Provisions on Foreign Investment Complaints Handling of the People’s Republic of China

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Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Complaint Filing and Acceptance 2

Chapter III — Complaint Handling 3

Chapter IV — Complaint Work Management 3

Chapter V — Supplementary Provisions 4

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Complaint Filing and Acceptance
- Chapter III — Complaint Handling
- Chapter IV — Complaint Work Management
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Foreign Investment Law of the People's Republic of China, the Law of the People's Republic of China on Administrative Reconsideration, the Administrative Litigation Law of the People's Republic of China, and other relevant laws and regulations for the purpose of promptly and effectively handling complaints filed by foreign-invested enterprises or their investors, protecting the lawful rights and interests of foreign investors, and continuously optimizing the foreign investment environment.

Article 2 — For the purposes of these Provisions, "complaints by foreign-invested enterprises" means complaints filed by foreign-invested enterprises or their investors (hereinafter referred to as "complainants") with the complaint handling authorities in accordance with the law, alleging that administrative acts of administrative agencies (including organizations authorized by laws or regulations to perform public administration functions) or their staff members have infringed upon their lawful rights and interests, and requesting coordination and resolution. For the purposes of these Provisions, "complaints by foreign-invested enterprises" also includes complaints filed by complainants reflecting problems encountered

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in the course of investment and business operations and making relevant suggestions to the complaint handling authorities. The complaint handling authorities shall handle the complaints set forth in the preceding two paragraphs in accordance with these Provisions.

Article 3 — The Ministry of Commerce shall, in conjunction with relevant departments of the State Council, establish a joint inter-ministerial conference system for complaints by foreign-invested enterprises to coordinate and promote the complaint work of foreign-invested enterprises at the central level, and to guide and supervise the complaint work of foreign-invested enterprises in all localities. The Ministry of Commerce shall be responsible for handling the following complaints: (1) complaints involving matters under the jurisdiction of relevant departments of the State Council or the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government; (2) complaints involving major issues across regions or departments; and (3) other complaints that the Ministry of Commerce deems it necessary to handle directly. The national complaint center for foreign-invested enterprises shall be established under the Ministry of Commerce to be responsible for the specific work of handling complaints filed with the Ministry of Commerce.

Article 4 — The local people's governments at or above the county level shall designate departments or institutions (hereinafter referred to as "local complaint handling authorities") to be responsible for complaint work within their respective administrative regions. Local complaint handling authorities shall improve complaint work mechanisms, specify complaint handling procedures and time limits, and make public information on complaint channels, complaint handling procedures, and other matters to facilitate complainants.

Article 5 — The complaint handling authorities shall adhere to the principles of fairness, openness, and efficiency, and shall handle complaint matters in accordance with laws, regulations, and policies. The complaint handling authorities and their staff members shall keep confidential the trade secrets, personal privacy, and other information of complainants that they learn in the course of handling complaints, and shall not disclose or illegally provide such information to others.

Article 6 — Chambers of commerce, industry associations, and other organizations may, in accordance with the provisions of these Provisions, reflect the appeals or suggestions of foreign-invested enterprises or their investors to the complaint handling authorities. Where a complainant files a complaint through a chamber of commerce, industry association, or other organization, it shall submit relevant authorization documents.

Chapter II — Complaint Filing and Acceptance

Article 7 — A complainant filing a complaint shall submit a written complaint and relevant evidentiary materials. The written complaint shall include the following: (1) the name, address, postal code, contact person, and contact information of the complainant; (2) the name of the respondent, relevant information on the administrative act complained of, and the facts, grounds, and demands of the complaint; (3) the date of the complaint; and (4) other matters that the complainant deems necessary to state. Where there are multiple complainants for the same complaint matter, they may jointly file a complaint and recommend one or two representatives to participate in the complaint handling.

Article 8 — After receiving a complaint, the complaint handling authority shall conduct a review and handle it in the following manner: (1) where the complaint materials are incomplete, the complainant shall be notified within 5 working days from the date of receipt of the complaint materials to supplement them within 15 working days; (2) where the complaint matter falls within the scope of complaint handling as specified in these Provisions, and the complainant provides complete materials, the complaint handling authority shall accept the complaint; or (3) where the complaint matter does not fall within the scope of complaint handling as specified in these Provisions, the complaint handling authority shall notify the complainant within 5 working days and inform the complainant of the proper channel for resolution.

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Article 9 — A complaint handling authority shall not accept any of the following complaint matters: (1) the complainant has applied for administrative reconsideration or filed an administrative lawsuit on the same matter and the matter has been accepted; (2) the complaint matter has already been accepted by a complaint handling authority at a higher or lower level or has been concluded; or (3) the complaint matter has been finally adjudicated by a people's court or by an administrative reconsideration authority.

