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Mizuho Bank (China), Ltd.
Advisory Division

—Policy Issues for Foreign Exchange Administration—

Mizuho China Business Express

(No. 377)

SAFE Authorizes Nationwide Rollout of Voluntary Settlement of Foreign Exchange Capital Funds, Retains Principle of “Actual Business Needs” on Use of Settled Foreign Exchange

On March 30, 2015, the State Administration of Foreign Exchange (SAFE) issued the [Circular on the Reform of the Administrative Approach for the Settlement of Foreign Exchange Capital Funds of Foreign-invested Enterprises](#) (Huifa [2015] No. 19; hereinafter referred to as “Circular No. 19”). Previously implemented on a trial basis in the China (Shanghai) Pilot Free Trade Zone and 16 other areas¹, Circular No. 19 signals the **rollout of the voluntary settlement mechanism for foreign exchange capital funds to foreign-invested enterprises (FIEs) throughout China**. As with the earlier pilot program, FIEs are required to open an interim account referred to as an **“account for foreign exchange funds settled and to be paid” for the deposit of the RMB proceeds from voluntary settlement of capital funds and to use such funds in accordance with actual business needs**. Circular No. 19 is **effective from June 1, 2015**.

❑ **Voluntary settlement based on actual business needs**

Under existing foreign exchange administration regulations, with the exclusion of reserve funds (up to the value of equivalent of US\$50,000 per transaction and not exceeding US\$100,000 per month), FIEs can only convert the foreign exchange in their capital accounts into RMB and withdraw the converted funds on an as-needed basis. This is referred to as the **foreign exchange settlement procedures against payments** (or payment-based foreign exchange settlement system). Under the provisions of Circular No. 19, however, FIEs will **be able to convert up to 100 percent of their foreign exchange capital funds into RMB at their own discretion** (also known as “conversion at will” or “voluntary settlement”).

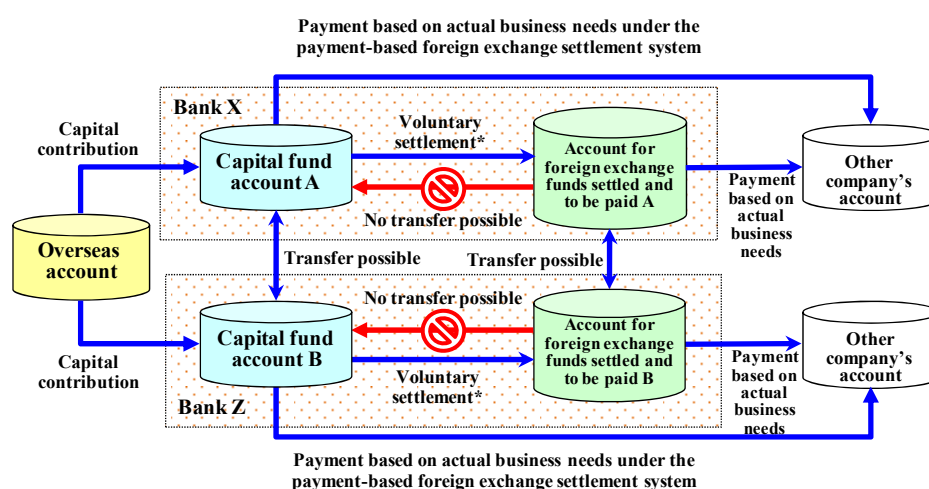
¹ The 16 pilot regions for the voluntary settlement of foreign exchange capital funds are: Tianjin Binhai New Area, Shenyang Economic Zone, Suzhou Industrial Park, Donghu National Self-Innovation Demonstration Zone (Wuhan), Nansha New District (Guangzhou), Hengqin New District (Zhuhai), Chengdu Hi-tech Industrial Development Zone, Zhongguancun National Self-Innovation Demonstration Zone (Beijing), Liangjiang New Area (Chongqing), Heilongjiang Frontier Development Zone for the Foreign Exchange Pilot Reform, Wenzhou Pilot Region for Comprehensive Financial Reform, Pingtan Comprehensive Pilot Zone (Fuzhou), China-Malaysia Qinzhou Industrial Park (Guangxi), Guiyang Comprehensive Bonded Zone, Qianhai Shenzhen-Hong Kong Modern Services Cooperation Zone (Shenzhen), and Qingdao Pilot Zone for Comprehensive Reform on Wealth Management and Finance.

