



I. Legal News Review

Insurance Agency and Assessment Business Open to Foreign Investments

China Banking and Insurance Regulatory Commission ("CBIRC") issued two circulars on June 19, 2018 and both of them take effect immediately, allowing foreign investors to engage in the insurance agency and assessment business.

According to the circular, insurance agencies established by overseas insurance agencies which have conducted insurance agency business for over 3 years, or by China-based foreign-invested insurance agency are eligible to apply for conducting insurance agency business. The business scope and market access criteria shall be subject to provisions in relation to professional insurance agents.

Moreover, business registration, in conformity with Regulations on Insurance Assessors, will be open to insurance assessors established in China by overseas assessors which have engaged in insurance assessment business for over 3 years, or by China-based foreign-invested insurance company conducting business for over 3 years in China.

(<http://bxjg.circ.gov.cn/web/site0/tab5168/info4111621.htm>
<http://bxjg.circ.gov.cn/web/site0/tab5168/info4111620.htm>)

SPC Clarifies the Establishment of International Commercial Courts

Recently the Supreme People's Court ("SPC") has issued the Provisions on Several Issues concerning the creation of International Commercial Courts (the "Provisions"), which will come into force on July 1, 2018.

According to the Provisions, the SPC will organize the committee of International commercial experts and build up a one-stop dispute resolution platform ("one-stop platform"), joined by international commercial courts and qualified international commercial mediation and arbitration institutions. The international commercial courts are permanent tribunal of the SPC, and will be the court of the first instance for cases where

- 1) The parties to an international commercial dispute agreed to be subject to the jurisdiction of SPC for the first instance and the amount of subject shall be no less than RMB 300 million;
- 2) international commercial cases in the jurisdiction of high people's courts for the first instance are approved to be heard by the commercial courts;
- 3) the international commercial case for the first instance at issue is of nationwide significant influence;
- 4) the parties apply for arbitration preservation, revoking or enforcing an arbitral award made by an arbitration institution in the one-stop platform;
- 5) other international commercial cases that SPC regarded appropriate to be assigned to the international commercial courts

Concerning the admissibility, the courts will hear the cases concerning the trade and/or investment disputes between civil equal parties, excluding the case of which either or both parties are States. The provisions also introduce the qualifications of judges, trial mechanism and ways to ascertain foreign laws.

The SPC has appointed eight judges for the international commercial court and has set up NO.1 international commercial court in Shenzhen, Guangdong province, and NO.2 in Xi'an, Shaan xi province, starting the office from June 29, 2018.

(<http://www.court.gov.cn/fabu-xiangqing-104602.html>
<https://www.chinacourt.org/article/detail/2018/07/id/3378767.shtml>)

Measures for the Record-filing of the Incorporation and Change of Foreign-invested Enterprises Revised

The Ministry of Commerce has recently issued the Decision on Revising the Interim Administrative Measures for the Record-filing of the Incorporation and Change of Foreign-invested Enterprises which has become effective from June 30, 2018 (the "Revision").

The revisions are mainly as follows:

- 1) the agent or representative who file the application of incorporation can be entrusted by the board of directors of the foreign-invested companies limited by shares, in addition to previously by all the initiators; This is to make the Revision consistent with article 13 of Interim Provisions concerning the Establishment of Foreign-invested Companies Limited by Shares (Revised in 2015), which regulates that the board of directors is entitled to submit the application of establishment to the Registration Authorities.
- 2) for incorporation of a new foreign-invested enterprise, record-filing with the Ministry of Commerce (MOFCOM) and registration with the Administration for Industry and Commerce (AIC) will be unified into one step. When filing online registration application with the competent AIC, the online AIC system will request the agents or representatives to fill-in the record-filing information requested by MOFCOM, MOFCOM will then receive such record-filing information transmitted from the AIC. This also applies to the Foreign-invested Enterprises changed into by acquisition, merger, or any other means; and
- 3) for a new foreign strategic investor investing a foreign invested listed company, it can submit recordation application in 30 days after security registration with the competent securities registration and settlement institution. The provisions of foreign strategic investors investing a non-foreign invested listed company for recordation and obligation for recordation of obliged disclosing information change have been deleted.