Article 10 — Unless otherwise agreed in international treaties or agreements to which China is a party, a complaint filed by a foreign investor against an administrative act of the Chinese government shall be handled on the basis of equality and reciprocity.

Chapter III — Complaint Handling

Article 11 — After accepting a complaint, the complaint handling authority shall communicate with the complainant and the respondent to fully understand the circumstances, coordinate and handle the matter in accordance with the law, and promote the resolution of the complaint. Where the complaint handling authority may use coordination, mediation, and other methods to handle the complaint, it shall actively coordinate and mediate. Where the complaint involves a policy issue, the complaint handling authority shall study and propose suggestions for policy improvement, which shall be forwarded to the relevant policy formulation authorities.

Article 12 — The complaint handling authority shall complete the handling of a complaint matter within 60 working days from the date of acceptance. Where the complaint matter involves multiple departments, complex facts, or other special circumstances, the handling period may be appropriately extended upon approval by the responsible person of the complaint handling authority, but the extension shall not exceed 30 working days. The complainant shall be notified of the extension and the reasons therefor.

Article 13 — In any of the following circumstances, the handling of a complaint matter may be terminated: (1) the complainant applies for administrative reconsideration or files an administrative lawsuit on the same matter and the application has been accepted; (2) the complainant withdraws the complaint; (3) the complainant fails to supplement materials within the time limit specified in Article 8(1) of these Provisions without a valid reason; (4) after coordination between the complaint handling authority and the respondent and the complainant, no consensus can be reached, and the matter is not suitable for continued handling through the complaint mechanism; or (5) other circumstances under which handling should be terminated.

Article 14 — After the handling of a complaint matter is concluded, the complaint handling authority shall prepare a written handling result and serve it on the complainant. Where the complaint matter is resolved through coordination between the complaint handling authority, the respondent, and the complainant, a coordination agreement shall be signed, confirming the facts, the resolution outcome, and the time limit for performance. The coordination agreement may be enforced in accordance with the law.

Article 15 — Where a complaint handling authority discovers in the course of complaint handling that an administrative act of the relevant department or local people's government violates laws, regulations, or rules, it may propose suggestions for the relevant department or local people's government to improve its work in writing. Where violations of laws or regulations on the part of administrative agencies or their staff members are involved, the complaint handling authority may transfer the relevant clues to the discipline inspection and supervision authorities or other competent authorities for handling.

Chapter IV — Complaint Work Management

Article 16 — The complaint handling authorities shall establish and improve complaint work management systems, improve complaint work standards, and regulate complaint handling procedures and documents. The complaint handling authorities shall establish a complaint files management system to keep complaint materials, handling records, and other documents in a complete and accurate manner.

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Article 17 — The complaint handling authorities shall establish reporting systems and submit annual work reports to the people's governments at the same level and the complaint handling authorities at the next higher level. The reports shall include the number of complaints received, the types of complaint matters, handling progress and results, suggestions for policy improvement, and information on the investigation and handling of typical cases.

Article 18 — The complaint handling authorities shall promptly report to the people's governments at the same level any important situations discovered in the course of handling complaints, and may report to the complaint handling authority at the next higher level as needed. The complaint handling authorities shall analyze and assess problems reflected in complaints on a regular basis, put forward suggestions for improving relevant policies and measures, and establish complaint information sharing mechanisms with relevant departments.

Article 19 — The complaint handling authorities and their staff members shall perform their duties in an impartial and diligent manner and shall not abuse their powers, neglect their duties, or engage in malpractices for personal gain. Where a complaint handling authority or any of its staff members violates the provisions of these Provisions, the competent authority shall order it to make corrections. If the circumstances are serious, sanctions shall be imposed on the directly responsible person in charge and other directly responsible persons in accordance with the law.

Chapter V — Supplementary Provisions

Article 20 — Investors from the Hong Kong Special Administrative Region and the Macao Special Administrative Region, and investors from the Taiwan region, who make investments within the mainland territory shall be governed by these Provisions with reference to the application of foreign investors. Investors and enterprises from the Hong Kong Special Administrative Region and the Macao Special Administrative Region shall be governed with reference to foreign investors as specified in these Provisions.

Article 21 — Local complaint handling authorities may formulate specific implementation measures or detailed rules in accordance with these Provisions and in light of local actual conditions.

Article 22 — The Ministry of Commerce shall be responsible for the interpretation of these Provisions.

Article 23 — These Provisions shall come into force on October 1, 2020.

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