FIEs undertaking voluntary settlement of foreign exchange capital funds are required to open an interim “account for foreign exchange funds settled and to be paid” at their banks for the deposit of the RMB proceeds from such settlement, the use of which should be based on their actual business needs (Article 2). The prevailing foreign exchange settlement procedures against payments provides for the use of capital funds, but payment through the account for foreign exchange funds settled and to be paid is not permitted in such instances. As with the existing regulations, the RMB proceeds of a voluntary settlement of foreign exchange capital funds must not be used for expenditure outside the business scope, and securities investments, the execution of entrusted loans, repayments of inter-company loans, repayments of RMB bank loans refinanced to a third party, or the purchase of domestic real estate that is not for its own use (except for foreign-invested real estate enterprises) are also prohibited (Article 3).

❑ Official authorization for fund transfers between accounts held in the same name

When using and/or converting foreign exchange capital funds, FIEs are required to submit to their banks an Order of Payments with Funds in Accounts Related to Direct Investments in addition to the relevant certifying documents pertaining to the authenticity of each underlying transaction, so as to guarantee transaction authenticity and the legal compliance of fund use (Article 5). Circular No. 19 does, however, provide for the use of converted RMB funds up to the equivalent of US\$ 100,000 per month as reserve funds without supporting documents².

Fig. 1: Handling of “accounts for foreign exchange funds settled and to be paid”



* Voluntary settlement ratios are subject to periodic adjustment by the SAFE (the current rate is 100%)
(Compiled by the Advisory Division from Circular No. 19)

Circular No. 19 also provides official authorization for fund transfers between accounts for foreign exchange funds settled and to be paid held in the same name, which was not permitted under the pilot program of voluntary settlement (Article 2). Accounts for foreign exchange funds settled and to be paid are, in principle, to be opened on a one-to-one corresponding basis with capital fund accounts, though where an FIE has opened a capital fund account, domestic account for the realization of assets, or account for domestic reinvestment at the same bank branch, a single account for foreign exchange funds settled and to be paid may be shared. Circular No.

² The rules for the pilot program state that converted RMB funds up to the equivalent of RMB 600,000 per month may be used as reserve funds.

19 further states that **the return of foreign exchange** that has been purchased using RMB funds held in an account for foreign exchange funds settled and to be paid **to a foreign exchange capital fund account is prohibited**.

Table. 2: Major provisions on “accounts for foreign exchange funds settled and to be paid”

Scope of deposits	<ul style="list-style-type: none"> ✓ Funds from foreign exchange settlement as transferred from the capital fund accounts, domestic accounts for the realization of assets, or accounts for domestic reinvestment held in the same name or by a domestic equity investor ✓ Funds transferred from an account for foreign exchange funds settled and to be paid held in the same name or by a domestic equity investor ✓ Funds returned after transfers from those accounts ✓ Funds returned due to the revocation of transactions ✓ Received RMB interest income ✓ Other receipts registered or approved by the SAFE (or the bank)
Scope of withdrawals	<ul style="list-style-type: none"> ✓ Expenditures within the business scope ✓ Payments of domestic equity investment funds and RMB security deposits ✓ Transfers to the special accounts for centralized fund management and accounts for foreign exchange funds settled and to be paid held in the same name ✓ Repayment of RMB loans after completed utilization ✓ Repayment of foreign debt (foreign currency purchases, outward payments) ✓ Capital reductions or withdrawals by foreign investors (foreign currency purchases, outward payments) ✓ Outward payments of current account items (foreign currency purchases, outward payments) ✓ Other capital expenditure items registered or approved by the SAFE (or the bank)
Prohibitions on the use of settled foreign exchange capital funds	<ul style="list-style-type: none"> ✓ Expenditures outside the enterprise’s business scope ✓ Investment in wealth management products other than principal-protected products or securities ✓ Execution of entrusted loans (unless permitted by the business scope) ✓ Repayment of inter-company loans (including third-party advances) ✓ Repayment of RMB bank loans refinanced to a third party ✓ Purchases of domestic real estate that is not for use by the FIE, except for a foreign-funded real estate enterprise
Other administrative provisions	<ul style="list-style-type: none"> ✓ The submission of an “Order of Payments with Funds in Accounts related to Direct Investments” upon use of capital funds ✓ The return of foreign exchange purchased using RMB funds to a foreign exchange capital fund account is prohibited ✓ The use of RMB funds up to the equivalent of US\$100,000 per month as reserve funds is permitted

