

海问合伙人张凯南律师与雷君婷受邀撰写CLP外汇管理制度解读文章

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China's Foreign Exchange Control Regime: A Brief Introduction

- SAFE and its local branches are the main functional authorities in charge of foreign exchange administration in China.
- Foreign individuals may invest in A-share listed companies.
- For foreign individuals, the facilitation quota of USD50,000 per person per year applies to foreign exchange settlement only.

Kainan Zhang and Junting Lei of Haiwen & Partners highlight the main PRC foreign exchange regulatory requirements of different types of cross border investment and trade by domestic and foreign individuals and institutions under capital and current accounts.

Overview of PRC Foreign Exchange Control Regime

Foreign exchange control usually refers to restrictive measures taken by the government of a country over foreign exchange receipts and payments in order to maintain a balance of payment equilibrium and the exchange rate of its own currency. Compared with countries with a free foreign exchange system, China distinctly implements foreign exchange control. When making cross border payments and settlements of foreign exchange, domestic and foreign entities must comply with the PRC Foreign Exchange Control Regulations (中华人民共和国外汇管理条例), the Guidelines for Foreign Exchange Transactions on the Capital Account (2020 Edition) (资本项目外汇业务指引(2020年版)), the Guidelines for Foreign Exchange Transactions on the Current Account (2020 Edition) (经常项目外汇业务指引(2020年版)) and other foreign exchange control-related rules and regulations. China's foreign exchange control is generally managed under two categories: (1) capital account; and (2) current account. The capital account mainly includes foreign direct investment, overseas direct investment of domestic institutions, overseas investment of domestic individuals, foreign debts, overseas lending and cross border guarantees, as well as securities investment. The current account mainly includes trade in goods, trade in services, and individual current account transactions. In general, China imposes no restrictions on international receipts and payments under the current account. The State Administration of Foreign Exchange of China and its local branches (collectively, "SAFE") are the main functional authorities in charge of foreign exchange administration in China.

Foreign exchange regulation on domestic and foreign entities

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Conclusion

SAFE has delegated quite a number of its power and authority relating to foreign exchange administration to PRC banks. However, it should be noted that banks' policies and practice may vary in different localities. As China adopts a relatively strict and complex foreign exchange

control system, it is suggested that foreign investors consult with the relevant banks and professional advisors before establishing a PRC business presence or PRC investment to avoid regulatory compliance risk.

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