

中国（上海）自由贸易试验区境外投资开办企业备案管理办法

**Filing Administrative Measures for Outbound Investment in Setting up Enterprises by China (Shanghai)
Pilot Free Trade Zone Enterprises**

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上海市人民政府关于印发《中国（上海）自由贸易试验区境外投资开办企业备案管理办法》的通知

Circular of Shanghai Municipal People's Government on Printing and Distributing the "*Filing Administrative Measures for Outbound Investment in Setting up Enterprises by China (Shanghai) Pilot Free Trade Zone Enterprises*"

各区、县人民政府，市政府各委、办、局：

To people's government at district and county levels as well as commissions, offices and bureaus of Municipal People's Government:

现将《中国（上海）自由贸易试验区境外投资开办企业备案管理办法》印发给你们，请认真按照执行。

The "*Filing Administrative Measures for Outbound Investment in Setting up Enterprises by China (Shanghai) Pilot Free Trade Zone Enterprises*" is issued for your cautious implementation.

上海市人民政府

Shanghai Municipal People's Government

2013年9月29日

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中国（上海）自由贸易试验区境外投资开办企业备案管理办法

Filing Administrative Measures for Outbound Investment in Setting up Enterprises by China (Shanghai) Pilot Free Trade Zone Enterprises

第一条 （目的和依据）

Article 1 (Purpose and Foundation)

为进一步扩大开放，推进境外投资管理体制改革，营造国际化、法治化投资环境，根据《中国（上海）自由贸易试验区总体方案》，制定本办法。

For the purpose of further expanding the opening up, promoting the reform of outbound investment administrative system and creating an investor-friendly environment in line with international standards, these measures are formulated in accordance with the "Framework Plan for the China (Shanghai) Pilot Free Trade Zone".

第二条 （适用范围）

Article 2 (Scope of Application)

注册地在中国（上海）自由贸易试验区内的企业（以下简称“企业”）境外投资，适用本办法。

These measures apply to outbound investments made by an enterprise registered in the China (Shanghai) Pilot Free Trade Zone ("Pilot FTZ enterprise").

本办法所称境外投资，是指企业通过新设、并购等方式，在境外设立非金融企业或取得既有非金融企业的所有权、控制权、经营管理权等权益的行为。

The outbound investment in these measures refers to establishment of a new non-financial enterprise in overseas, or acquisition of interest (e.g. ownership, controlling interest, operation/management right, etc.) in an existing foreign non-financial enterprise.

第三条 （备案机构）

Article 3 (Filing Institution)

中国（上海）自由贸易试验区管理委员会（以下称“备案机构”）负责权限内企业境外投资备案管理。

The Administration Committee ("Filing Institution") of the China (Shanghai) Pilot Free Trade Zone shall undertake the responsibility for the administration on filings of outbound investment within its authority.

第四条 （备案权限）

Article 4 (Filing Authority)

备案机构对境外投资实行备案管理。

The Filing Institution implements a filing administrative system for outbound investments.

涉及与我国未建交国家（地区）的境外投资、特定国家（地区）的境外投资、涉及多国（地区）利益的境外投资、设立境外特殊目的公司、能源矿产类境外投资、需在国内招商的境外投资等，仍按照《境外投资管理办法》执行。

The "Administrative Measures on Outbound Investments" shall still be implemented¹ in following situations: outbound investments involving countries/regions without diplomatic relations with China; outbound investments in certain countries/regions designated by the government authorities; outbound investments involving multilateral interest; establishment of overseas special purpose companies, outbound investments in energy and mineral resources; and outbound investments requiring further inviting domestic investments.

¹ It refers to a situation where an approval, instead of a mere filing, is required.

企业境外投资不得有以下情形：

The outbound investment will be prohibited if it:

- (一) 危害我国国家主权、安全和社会公共利益，或违反我国法律法规；
- (1) endangers Chinese sovereignty, security and public interest, or violates Chinese laws and regulations;
- (二) 损害我国与有关国家（地区）关系；
- (2) impairs the relations between China and relevant countries/regions;
- (三) 可能违反我国对外缔结的国际条约；
- (3) potentially violates the international treaties entered by China; or
- (四) 涉及我国禁止出口的技术和货物。
- (4) involves technologies or goods the exports of which are prohibited by China;

第五条 （备案材料）

Article 5 (Filing Materials)

企业申请境外投资备案的，应向备案机构提交以下材料：

Where a Pilot FTZ enterprise applies for outbound investment filing, it shall provide the following materials to the Filing Institution:

- (一) 境外投资备案申请表；
- (1) Outbound Investment Filing Application Form;
- (二) 投资主体法人身份证明文件；
- (2) Documents supporting the investor's legal person status; and
- (三) 特殊情况下，提交备案机构要求的其他材料。
- (3) Other materials required by the Filing Institution for special situations.

第六条 （备案时限）

Article 6 (Time Limit for Filing)

备案机构应在企业交齐本办法第五条所规定的材料，并确认材料符合规定形式后 5 个工作日内，完成备案并制发《企业境外投资证书》（以下简称《证书》）。

The Filing Institution shall complete the filing acceptance procedure and issue the "Enterprise Outbound Investment Certificate" (the "Certificate") within five working days upon receipt of all the required materials as provided in article 5 and confirming that such materials are qualified.