(Compiled by the Advisory Division from Circular No. 19)

In addition, whilst, as is the case with foreign exchange capital fund accounts, the voluntary settlement of foreign exchange capital funds in a domestic account for the realization of assets or account for domestic reinvestment opened by a domestic enterprise is permitted; foreign exchange capital funds held in the in the foreign investors’ accounts for preliminary expenses are not available for voluntary settlement, and must be converted under the foreign exchange settlement procedures against payments (Article 6). It should also be noted that Circular No. 19 provides a voluntary settlement rate for the conversion of foreign exchange capital funds. Currently, the percentage for the voluntary settlement of foreign exchange capital funds is set at 100 percent, i.e., the full amount of an FIE’s registered capital, but Circular No. 19 states that the SAFE may adjust this percentage according to the international balance of payments situation at any time (Article 1).

❑ **Easing of regulations on equity investment using foreign exchange capital funds**

Circular No. 19 aims to ease the regulations on the use of FIE foreign exchange capital funds for domestic equity investment. Equity investment enterprises, including foreign-funded investment companies, are permitted to use the RMB proceeds from voluntary settlement of foreign exchange capital funds or the RMB funds held in an account for foreign exchange funds settled and to be paid for domestic reinvestment (Article 4). Moreover, the new rule makes provision for domestic equity investment by ordinary FIEs “pursuant to existing regulations on domestic reinvestments” (ibid) and states explicitly that the RMB proceeds from voluntary settlement of foreign exchange capital funds may be subscribed once such funds have been paid into an account for foreign exchange funds settled and to be paid opened by the invested enterprise following foreign exchange registration for a domestic reinvestment with the SAFE. This effectively removes the administrative restrictions on equity investment of foreign exchange capital funds imposed by the SAFE, though given the necessity of assessing the relevant policies of the commerce and other regulatory authorities, due caution is advised when proceeding with actual equity investment transactions.

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The [Circular on Promoting the Replicable Experience from Pilot Reforms undertaken in the China \(Shanghai\) Pilot Free Trade Zone](#) (Guofa [2014] No. 65), which was promulgated by the State Council on December 21, 2014, made public those reforms that have been piloted in the Shanghai FTZ that are to be subsequently deployed throughout the nation. This State Council circular requires the SAFE to rollout on a nationwide basis the voluntary settlement of foreign exchange capital funds and measures for the direct handling by banks of foreign exchange registration in respect of direct investment by June 30, 2015.

In response, on February 13, 2015, the SAFE issued the [Circular on Further Simplifying and Improving Direct Investment-related Foreign Exchange Administration Policies](#) (Huifa [2015] No. 13). This circular sets forward measures for the direct handling by banks nationwide of the relevant foreign exchange registration procedures for entities making direct investment³ with effect from June 1, 2015. Accordingly, the SAFE is expected to promulgate a nationwide version of detailed regulations on the voluntary settlement of foreign exchange capital funds.

A provisional translation of Circular No. 19 together with the original Chinese document is presented below for further reference.

Naoki Tsukioka, Advisory Division, Mizuho Bank (China), Ltd.

³ Readers are referred to Issue No. 371 of Mizuho China Business Express for further information on the measures pertaining to the direct handling by banks of foreign exchange registration in respect of direct investment, which is available for download via the following link:
<http://www.mizuhobank.com/service/global/cndb/express/pdf/R419-0377-XF-0105.pdf>

(Provisional translation)

State Administration of Foreign Exchange

Huifa [2015] No. 19

**Circular on the Reform of the Administrative Approach for the Settlement of Foreign
Exchange Capital Funds of Foreign-invested Enterprises**

Provincial, autonomous region, and municipal branches, foreign exchange administrative departments, Shenzhen, Dalian, Qingdao, Xiamen and Ningbo branches of SAFE:

For the purpose of further deepening the reform of the foreign exchange administration system, better satisfying and facilitating the requirements for the business and capital operations of foreign-invested enterprises (FIEs), the State Administration of Foreign Exchange (SAFE) has, on the basis of a general review of a pilot reform in certain areas, decided to implement on a nationwide basis the reforms on an administrative approach for the settlement of foreign exchange capital funds of FIEs. For the purpose of ensuring the smooth implementation of these reforms, the relevant issues are hereby notified as follows.

