Regulations on Foreign Investment in the Telecommunications Sector of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Promulgated by the State Council on December 11, 2001; revised on February 6, 2016; and further revised in accordance with the Decision of the State Council on Amending and Repealing Certain Administrative Regulations on March 29, 2022
Effective: May 1, 2022

Article 1 — These Regulations are formulated in accordance with the relevant laws and administrative regulations for the purpose of meeting the needs of the opening up of the telecommunications industry, promoting the development of the telecommunications industry, and regulating the administration of foreign investment in the telecommunications sector.

Article 2 — Foreign investors investing in the telecommunications sector within the territory of the People's Republic of China shall comply with these Regulations.

Article 3 — Foreign investment in the telecommunications sector shall be carried out in accordance with law in the form of Sino-foreign joint ventures, subject to the following requirements:

(1) For basic telecommunications services (excluding radio paging services), the proportion of foreign investment shall not exceed 49%;

(2) For value-added telecommunications services (including radio paging services in basic telecommunications services), the proportion of foreign investment shall not exceed 50%.

Article 4 — The Chinese and foreign investors in a foreign-invested telecommunications enterprise shall be enterprises or other economic organizations that meet the requirements. The main foreign investor in a foreign-invested telecommunications enterprise engaged in basic telecommunications services shall have good track records and operational experience in the basic telecommunications business.

Article 5 — The establishment of a foreign-invested telecommunications enterprise shall meet the conditions provided in the relevant laws and administrative regulations and shall obtain the following approvals:

(1) The project proposal or feasibility study report on the establishment of a foreign-invested telecommunications enterprise engaged in basic telecommunications services shall be submitted for examination and approval;

(2) The project shall be approved by the competent commerce authority of the State Council;

(3) The telecommunications business license shall be approved by the competent telecommunications authority of the State Council.

Article 6 — An applicant for the establishment of a foreign-invested telecommunications enterprise engaged in basic telecommunications services or value-added telecommunications services that covers more than one province, autonomous region, or municipality directly under the Central Government shall submit the following documents to the competent telecommunications authority of the State Council:

(1) An application form;

(2) The project proposal or feasibility study report;

(3) Certificates of legal person status and certificates of registration of the Chinese and foreign investors;

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(4) Credit certificates of the Chinese and foreign investors; and

(5) Other documents as required.

Article 7 — The competent telecommunications authority of the State Council shall complete the examination within the statutory time limit from the date of receipt of the application and issue a telecommunications business license or make a decision to reject the application.

Article 8 — The applicant shall, after obtaining the telecommunications business license, apply to the competent commerce authority for approval of the establishment of the foreign-invested telecommunications enterprise by presenting the telecommunications business license and other relevant documents.

Article 9 — After obtaining the approval document from the competent commerce authority, the applicant shall complete the registration formalities with the administrative department for industry and commerce in accordance with law. The foreign-invested telecommunications enterprise may conduct business activities only after completing the registration formalities.

Article 10 — The term of operation of a foreign-invested telecommunications enterprise engaged in basic telecommunications services shall be consistent with the term of its telecommunications business license. If the term of the telecommunications business license is extended upon examination and approval, the foreign-invested telecommunications enterprise shall go through the formalities for renewing the approval document and registration certificate within the prescribed time limit.

Article 11 — A foreign-invested telecommunications enterprise shall operate its telecommunications business within the scope approved in the telecommunications business license. If it needs to change its business scope, scale, or service area, it shall apply to the original issuing authority in advance for approval and complete the formalities for amending the telecommunications business license.

Article 12 — Foreign-invested telecommunications enterprises shall comply with the relevant laws and administrative regulations on telecommunications, including but not limited to the provisions on telecommunications charges, telecommunications resources, universal telecommunications services, telecommunications construction, telecommunications equipment, and network and information security.

Article 13 — Foreign-invested telecommunications enterprises shall, when providing telecommunications services within the territory of China, protect the lawful rights and interests of telecommunications users and shall not engage in any of the following conduct:

(1) Engaging in unfair competition;

(2) Infringing upon the lawful rights and interests of other telecommunications business operators;

(3) Harming the lawful rights and interests of telecommunications users;

(4) Carrying out other activities prohibited by laws and administrative regulations.

Article 14 — Foreign-invested telecommunications enterprises engaged in Internet information services shall, in addition to complying with these Regulations, also comply with the provisions of the relevant laws and administrative regulations on Internet information services.

Article 15 — Foreign-invested telecommunications enterprises shall, within the territory of China, set up facilities and networks for telecommunications services, store users' personal information and important data within the territory, and take necessary measures to ensure the security of telecommunications networks and information.

Article 16 — Where foreign-invested telecommunications enterprises provide cross-border telecommunications services, they shall comply with the relevant State provisions on the security management of cross-border data transfer and international communication gateway exchange.

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Article 17 — The competent telecommunications authority of the State Council and the competent commerce authority shall supervise and manage foreign-invested telecommunications enterprises in accordance with law.

Article 18 — Where a foreign-invested telecommunications enterprise violates these Regulations, the competent authorities shall, within their respective scope of duties, order correction and impose penalties in accordance with the relevant laws and administrative regulations.

Article 19 — The provisions of these Regulations regarding foreign-invested telecommunications enterprises' access conditions and approval procedures for telecommunications business shall be applied to the provision of telecommunications services in the Mainland by service providers from the Hong Kong Special Administrative Region and the Macao Special Administrative Region, with reference to the relevant provisions of the State.

Article 20 — These Regulations shall enter into force on January 1, 2002.

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