

CHINA LEGAL BRIEFING* 199

31 AUGUST–7 SEPTEMBER 2009



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Administrative Measures for the Pilot Implementation of RMB Settlement in Cross-Border Trade

跨境贸易人民币结算试点管理办法

Issued By **The People's Bank of China**
Subject **Tax, Finance and Accounting**
Promulgated on **July 1st, 2009**
Effective from **July 1st, 2009**
Source **<http://www.mof.gov.cn>**

The Administrative Measures for the Pilot Implementation of RMB Settlement in Cross-Border Trade (hereafter the “Measure”) was released by six ministries including the People’s Bank of China (POBC), the Ministry of Finance (MOF) and the Ministry of Commerce on 1st July. It became effective on the day of issuance.

Shanghai, Shenzhen, Guangzhou, Dongguan and Zhuhai are selected as pilot areas. The provincial-level governments are responsible for “co-ordinating relevant agencies in their localities to recommend pilot enterprise candidates for RMB settlement of cross-border trade transactions” (Article 4 Measures). The final list of pilot enterprises is subject to the approval of the relevant authorities. The eligible companies in the so-called pilot will be able to do the cross-border clearing and settlement in RMB of import and export trade with an overseas enterprise through the clearing banks for RMB business in Hong Kong and Macau or through a domestic commercial bank on a voluntary basis (Article 6 Measures).

The pilot program would provide the central bank and the other authorities involved with experience in using the necessary legal rules and other practical procedures. The Chinese government strives to enhance the statue of RMB among Asia currency and promote its internalization.

According to Article 14 of the “Detailed Rules for the Implementation of the Administration of Pilot RMB Settlement in Cross-border Trade” issued by the People’s Bank of China, an eligible pilot enterprise shall:

1. Operate in accordance with law and in good faith to guarantee the authenticity of cross-border trade settled in RMB;
2. Establish a ledger for RMB settlement of cross-border trade to keep an accurate record of import and export declaration and of RMB receipt and payment.

Fundamentally, the RMB's international perspective depends on the long-term performance of China's economy and people's confidence. China has to work to streamline its economic growth model, and upgrade technological innovation to cater to the demand of trade partners.

There is still a long way to go before the RMB becomes a reserve currency.

State Administration of Foreign Exchange, Circular on Revising the Examination and Approval Authority for Certain Capital Account-related Foreign Exchange Transactions

国家外汇管理局关于调整部分资本项目外汇业务审批权限的通知

Issued By	The State Administration of Foreign Exchange Subject Enterprises Providing Funds Overseas
Subject	Capital Market
Promulgated on	May 6th, 2009
Effective from	June 1st, 2009
Source	http://www.safe.gov.cn

The administrative procedures for examination, approval, facilitate investment and trade would be simplified through revision of the examination and approval authority for certain capital account-related foreign exchange transaction by the State Administration of Foreign Exchange.

It stipulates that the foreign exchange branch of the place, where the foreign-invested enterprises (FIEs) is located, will examine and approve the application for opening a funds account in a place outside its locality.

Where due to historical reasons the funds of an overseas party are used to purchase and pay foreign exchange for an FIE's fixed-return project, the matter shall be examined and approved by the foreign exchange branch at the location of the project (Article 2).

Security provided by domestic institutions for the issuance of bonds (including commercial bills) by overseas institutions shall be examined and approved by the foreign exchange branch at the place where the security provider is located (Article 4).

Where the net monthly subscription or redemption amount for an open-ended China fund which was established by a qualified foreign institutional investor exceeds US\$50 million

or its equivalent in another currency, it shall be examined and approved by the foreign exchange branch where the custodian is located (Article 7).

In accordance with the Administrative Licensing Law of the PRC and the Regulations on Foreign Exchange Administration of the PRC, the State Administration of Foreign Exchange implemented the adjustments to the approval authority for certain foreign exchange businesses to streamline administrative procedures and processes and to promote facilitation of investment and trade.

The Circular regulates many situations. In the following a few rules for some main situations are briefly summarized:

I. The local branch or foreign exchange administrative department of SAFE (hereinafter referred to as the local branch) approves the application of a FIE to open an inter-city capital account.

II. The foreign parties of FIEs must obtain the approval from local branch of the locality, where the project with the guaranteed fixed return is located when purchasing and paying the foreign exchange for projects with guaranteed fixed returns.

III. Financing (excluding bonds issuance) and non-financing external guarantees for overseas enterprises provided on a transaction-by-transaction basis by non-banking financial institutions and enterprises, where the guarantees are provided in conformity with the relevant regulations, are subject to the approval of the local branches of the locality, where the guarantor is located on a transaction-by-transaction basis.