1. Voluntary settlement of foreign exchange capital funds of FIEs

The voluntary settlement of foreign exchange capital funds of FIEs refers to the right of FIEs to settle foreign exchange capital funds held in such FIE's capital fund account that have been recognized by the SAFE as the rights and interests of capital contributions (or have been completed the registration for the receipt of monetary capital contribution by bank) according to the actual business operational requirements. The provisional percentage for the voluntary settlement of foreign exchange capital funds of FIEs shall be 100 percent. The SAFE may adjust the aforementioned percentage in due time according to the international balance of payments situation.

In implementing the voluntary settlement of foreign exchange capital funds, FIEs may also opt to use their foreign exchange capital funds in accordance with the foreign exchange settlement procedures against payments. For each foreign exchange settlement transaction processed for an enterprise based on the principle of foreign exchange settlement against payments, the banks shall examine and verify the authenticity and compliance in the use of the funds for prior transactions of foreign exchange settlement (including voluntary settlement of foreign exchange and foreign exchange settlement against payments).

Domestic remittances and transfers and cross-border outward payments of the foreign exchange capital funds of FIEs shall be transacted pursuant to the relevant regulations on foreign exchange administration.

2. Management of RMB funds from the voluntary settlement of foreign exchange capital funds of FIEs

within the accounts for foreign exchange funds settled and to be paid

In principle, FIEs shall open accounts for capital items – foreign exchange funds settled and to be paid (hereinafter referred to as “accounts for foreign exchange funds settled and to be paid”) on a one-to-one corresponding basis for the deposit of RMB funds from voluntary settlement with their banks, and shall process the various payment transactions through such accounts. Those capital fund accounts, domestic accounts for the realization of assets, and/or accounts for domestic reinvestment that have been opened by FIEs in the same name at the same bank branch may share a single account for foreign exchange funds settled and to be paid. The RMB funds of FIEs gained from a settlement transacted based on the principle of foreign exchange settlement against payments shall not be used for payments through accounts for foreign exchange funds settled and to be paid.

The scope of receipts in the FIE capital fund accounts includes: foreign exchange capital funds remitted from overseas or capital funds subscribed to and contributed by foreign investors (including contributions from non-resident deposit accounts, offshore accounts, and domestic foreign exchange accounts of foreign individuals); foreign exchange capital funds or capital funds subscribed to and contributed as transferred from the special accounts for security deposits of overseas remittances; funds returned after transfers from these accounts in compliance with the regulations; funds received from the capital fund accounts held in the same name; funds returned due to the revocation of transactions; received interest income; and other receipts registered with the SAFE (or the bank) or approved by the SAFE.

The scope of the payments from the capital fund accounts includes: foreign exchange settlement within the business scope; transfers through the foreign exchange settlement into the accounts for foreign exchange funds settled and to be paid; domestic transfers in the same currency to the special accounts for security deposits of domestic transfers, capital fund accounts held in the same name, accounts for entrusted loans, special accounts for centralized fund management, special accounts for overseas lending, and special accounts for domestic reinvestment; outward remittances owing to capital reductions or withdrawals by foreign investors; outward payments for current items; and other capital item expenditures registered with the SAFE (or the bank) or approved by the SAFE.

The scope of the receipts in the accounts for foreign exchange funds settled and to be paid includes: funds from foreign exchange settlement as transferred from the capital fund accounts, domestic accounts for the realization of assets, or accounts for domestic reinvestment held in the same name or by a domestic equity investor; funds transferred from an account for foreign exchange funds settled and to be paid held in the same name or by a domestic equity investor; funds returned after transfers from these accounts in compliance with the regulations; funds returned due to the revocation of transactions; received RMB interest income; and other

receipts registered with the SAFE (or the bank) or approved by the SAFE.

The scope of the payments from the accounts for foreign exchange funds settled and to be paid includes: expenditures within the business scope; payments of domestic equity investment funds and RMB security deposits; transfers to the special accounts for centralized fund management and accounts for foreign exchange funds settled and to be paid held in the same name; repayment of RMB loans after completed utilization; foreign exchange purchases and payments or direct outward repayments of foreign debts; foreign exchange purchases and payments or direct outward payments owing to capital reductions or withdrawals by foreign investors; foreign exchange purchases and payments or direct outward payments for current item expenditures; and foreign exchange purchases and payments or direct outward payments of other capital item expenditures registered with the SAFE (or the bank) or approved by the SAFE.

