Measures on the Administration of the Approval and Filing of Foreign Investment Projects of the PRC

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Chapter I — General Provisions

Article 1 — These Measures are formulated for the purpose of standardizing the administration of the approval and filing of foreign investment projects, strengthening the guidance and supervision of foreign investment, protecting the lawful rights and interests of foreign investors, and promoting the sound and orderly development of foreign investment.

Article 2 — These Measures shall apply to the approval and filing administration of foreign investment projects within the territory of China by foreign investors, including sino-foreign equity joint ventures, sino-foreign cooperative joint ventures, wholly foreign-owned enterprises, foreign-invested partnerships, and other forms of foreign investment projects.

Article 3 — The administration of foreign investment projects shall follow the principles of lawfulness, efficiency, and transparency. The state implements differentiated administration of foreign investment projects by means of approval and filing based on industry and investment amount.

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Article 4 — The National Development and Reform Commission (NDRC) and the local development and reform departments of the people's governments at or above the county level shall be the competent authorities for the approval and filing administration of foreign investment projects.

Chapter II — Project Approval

Article 5 — Foreign investment projects in industries or business activities subject to the approval system shall undergo the project approval procedures. The list of industries and business activities subject to the approval system shall be published by the NDRC and updated in a timely manner.

Article 6 — Foreign investment projects subject to approval shall be classified into central approval projects and local approval projects. Central approval projects shall be examined and approved by the NDRC or submitted by the NDRC to the State Council for approval. Local approval projects shall be examined and approved by the local development and reform departments in accordance with their authority.

Article 7 — To apply for project approval, the foreign investor shall submit the project application report and the following documents to the approval authority:

(1) The project application report, which shall include: basic information of the project, the investor and the investment, the necessity and feasibility of the project, the project plan, the environmental impact and energy consumption of the project, and the economic and social benefits of the project;

(2) Proof of the legal person status and creditworthiness of the Chinese and foreign investors;

(3) Proof that the project site or land use complies with the relevant plans;

(4) The pre-examination opinion on the project site issued by the department in charge of natural resources;

(5) Pre-review opinions on energy conservation assessment, environmental impact assessment, and water resource assessment of the project, if applicable;

(6) Other documents as required by laws and regulations.

Article 8 — The approval authority shall examine the project application report mainly on the following aspects:

(1) Whether the project complies with the national laws, regulations, and the relevant provisions;

(2) Whether the project complies with the national economic and social development plans, industrial policies, industry access standards, and land use, urban and rural planning, and environmental protection requirements;

(3) Whether the project does not harm national security and the public interest;

(4) Whether the project is conducive to promoting technological progress and industrial upgrading, and is in line with the national strategy for foreign investment utilization.

Article 9 — The approval authority shall complete the examination and issue the approval document within 20 working days from the date of receiving the complete project application report. If the matter is complex, the examination period may be extended by an additional 10 working days, and the applicant shall be notified in writing of the reasons for the extension.

Chapter III — Project Filing

Article 10 — Foreign investment projects not subject to the approval system shall be subject to the filing system. The scope of foreign investment projects subject to the filing system shall include all foreign investment projects other than those subject to the approval system or prohibited by the Special Administrative Measures (Negative List) for Foreign Investment Access.

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Article 11 — The investor of a foreign investment project subject to filing shall submit the project information through the online project approval and filing supervision platform before the project commences construction, and shall be responsible for the truthfulness of the project information.

Article 12 — The project filing authority shall, within 5 working days from the date of receiving all the project information, complete the filing and issue the filing certificate. If the project information is incomplete or does not meet the requirements, the filing authority shall inform the investor of the need for supplements and corrections.

Article 13 — Where the project scale or content of a filed foreign investment project changes significantly, or where the project investor changes, the investor shall promptly inform the filing authority of the changes by modifying the relevant information.

Chapter IV — Supervision and Legal Liability

Article 14 — The approval and filing authorities shall strengthen the supervision during and after the event of foreign investment projects. The supervision may be conducted by means of online monitoring, on-site verification, third-party assessment, and joint spot checks.

Article 15 — The investor of a foreign investment project shall truthfully provide the project-related information, implement the project in accordance with the approved or filed project content, and report the project progress and completion to the approval or filing authority as required.

Article 16 — Where a foreign investment project is implemented without undergoing the approval or filing procedures in accordance with the law, or where the project is implemented in a manner inconsistent with the approved or filed content, the approval or filing authority shall order the cessation of construction and the rectification of the non-compliance, and may impose penalties in accordance with the relevant laws and regulations.

Article 17 — Where the investor of a foreign investment project provides false information in the approval or filing process, or conceals important facts, the approval or filing authority shall order the investor to make corrections and may revoke the approval or filing certificate. If the circumstances are serious, penalties shall be imposed in accordance with the law.

Chapter V — Supplementary Provisions

Article 18 — These Measures shall apply, mutatis mutandis, to the investment projects within the territory of China by investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region.

Article 19 — The approval and filing administration of foreign investment projects in the Pilot Free Trade Zones shall be separately regulated where the relevant provisions provide otherwise.

Article 20 — These Measures shall take effect on July 1, 2014. The Interim Measures on the Administration of the Approval and Filing of Foreign Investment Projects previously promulgated shall be repealed simultaneously.

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