



# 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 1 January 2020, the rules governing market entry requirements, cross-border remittance, information sharing, and technology transfer have been widely loosened. The new FIL requires **national treatment of foreign-invested enterprises (FIEs)** including the formulation of standards, government funding, land supply, tax reductions and exemption, public procurement, and project approval in many important areas and industries. Remaining unaware of these opportunities could lead to **competitive setbacks**.
- Under the new FIL, three existing laws that governed foreign investment in China for decades have been replaced. Further, the *FIL + Negative List vs. Encouraged Industries* approach implements the principle of "equal treatment in market access unless prohibited", encourages foreign investment in a selection of industries, and distinguishes between the nationwide scope and free trade zones.
- Decision makers have to quickly adapt to a changing regulatory environment. They have to adequately **assess the impact of China's 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 subsidiaries and the respective changes for their operations. Based on this understanding, **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 both legal compliance and that our Chinese subsidiary stays ahead of the competition?
- 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 PRC's Negative List?
- How can we benefit from 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 an FIE handled under the new regulations?
- Are there any ways to avoid duplicative reporting and penalties and control the risk of a late or omitted 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 our Chinese subsidiary and, if needed, of restructuring its debt?



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

## How we can support you



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

- **Examining** the short-term regulatory requirements of your Chinese subsidiary and assessing any risk related to the nonfulfillment of the FIL regulations.
- Advising on and coordinating the **government aid application process** and helping with the **necessary documentation**, taking into account differences in the interpretation of the FIL + Negative List vs. Encouraged Industries approach on a nationwide scope vs. free trade zones.
- Offering legal advice on **monitoring** timely adherence to reporting standards under the new systems, **structuring** pre-established control systems and on avoiding penalties.
- Leveraging **the less restricted catalogue of prohibited industries** and illustrating how to realise identified synergies for the Chinese subsidiary.
- Developing **communication concepts** and **stakeholder management**.
- Receiving on the **ground support by an aligned team** in China and Germany.

## Why KPMG?



- **Integrated 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**, who will deliver optimal solutions with **transparent and resilient results**.
- **Deep understanding** of China's 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.

## Contact

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