RMB funds in the accounts for foreign exchange funds settled and to be paid shall not be transferred back to the capital fund accounts through foreign exchange purchases. All the RMB funds transferred from the accounts for foreign exchange funds settled and to be paid for the purpose of guarantees or payments of other security deposits, except in the case of execution of guarantee agreements or deductions owing to default, shall be returned to the accounts for foreign exchange funds settled and to be paid through the original route.

3. Utilization of FIE capital funds according to the principles of authenticity and company use within the business scope

FIE capital funds and RMB funds from the settlement of such funds shall not be used for the following purposes:

- (1) Directly or indirectly used for expenditures beyond the business scope or prohibited under the laws and regulations of the State;
- (2) Directly or indirectly used for securities investments unless otherwise stipulated under the laws and regulations;
- (3) Directly or indirectly used for the supply of RMB entrusted loans (unless permitted by the business scope), repayments of inter-company loans (including third-party advances), and repayments of RMB bank loans refinanced to a third party; or
- (4) For payment of expenses related to the purchase of real estate that is not for use by the FIE, except for a foreign-invested real estate enterprise.

4. Facilitation of domestic equity investment by FIEs with funds from foreign exchange settlement

In addition to fund transfers for equity investment in the original currency, FIEs with investment as their main

business (including foreign-funded investment companies, foreign-funded venture capital enterprises, and foreign-funded equity investment enterprises) are permitted to make direct settlement of foreign exchange capital funds or transfer RMB funds from an account for foreign exchange funds settled and to be paid into the invested enterprise account according to the actual scale of the investment, provided that the domestic investment project is authentic and in compliance with the regulations.

When ordinary FIEs other than the aforementioned enterprises invest in domestic equities with capital funds in the original currency, the existing regulations on domestic reinvestments shall prevail. When funds from foreign exchange settlement are used for domestic equity investments, the invested enterprise shall first register for a domestic reinvestment with the local SAFE (or their bank) and open a corresponding account for foreign exchange funds settled and to be paid, prior to the transfer of the RMB funds from the foreign exchange settlement by the investing enterprise, according to the actual scale of investment, to the account for foreign exchange funds settled and to be paid opened by the invested enterprise. When the invested enterprise continues to invest in domestic equities, the aforementioned principles shall apply.

5. Standard administration of payments made using settled foreign exchange funds

- (1) Foreign investors, FIEs, and other applicant entities shall provide, on an accurate and authentic basis and pursuant to the regulations, the relevant certifying documents regarding authenticity to their banks, and shall complete the *Order of Payments with Funds in Accounts Related to Direct Investments* (see Appendix) when applying for payments with RMB funds from the settlement of capital funds (including direct payments with foreign exchange capital funds).
- (2) The banks shall, according to the principles of business development, such as “know your customer,” “know your business,” and “due diligence,” be responsible for verifying the authenticity of outward payments with capital funds and payments with RMB funds from the foreign exchange settlement by the FIEs. When handling each payment transaction with such funds, the authenticity and compliance of the certifying documents with respect to the prior payment transactions shall be examined and verified. The banks shall keep the certifying documents relevant to the settlement and use of the foreign exchange capital funds of the FIEs for five years for future reference.

The banks shall report the data, including the accounts related to the capital fund accounts and the accounts for foreign exchange funds settled and to be paid (account code: 2113), cross-border receipts and payments, domestic transfers, foreign exchange settlement and sales within the accounts, on a timely basis and according to the *Circular of the SAFE on the Issuance of Foreign Exchange Transaction Data Collection Rules for Financial Institutions* (Version 1.0) (Huifa [2014] No. 18). In the case of transfers of funds between accounts for foreign exchange funds settled and to be paid and other

RMB accounts, the information on the domestic transfers shall be reported by filling in the documents for domestic payments and receipts, and indicating the fund purpose code under the “invoice number” column (according to “7.10: Code of Purpose for Foreign Exchange Settlement” in Huifa [2014] No. 18). The transaction code for other transfers shall be indicated as “929070,” except for payments under verification of goods trade.

- (3) When enterprises are temporarily unable to provide certifying documents for special reasons, the banks may make the relevant payments for the enterprises, provided that the obligation of due diligence has been fulfilled and the authentic background of the transactions has been verified, and may file with the SAFE through its relevant business system with respect to the special items on the date of payment. The banks shall collect and examine the full set of relevant certifying documents resubmitted by the enterprises within 20 working days of completion of the payment and report to the SAFE through its relevant business system with respect to the resubmission of the certifying documents on the authenticity of the filing of special items.

