

《外商投资项目核准和备案管理办法》正式施行

国家发展和改革委员会（以下简称“发改委”）于2014年5月17日发布了2014年第12号令《外商投资项目核准和备案管理办法》（以下简称《办法》），自2014年6月17日起施行。

长期以来，我国对外商投资项目全部实行核准制，政府主要从维护经济安全、保障公共利益、市场准入和资本项目管理等方面进行核准。《办法》改革了外商投资项目管理方式，将项目全面核准改为有限核准和普遍备案相结合的管理方式。

《办法》在简化外商投资项目管理内容和程序等方面有以下体现：

- 从项目管理框架看，《办法》规定所有需要备案的外商投资项目均由地方政府投资主管部门负责，绝大多数外商投资项目将实现属地化管理。
- 对外商投资项目核准、备案的条件也进行了大量简化，不再对项目的市场前景、经济效益和产品技术方案等应有企业自主决策的内容进行审查，注重让市场发挥配置资源的决定性作用，赋予企业投资自主权，努力提高外商投资便利化水平。
- 为规范管理和防范风险，《办法》在对备案管理作了原则性一般规定，包括备案所需材料、备案条件等，都属于基本要求。地方政府投资主管部门可根据当地外商投资管理实际需要，对备案管理作出更加全面、具体的规定。

自贸区分账核算业务细则和风险审慎管理细则出台

近日，中国人民银行上海总部印发《中国（上海）自由贸易区分账核算业务实施细则（试行）》和《中国（上海）自由贸易试验区分账核算业务风险审慎管理细则（试行）》（以下简称《业务实施细则》和《审慎管理细则》）。《业务实施细则》就分账核算单元的建立、管理要求和自由贸易账户的开立、账户资金使用给出了详细规定。《审慎管理细则》则规定了分账核算单元的评估及验收、分账核算业务风险管理、资金异常流动监测预警以及临时性管制措施。上述两项细则自2014年5月22日起实施。

对于符合条件的区内主体，可以通过开立自由贸易账户实现资金流与境外完全打通，而自由贸易账户内资金与境内区外实现有限渗透，具体包括：

<p>自由贸易账户开户主体</p> <p>Entities available to open FTAs</p>	<ul style="list-style-type: none"> ● 在试验区内依法成立的企业（包括法人和非法人） Entities established in the FTZ (including legal persons and non-legal persons) ● 境外（含港、澳、台地区）注册成立的法人和其他组织驻试验区内机构 Legal persons registered and established in foreign countries (including Hong Kong, Macau and Taiwan) and representative offices of other organizations in the FTZ ● 在试验区内工作，并由其区内工作单位向中国税务机关代扣代缴一年以上所得税的中国公民 Chinese citizens working in the FTZ whose individual income tax has been withheld by their employers for more than one year ● 持有境外身份证件、在试验区内工作一年以上、持有中国境内就业许可证的境外（含港、澳、台地区）自然人 Foreigners (including Hong Kong, Macau and Taiwan) with foreign IDs, work permits in China and who have been working in the FTZ for more than one year
<p>自由贸易账户的使用</p> <p>Usage of FTAs</p>	<ul style="list-style-type: none"> ● 机构自由贸易账户与境外账户、境内区外的非居民机构账户、自由贸易账户之间的资金可自由划转 Capital transfer between FTAs and foreign accounts, and amongst institutional accounts outside the FTZ for non-residents. ● 机构自由贸易账户与境内（含试验区内）机构非自由贸易账户之间产生的资金划转（含同名账户）应以人民币进行，并视同跨境业务管理 Capital transfer (including under the same account name) between the FTAs and non-FTAs of domestic entities (including those established in the FTZ) shall be conducted in RMB, and treated as cross-border transactions. ● 同一企业自由贸易账户与自身在境内其他银行结算账户之间，可办理以下业务项下的人民币资金划转： The transfer of capital in RMB intended for the following can be conducted between FTA and non-FTA settlement accounts set up by the same company: <ul style="list-style-type: none"> ✓ 经常项下业务 Current account transactions ✓ 偿还自身存续期超过 6 个月的上海市银行业金融

- To standardize management and prevent risk, “Measures” has made general provisions on the filing management, including filing documents needed and filing conditions, which are basic requirements. Local government investment department could make more comprehensive and specific provisions according to actual needs.

Release of Implementation Rules for Account-based Settlement and Prudent Risk Management in the China (Shanghai) Pilot Free Trade Zone

The Shanghai Head Office of the People’s Bank of China (SHPCBOC) recently issued the Circular on Trial Implementation of Rules for Account-based Settlement in China (Shanghai) Pilot Free Trade Zone and Rules for its Prudent Risk Management (hereinafter “the Circular”). The Circular specifies the requirements for the establishment of a free trade accounting unit, management procedures, free trade accounts (FTA) set-up and the use of capital. The Circular also provides details for the evaluation, verification and risk management of the free trade accounting unit as well as for monitoring any unusual capital transactions and contingent regulatory measures. The Circular took effect on 22 May 2014.

By establishing FTAs, qualified entities in the FTZ can effect cross-border capital transfer, as well as ‘Limited Capital Permeation’ with non-FTZ areas in China.

The newsletter is merely provided to our clients and those who have interest in our business for reference. We’ll do our best to ensure the accuracy of the information in the newsletter. We have to remind you that the content in the newsletter is abstracted from relevant documents, and therefore in practice the original documents should be used for reference. Meanwhile, we welcome all of you to consult professionals in our firm regarding the information in the newsletter, and also welcome all of you visit our website www.dean CPA.com.cn. We will render affordable and value-added services to our clients. If there is a discrepancy between Chinese and English versions, Chinese version will prevail.

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