The revision is an implementation of "One set of forms, One window" to further facilitate foreign investment in China.

(<http://www.mofcom.gov.cn/article/b/f/201806/20180602761078.shtml>)

II. Hot Topics

China unveils shorter Negative List to open doors wider

Recently, the National Development and Reform Commission ("NDRC") and the Ministry of Commerce ("MOFCOM") jointly issued the special administrative measures on access of foreign investment (the "negative list"), which will come into force on July 28, 2018.

The special administrative measures, shortened from 63 articles in 2017 edition to 48 articles, further opens up comprehensively in 22 fields including finance, transportation, manufacturing, resource and energy, etc. Different from the previous structure, categorizing all the measures into positive, restrictive or prohibitive lists, the updated edition outlined in a table, only combs negative measures (restrictive or prohibitive) for respective field and if any, reveals future opening-up arrangements.

The service industry witnesses most removal of restriction. In the finance industry, the limit of equity on foreign investment in banking is removed; such limits in security company, fund management company, futures company, life-insurance company has been loosened to 51% (foreign investment from no more than 50% to no more than 51%, thus, foreign investor can be the controlling shareholder now), and would be completely removed by 2021. As the trunk infrastructure, construction and operation of power grids and network of trunk railway lines, previously must be held by Chinese investment, now completely open to foreign investment. So do the railway passenger transport companies, international maritime transport company and international vessel agencies. Besides, the restrictions on investing petrol stations, food purchase and wholesale and business premises for Internet access services have also been deleted. (we summarize in below the table)

Business circulation	petrol stations, food purchase and wholesale	Restrictions removed
Cultural Industry	business premises for Internet access services	
Transportation	international vessel agencies, international maritime transportation, railway passenger transportation	
Infrastructure	power grids, network of trunk railway lines	
Finance	banking, security company, fund management company, futures company, life-insurance company	Foreign equity no more than 51%, and such limit will be removed in 2021

The manufacturing industry also has highly-expected progress. In the 2017 edition, for the Manufacturing of automobile whole vehicles and special use vehicles: Chinese parties shall hold at least 50% of the shares; one foreign investor may establish two or less equity joint ventures in China to manufacture the same category of whole vehicle products (namely, the category of passenger cars or the category of commercial vehicles) ("2 JV Limit"). But in the 2018 edition, restrictions on manufacturing special use vehicles and new energy vehicles have been lifted; commercial vehicles would not be subject to the equity limit in 2020; in 2022, restrictions of both equity limit and 2 JV Limit will be eliminated in passenger vehicle manufacturing. Vessel industry, including designing, manufacturing and repairing, as well as aircraft manufacturing is now fully accessible to foreign investors. (we summarize in below the table)

Automobile	special use vehicles, new energy vehicles	Restrictions removed
	commercial vehicles	2 JV Limit with foreign equity ≤50% ; equity limit will be removed in 2020
	passenger vehicle	2 JV Limited with foreign equity ≤50%; all restrictions will be removed in 2022.
Vessel	vessel industry	Restrictions removed
Aircraft	aircraft manufacturing	

Agricultural industry and energy and resource industry provide broader access. Selection and cultivation of new varieties of crops (except corn and wheat), and production of seeds, exploration and exploitation of special and rare kinds of coal are available for foreign investments. Moreover, Exploration and exploitation of graphite, Smelting and separation of rear earth and smelting of tungsten are not restricted. (we summarize in below the table)

Agriculture	selection and cultivation of new varieties of crops (except corn and wheat), and production of seeds	Restrictions removed
Energy	exploration and exploitation of special and rare kinds of coal	
Resource	exploration and exploitation of graphite, smelting and separation of rear earth, smelting of tungsten	

Though the updated negative list did not mention positive list encouraging foreign investment, according to the opinion of the authorities, relevant articles in 2017 catalog will still apply.

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