IV. External guarantees provided by domestic institutions for bond issuances (including commercial bills) of overseas institutions are subject to the approval of the local branch of the locality, where the guarantor is located.

V. When a fund management company of a securities company applies to replace its Business License for Foreign Exchange Operations of Securities, which does not involve an adjustment in the business scope, it shall obtain approval from the local branch.

VI. The termination of foreign exchange business by a fund management company of a securities company is subject to the approval of the local branch.

VII. Open-ended funds set up by qualified overseas institutional investors in China with the amount of monthly net purchases or net redemptions exceeding the equivalent of USD 50

million are subject to the approval of the local branch of the locality where the trustee is located.

VIII. When the finance corporation of an enterprise group applies to suspend its business of spot settlement and sale of foreign exchange, it shall obtain approval from the local branch of the locality, where the said finance company is located.

IX. Authorization for foreign exchange purchase and payment by an emigrant for property transfer is subject to the approval of the local branch of the locality of the emigrants former registered permanent residence. If the total amount of the external transfer exceeds the equivalent of RMB 500,000, the local branch shall report the approval reply letter to the SAFE for the record.

X. Authorization for foreign exchange purchase and payment of inherited property transfers is subject to the approval of the local branch of the locality of the deceased registered permanent residence before death. If the total amount of the external transfer exceeds the equivalent of RMB 500,000, the local branch shall report the approval reply letter to the SAFE for the record.

The local branch can make relevant authorizations to the central sub-branches (sub-branches) under its jurisdiction according to the situations in the area under its jurisdiction and in compliance with the requirements of the related internal control system.

After SAFE has completed the adjustment of the approval authority, formulation and operational procedures and policy standards shall be released according to the principle of clarifying authority and responsibility, arrangements on a scientific basis, control of risk, and operations for the involved parties to enhance guidance and supervision over the local branches. A corresponding internal control system would be established by the local branch in order to enhance staff training, strengthen post-supervision and inspect the issuance related to such approvals, and reporting procedures according to the related regulations.

When handling examinations and approvals, the local branches shall strictly abide by the relevant rules and regulations regarding operational processes for foreign exchange business under the capital account. If any of major circumstances or policy-related problems is encountered, the local branches shall ask for instructions and submit reports in a timely manner to SAFE. All branches shall further strengthen statistics and supervision, and report the relevant statistics to SAFE timely and accurately in strict conformity with the relevant regulations.

China International Economic and Trade Arbitration Commission Online Arbitration Rules

中国国际经济贸易仲裁委员会网上仲裁规则

Issued By **The China International Economic and Trade Arbitration
Commission**
Subject **Arbitration**
Promulgated on **January 08th, 2009**
Effective from **May 1st, 2009**
Source **<http://www.cietac.org.cn>**

On 1st May the China International Economic and Trade Arbitration Commission released online arbitration rules. They apply to the “resolution of disputes over electronic commerce transactions, and other economic and trade disputes in which the parties agree to apply these Rules for dispute resolution” (Article 1).

Where these Rules are inconsistent with the CIETAC arbitration rules, these Rules shall prevail. Where a matter is not stipulated herein, the CIETAC arbitration rules shall apply (Article 54).

The secretariat of CIETAC shall serve all the documents, notifications and materials pertaining to arbitration on the parties or their authorized agents by electronic mail, electronic data interchange or facsimile (Article 10).

The evidence submitted by the parties may be electronic evidence created, sent, received or stored by electronic, optical or magnetic means. Electronic evidence with a reliable electronic signature shall carry the same effect and probative force as a document with a hand-written signature or a stamp (Article 29).

Where a case is tried in a tribunal, the arbitration tribunal shall conduct an online trial hearing using internet video conference or other electronic or computer communication means. The arbitration tribunal may also use the regular format of conducting trial hearing in a tribunal establishment (Article 33).

Unless the parties have another agreement, summary procedure shall apply to cases where the amount in dispute exceeds RMB100’000 but no more than RMB 1 million, or where the amount in dispute exceeds RMB1 million and a party submits a written application for

summary procedure after obtaining the written consent of the other party (Article 41). In a summary procedure, the arbitration tribunal shall, within two months of its establishment, render an arbitration award (Article 44).

Unless the parties have agreed otherwise, fast-track procedure shall apply to cases where the amount in dispute does not exceed RMB 100'000, or where the amount in dispute exceeds RMB100'000 and a party submits a written application for fast-track procedure after obtaining the written consent of the other party (Article 47). In a fast-track procedure, the arbitration tribunal shall, within 15 days of its establishment, render an arbitration award (Article 50).

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