企业提交备案材料不齐全或不符合规定形式的，备案机构应在收到备案申请材料后 1 个工作日内，一次告知企业。

Where the filing materials submitted by the enterprise are incomplete or unqualified, the Filing Institution shall notify the enterprise of all the issues at one time within one working day upon receipt of the filing materials.

第七条 (变更和终止)

Article 7 (Change and Termination)

根据本办法设立的境外投资企业发生投资主体、投资金额、股权比例、资金来源结构、经营范围、经营期限等变更情形的，应向备案机构申请变更备案。

For an overseas enterprise established according to these measures, the relevant party shall file with the Filing Institution for any subsequent changes to the overseas enterprise in respect of investors, investment amount, shareholding percentage, funding structure and sources, business scope, operation duration period, etc.

终止已设立境外投资企业的，应向备案机构申请终止备案。

Where the established overseas enterprise is terminated, the relevant party shall file for its termination with the Filing Institution.

变更和终止备案的程序，参照本办法第五、第六条执行。

The provisions in article 5 and 6 of these measures apply to the filing for changes and termination.

第八条 (证书效力)

Article 8 (Validity of Certificate)

企业境外投资备案后，持《证书》办理外汇、海关、外事等相关手续，并可按照规定，申请国家有关政策支持。

After the outbound investment filing is accepted, the filing applicant may go through other formalities in respect of foreign exchange administration, Customs, foreign affairs, etc. with the Certificate, which may also be required when the applicant is applying for certain government preferential policies.

第九条 (证书有效期)

Article 9 (Valid Period of Certificate)

企业自领取《证书》两年内，未在投资目的国（地区）完成有关法律手续或未办理本办法第八条所列境内有关手续的，《证书》自动失效。如需再开展境外投资，应依照本办法规定重新办理备案。

The Certificate will be automatically invalid if the applicant fails to complete the required legal formalities either in the investment target country/region or in China (as mentioned in article 8 of these measures) within two years from the receipt of the Certificate. The applicant shall re-apply for the filing if it still needs to make the outbound investment.

第十条 (诚信管理)

Article 10 (Credit Management)

备案机构对境外投资主体实行诚信管理。企业应保证全部申报事项和报送材料的真实性，并按照国家法律、法规规定，开展境外投资。

The Filing Institution implements a credit management system for the investors who make outbound investments. Enterprises shall guarantee the authenticity of all information reported and materials submitted; and make outbound investments in accordance with relevant laws and regulations.

第十一条 （事中事后监管）

Article 11 (Mid-Event and Subsequent Supervision)

企业境外投资行为规范，参照《境外投资管理办法》规定执行。备案机构负责事中事后监管，督促企业办理再投资备案，向驻外使（领）馆报到登记，接受驻外使（领）馆的指导，按时报送统计和年检资料，履行企业社会责任，落实各项人员和财产安全防范措施，建立突发事件预警机制和应急预案，及时处置境外突发事件等。

Enterprises shall follow the codes of conduct as provided in the "Administrative Measures on Outbound Investments". The Filing Institution is in charge of the mid-event and subsequent supervision. It shall urge the relevant enterprise to make filings for overseas reinvestments, register with and follow guidance from overseas embassies (consulates), report statistics and annual inspection documents on time, fulfill corporate social responsibilities, implement various personnel and property safety precautions, establish emergency warning system and action plan, promptly deal with emergencies occurred abroad, etc.

第十二条 （罚则）

Article 12 (Penalty)

企业提供虚假申请材料，不如实填报境外投资备案申请表，或以其他不正当手段获得境外投资备案的，备案机构应撤销《证书》，并将该信息记入企业诚信档案，该企业三年内不得享受国家有关政策支持。

Where a Pilot FTZ enterprise submits false materials, provide false information in the outbound investment filing form, or obtains the Certificate by other improper means, the Filing Institution shall withdraw the Certificate with relevant information incorporated into the enterprise's credit records. Such enterprise cannot enjoy the relevant preferential policies for three years.

第十三条 （附则）

Article 13 (Supplement)

企业赴香港特别行政区、澳门特别行政区投资参照本办法执行，赴台湾地区投资按照国家发展改革委、商务部和国台办《关于印发〈大陆企业赴台湾地区投资管理办法〉的通知》（发改外资[2010]2661号）执行。

These measures apply to outbound investments in the Hong Kong Special Administrative Region and the Macao Special Administrative Region by Pilot FTZ enterprises. For outbound investments in Taiwan, the "Circular on Printing and Distributing 'The Administrative Measures for the Mainland China Enterprises' Investments in Taiwan'" (Fa Gai Wai Zi [2010] No. 2661), which was promulgated by the National Development and Reform Commission, Ministry of Commerce and Taiwan Affairs Office of the State Council, shall be followed.

事业单位法人开展境外投资、企业在境外设立非法人企业、企业控股的境外企业境外再投资参照本办法执行。

These measures apply to outbound investments made by state-run institutions, establishment of non-legal person enterprises in overseas by Pilot FTZ enterprises, and overseas reinvestments made by foreign enterprises which are further controlled by Pilot FTZ enterprises.

第十四条 （施行日期）

Article 14 (Effective Date)

本办法自 2013 年 10 月 1 日起施行。

These measures will come into effect as of 1 October 2013.

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