reform Commission) will be raised from USD 100 million to USD 300 million for projects that fall under the "encouraged" or "permitted" categories of the Industrial Category Guiding Foreign Investment. The Opinions do not change the total investment threshold for foreign-invested projects in the "restricted" category that require central level approval; that threshold remains at USD 50 million.

Some provisions of the Opinions set out concrete new measures that will benefit foreign investors immediately. For example, certain qualified projects which fall under the "encouraged" category will be able to benefit from discounted land prices at 70% of the statutory minimum price; foreign investors which face temporary financial difficulties and cannot make capital contributions to their foreign-invested enterprises in accordance with the agreed capital contribution schedule may be able to extend such schedule.

Other provisions may simply restate known policy objectives; this appears to suggest that relevant implementing rules are on the way. For instance, the Opinions encourage multinational companies to set up regional headquarters, R&D centers, procurement hubs, financial management and other functional centers in China; foreign investment continues to be encouraged in China's central and western regions, particularly in environmentally friendly and labor-intensive projects, and local governments may offer various preferential treatment policies (including preferential tax treatment) for such projects. The Opinions also provide that the qualifications for foreign issuers authorized to issue RMB-denominated bonds in China will be expanded to allow for a greater number of participants and that China is seeking to have more foreign-invested enterprises list on China's domestic stock exchanges.

The Opinions provide that China will amend the current version of the Industrial Category Guiding

Foreign Investment and promulgate regulations to adopt the policy goals set forth in the Opinions. We believe that the Opinions represent the prelude to a new wave of far-reaching reforms in China's foreign investment regulatory system and the impact of the Opinions will be felt soon by practically all multinational companies operating or potentially investing in China.