When FIEs use capital funds for the purpose of reserve funds, the banks need not require submission of the aforementioned certifying documents regarding authenticity. The cumulative amount of payments for reserve funds by a single enterprise in one month (including voluntary settlement of foreign exchange and foreign exchange settlement against payments) shall not exceed the equivalent of US\$100,000.

When FIEs apply for settlement against payments with all the foreign exchange capital funds on a one-off basis, or payments with all the RMB funds for the account for foreign exchange funds settled and to be paid, but fail to provide the relevant certifying documents on the authenticity, the banks shall not handle the corresponding foreign exchange settlement and payment transactions.

6. Administration of the settlement and utilization of foreign exchange account funds under other direct investment items

Settlement of foreign exchange funds in domestic accounts for the realization of assets and accounts for domestic reinvestment opened by domestic institutions shall be made with reference to the administrative regulations regarding the FIE capital fund accounts.

Settlement of foreign exchange funds in the domestic accounts for the realization of assets and accounts for domestic reinvestment opened by domestic individuals and overseas accounts for the realization of assets opened by domestic institutions and individuals shall be made directly through the banks, against the relevant

transaction registration documents.

Settlement of foreign exchange funds in the foreign investors' accounts for preliminary expenses shall be made according to the principle of settlement against payments.

Foreign exchange funds in the special accounts for security deposits of overseas remittances and special accounts for security deposits of domestic transfers shall not be used through foreign exchange settlement. In cases of execution of guarantee agreements or deductions owing to default, the relevant security deposits shall be transferred into the other foreign exchange accounts for capital items of the recipients of the deposits that have been registered with the SAFE (or the bank) or approved by the SAFE, and shall be used according to the relevant regulations.

The interest income and investment income under direct investments in the above accounts may be retained in such accounts, transferred to and retained in settlement accounts for current account items subject to their recognition and listing as interest and/or income, or be settled and paid directly through the banks.

7. Further strengthening of follow-up supervision and investigations and administrative measures to deal with regulatory infringements by the SAFE

- (1) The SAFE shall strengthen its guidance and confirmation of the compliance of foreign exchange settlements processed by banks and the utilization of FIE capital funds in accordance with the relevant regulations such as the *Regulations of the People's Republic of China on Foreign Exchange Administration* and the *Regulations on Foreign Exchange Administration of Domestic Direct Investments by Foreign Investors*. Such confirmation work shall include the submission of written explanatory and transaction documents by the relevant entities as requested, interviews with the persons in charge, field inspections or duplication of the relevant documents of the entities, and notification of any irregularities. With respect to banks with serious or malicious irregularities, their foreign exchange transactions under capital items shall be suspended according to the relevant procedures. With respect to FIEs with serious or malicious irregularities, their qualification to engage in the voluntary settlement of foreign exchange shall be revoked. Prior to the submission of the written explanatory documents and proper rectification, any other foreign exchange transactions under the capital items shall be prohibited.
- (2) The SAFE shall investigate and take administrative measures in respect of any infringements of this Circular by FIEs and banks during the settlement and utilization of the FIE foreign exchange capital funds in accordance with the *Regulations of the People's Republic of China on Foreign Exchange*

Administration and the relevant regulations.

8. Other matters

This Circular shall take effect on June 1, 2015. In the event of any discrepancies with prior regulations, this Circular shall prevail. The *Circular of the General Affairs Department of the SAFE on Operational Issues Concerning Improvements in the Administration of Foreign Exchange Settlement Procedures against Payment of FIE Capital Funds* (Huizongfa [2008] No. 142), the *Supplementary Circular of the General Affairs Department of the SAFE on Operational Issues Concerning Improvements in the Administration of Foreign Exchange Settlement Procedures against Payment of FIE Capital Funds* (Huizongfa [2011] No. 88), and the *Circular on Relevant Issues concerning Implementation of the Pilot Reform on an Administrative Approach for the Settlement of Foreign Exchange Capital Funds of Foreign-invested Enterprises in Certain Areas* (Huifa [2014] No. 36) are hereby rescinded.

Upon receipt of this Circular, all SAFE branches and foreign exchange administrative departments are requested to forward this document to the central sub-bureaus, branch bureaus, and banks within their respective jurisdictions without delay. Timely feedback is to be provided to the Capital Account Management Department of the SAFE in respect of any problems encountered during the course of implementation.

