



香港工業總會

Federation of Hong Kong Industries

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Industry News 業界新聞

22 January 2015

Public Consultation on the “Foreign Investment Law of the People's Republic of China (Draft for Consultation)”

The Ministry of Commerce of the People's Republic of China (MOC) is seeking public comments on the "Foreign Investment Law of the People's Republic of China (Draft for Consultation)". The deadline for submission of comments is 17 February 2015. For details concerning the Draft and related information, please visit the following websites:

- (1) <http://www.mofcom.gov.cn/article/ae/ag/201501/20150100871007.shtml>
- (2) <http://www.tid.gov.hk/english/aboutus/tradecircular/cic/asia/2015/files/ci201575a.pdf>

The Draft proposes to remove the existing requirement to examine and approve each and every instance of foreign investment. Instead, foreign investment will be administered via pre-access national treatment and a negative list will also be adopted. These moves have been designed to considerably reduce the restrictive measures on foreign investment, while allowing foreign investors and their investment to enjoy treatment equal to that for their Chinese counterparts.

Once the *Foreign Investment Law* comes into effect, the existing three Laws i.e. *Sino-Foreign Equity Joint Venture Law*, *Foreign Capital Enterprise Law*, and *Sino-Foreign Cooperative Joint Venture Law* will be repealed. As the *Foreign Investment Law* will no longer regulate matters such as the organisational form and organisational structure of foreign-invested enterprises, these enterprises that have been set up before the effective day of the new Law should - within three years - adjust their organisational form and organisational structure in accordance with the relevant laws and regulations, such as the *Company Law*.

With regard to the status of Hong Kong, Macau and Taiwan investors, the draft stipulates that the *Foreign Investment Law* will apply to all such investors. However, it is proposed that special treatment for Hong Kong, Macau or Taiwan investors should be separately undertaken care by the State Council.

Members who have any views on the Consultation Draft are invited to inform the FHKI by 10 February 2015. Alternatively, members may submit their comments directly to MOC. For enquiries, please contact Jeffrey Tsang at 2732 3197.



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2015年1月22日

《中華人民共和國外國投資法（草案徵求意見稿）》

國家商務部現正就《中華人民共和國外國投資法（草案徵求意見稿）》公開徵求意見，截止日期為2015年2月17日。《徵求意見稿》及相關資料，請參考以下網址：

- (1) <http://www.mofcom.gov.cn/article/ae/ag/201501/20150100871007.shtml>
- (2) <http://www.tid.gov.hk/english/aboutus/tradecircular/cic/asia/2015/files/ci201575a.pdf>

《徵求意見稿》提出取消現行對外商投資的逐案審批體制，採取准入前國民待遇和負面清單的外資管理方式，大幅減少外資限制性措施，外國投資者及其投資享有不低於中國投資者及其投資的待遇。

《徵求意見稿》亦提出當《外國投資法》生效後，現行的《中外合資經營企業法》、《外資企業法》和《中外合作經營企業法》將廢止。由於《外國投資法》將不再規範外國投資企業的組織形式和組織機構等問題，本法生效前依法存續的外國投資企業，應當在三年內按照《公司法》等法律法規對企業組織形式和組織機構進行調整。

至於港澳台僑投資者的待遇，《徵求意見稿》規定，港澳台僑投資者投資參照適用本法；關於港澳台僑投資者投資的特別待遇，建議由國務院另行規定。

會員如對《徵求意見稿》有意見，請於2015年2月10日前向工總反映。亦可直接向國家商務部提交意見。如有查詢，請聯絡秘書處曾志聰先生，電話：**2732 3197**。
