

Steering through the next cycle of FDI regulations in China



We support you and your German subsidiary to navigate through times of regulatory uncertainty

Your challenges



- With China's new **Foreign Investment Law "FIL"** having come into effect on January 1 2020, market entry requirements, cross-border remittance, information sharing, and technology transfer are widely loosened. The new FIL requires **national treatment of foreign-invested enterprises (FIEs)** including standards formulation, government funding, land supply, tax reductions and exemption, public procurement, and project approval in many important areas and industries. Staying ignorant of these opportunities could entail **competitive setbacks**.
- Under the new FIL three existing laws which have governed the foreign investment in China for decades, were replaced. Further, the *FIL + Negative list vs. Encouraged Industries* approach implements the principle of "equal treatment in market access unless prohibited", encourages foreign investment for a selection of industries, and distinguishes between Free Trade Zones (FTZ) and Pilot Free Trade Zones (PTZs).
- Decision makers have to quickly adapt to a changing regulatory environment. They have to adequately **assess the impact of the Chinese FIL** on previously established **FIEs and identify viable solutions** to ensure compliance with the newly issued *Foreign Investor Information Reporting Measures*.
- German headquarters need to develop a **precise and clear** understanding of the **regulatory implications for their** Chinese subsidiary and the respective changes for their operations. Based on this decision, **frameworks on how to overcome** these challenges have to be established and strategies to effectively leverage the potential synergies need to be developed.

Key questions



- How can we ensure legal compliance and stay ahead of our competition at your Chinese subsidiary?
- Are there any Government subsidies or tax reductions/exemptions available which were previously limited to domestic companies. How can we apply for them?
- Which industries, fields and regions for foreign investment are encouraged and have been removed from the PRCs negative list?
- How can we benefit from the greater flexibility in how we finance and structure China investments and operations?
- Which foreign investments still fall under security review by the PRC?
- How is registration of a FIE handled under the new regulations?
- Are there any ways to avoid duplicative reporting and penalties and control the risk of a delayed or neglected filing for the respective documents?
- How can we insist on IPR protection under the new regulations and file a lawsuit if protection is not granted?
- What is the most tax efficient way of providing liquidity to your Chinese subsidiary and, if needed, restructuring their debt?



We offer a complete solution for you and your Chinese subsidiary to regulatory uncertainties



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How we can support you



We can support you in identifying the right solution to deal with the new regulatory requirements, report under the new system, and obtain beneficial treatment for your Sino-German ventures.

- **Examine** the short-term regulatory requirements of your Chinese subsidiary and assess any risk related to the nonfulfillment of the FIL regulation.
- Advice and coordinate on the **government aid application process** and help with the **necessary documentation**, taking differences in the interpretation of the FIL + Negative list vs. Encouraged Industries approach on a level of FTZs vs. PFTZs into account.
- Offer legal advice on **monitoring** the adherence with reporting standards under the new systems in time, **structuring** pre-established control systems and avoidance of penalties.
- Leverage **the loosened catalogue of prohibited industries** and illustrate how to realize identified synergies for the Chinese subsidiary.
- Develop **communication concepts** and **stakeholder management**.
- Receive on the **ground support by an aligned team in China and Germany**.

Why KPMG?



- **Integrated** of experts from various service lines, who will **seamlessly and quickly support** you with your individual challenges in the current situation
- Proven specialists with **years of special situations experience**, that will deliver optimal solutions with **transparent and resilient results**
- **Deep understanding** of Chinese FIE registration proceedings, the **new Negative list and Encouraged Industry Catalogue for Foreign Investment** enhanced via long-term **relationships with the relevant contact persons**
- Professional compliance and **stakeholder management**, encompassing law firms/attorneys and public institutions

Your contact



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