Appendix: Order of Payments with Funds in Accounts Related to Direct Investments

State Administration of Foreign Exchange
March 30, 2015

Appendix:

Order of Payments with Funds in Accounts Related to Direct Investments

_____ Bank (Bank code: _____)

You are requested to use the **funds in accounts** related to direct investments of our company for the following purposes as indicated:

- ☐ Foreign exchange settlement and payments
- ☐ Payments with RMB funds from foreign exchange settlement
- ☐ Outward payments with foreign exchange funds

Type of payment account		Payment account number		Whether the funds for payment have been recognized as the rights and interests of capital contribution (or the receipt of monetary capital contribution has been registered)	
Payee	Industry category of the payee	Amount and currency of the payment	Bank name of the payee account	Payee account number	Purpose of the funds for payment
Total					

Important notes:

1. Accounts related to direct investments and RMB funds from foreign exchange settlement within these accounts shall not be used for the following purposes:
 - (1) Directly or indirectly used for expenditures beyond the business scope or prohibited under the laws and regulations of the State;
 - (2) Directly or indirectly used for the purchase of investment and wealth management products other than principal-protected products or other negotiable securities, unless otherwise stipulated under the laws and regulations;
 - (3) Directly or indirectly used for the supply of RMB entrusted loans (unless permitted by the business scope), repayments of inter-company loans (including third-party advances), and repayments of RMB bank loans refinanced to a third party; or
 - (4) For payment of expenses related to the purchase of real estate that is not for use by the FIE, except for a foreign-invested real estate enterprise.
2. The cumulative amount of payments for reserve funds by a single enterprise in one month (including voluntary settlement of foreign exchange and foreign exchange settlement against payments) shall not exceed the equivalent of US\$100,000.

Note: Complete the form according to the following instructions.

We hereby guarantee that we have carefully read and fully understand the important notes to the above table and the attached instructions and that the information we have provided in the **Order of Payments with Funds in Accounts Related to Direct Investments** is authentic and effective; and we further guarantee that the funds under this application for payments shall be used within the business scope and according to the laws and regulations. In the event of any change in the purpose of the payment or false promises, we, as well as the legal representative of our company, shall be responsible for the legal consequences in accordance with the *Regulations of the People's Republic of China on Foreign Exchange Administration* and the relevant laws and regulations.

Contact:

Contact number:

Legal Representative of Company (signature)

_____ Company (seal)

Date: _____

Instructions for Completing the Form

1. Check the box corresponding to the relevant payment option: “foreign exchange settlement and payments,” “payments with RMB funds from foreign exchange settlement,” or “outward payments with foreign exchange funds.” The option of “foreign exchange settlement and payments” refers to direct payments to the actual payee (including transfers to the accounts for foreign exchange funds settled and to be paid) after foreign exchange settlement of the funds in accounts related to direct investments; the option of “payments with RMB funds from foreign exchange settlement” refers to making payments with and using funds in the accounts for foreign exchange funds settled and to be paid (including foreign exchange purchases and payments with RMB funds); and the option of “outward payments with foreign exchange funds” refers to direct outward payments with foreign exchange capital funds. Only one option may be chosen for each form, and separate forms shall be completed if all three options are applicable.
2. The type of payment account refers to the type of account from which the funds for payment are transferred, including a: capital fund account, account for domestic reinvestment, domestic account for the realization of assets, overseas account for the realization of assets, account for preliminary expenses, and account for foreign exchange funds settled and to be paid.
3. When filling in the column under “purpose of the funds for payment,” provide standard purposes (payment for goods, payment for engineering projects, payment for security deposits not in the same name, payment for consulting fees, payment for other service fees, advances, payment for taxes, payment for salaries and other labor earnings, land-transfer fees, real estate purchases, other fixed asset purchases, payment for equity subscriptions, repayment of bank loans, transfers to accounts held in the same name, settlement of foreign exchange interest, reserve funds, cash, personal purposes, purchase of principal-protected investment products of banks, transfers to the account for foreign exchange funds settled and to be paid, special filings, financing leases, execution of guarantee agreements, petty loans, factoring facilities, or other purposes). In case of advances or payments for other purposes, a separate explanation of the purpose of the funds shall be submitted.
4. Where the purposes of the funds for payment differ, separate entries shall be made accordingly.
5. Where this form is completed by any other person authorized by the legal representative of the company, a letter of authorization shall be provided separately.

(中国語原文)

国家外汇管理局
汇发[2015]19 号
关于改革外商投资企业外汇资本金结汇管理方式的通知

国家外汇管理局各省、自治区、直辖市分局、外汇管理部，深圳、大连、青岛、厦门、宁波市分局：

为进一步深化外汇管理体制改革，更好地满足和便利外商投资企业经营与资金运作需要，国家外汇管理局决定在总结前期部分地区试点经验的基础上，在全国范围内实施外商投资企业外汇资本金结汇管理方式改革。为保证此项改革的顺利实施，现就有关问题通知如下：

一、 外商投资企业外汇资本金实行意愿结汇

外商投资企业外汇资本金意愿结汇是指外商投资企业资本金账户中经外汇局办理货币出资权益确认（或经银行办理货币出资入账登记）的外汇资本金可根据企业的实际经营需要在银行办理结汇。外商投资企业外汇资本金意愿结汇比例暂定为 100%。国家外汇管理局可根据国际收支形势适时对上述比例进行调整。

在实行外汇资本金意愿结汇的同时，外商投资企业仍可选择按照支付结汇制使用其外汇资本金。银行按照支付结汇原则为企业办理每一笔结汇业务时，均应审核企业上一笔结汇（包括意愿结汇和支付结汇）资金使用的真实性与合规性。

外商投资企业外汇资本金境内原币划转以及跨境对外支付按现行外汇管理规定办理。

二、 外商投资企业外汇资本金意愿结汇所得人民币资金纳入结汇待支付账户管理

外商投资企业原则上应在银行开立一一对应的资本项目-结汇待支付账户（以下简称结汇待支付账户），用于存放意愿结汇所得人民币资金，并通过该账户办理各类支付手续。外商投资企业在同一银行网点开立的同名资本金账户、境内资产变现账户和境内再投资账户可共用一个结汇待支付账户。外商投资企业按支付结汇原则结汇所得人民币资金不得通过结汇待支付账户进行支付。

外商投资企业资本金账户的收入范围包括：外国投资者境外汇入外汇资本金或认缴出资（含非居民存款账户、离岸账户、境外个人境内外汇账户出资），境外汇入保证金专用账户划入的外汇资本金或认缴出资；本账户合规划出后划回的资金，同名资本金账户划入资金，因交易撤销退回的资金，利息收入及经外汇局（银行）登记或外汇局核准的其他收入。

资本金账户的支出范围包括：经营范围内结汇，结汇划入结汇待支付账户，境内原币划转至境内划入保证金专用账户、同名资本金账户、委托贷款账户、资金集中管理专户、境外放款专用账户、境内再投资专用账户的资金，因外国投资者减资、撤资汇出，经常项目对外支付及经外汇局（银行）登记或外汇局核准的其他资本项目支出。

结汇待支付账户的收入范围包括：由同名或开展境内股权投资企业的资本金账户、境内资产变现账户、境内再投资账户结汇划入的资金，由同名或开展境内股权投资企业的结汇待支付账户划入的资金，由本账户合规划出后划回的资金，因交易撤销退回的资金，人民币利息收入及经外汇局（银行）登记或外汇局核准的其他收入。

结汇待支付账户的支出范围包括：经营范围内的支出，支付境内股权投资资金和人民币保证金，划往资金集中管理专户、同名结汇待支付账户，偿还已使用完毕的人民币贷款，购付汇或直接对外偿还外债，外国投资者减资、撤资资金购付汇或直接对外支付，购付汇或直接对外支付经常项目支出及经外汇局（银行）登记或外汇局核准的其他资本项目支出。

结汇待支付账户内的人民币资金不得购汇划回资本金账户。由结汇待支付账户划出用于担保或支付其他保证金的人民币资金，除发生担保履约或违约扣款的，均需原路划回结汇待支付账户。

三、 外商投资企业资本金的使用应在企业经营范围内遵循真实、自用原则

外商投资企业资本金及其结汇所得人民币资金不得用于以下用途：

- （一）不得直接或间接用于企业经营范围之外或国家法律法规禁止的支出；
- （二）除法律法规另有规定外，不得直接或间接用于证券投资；
- （三）不得直接或间接用于发放人民币委托贷款（经营范围许可的除外）、偿还企业间借贷（含第三方垫款）以及偿还已转贷予第三方的银行人民币贷款；
- （四）除外商投资房地产企业外，不得用于支付购买非自用房地产的相关费用。

四、 便利外商投资企业以结汇资金开展境内股权投资

除原币划转股权投资款外，允许以投资为主要业务的外商投资企业（包括外商投资性公司、外商投资创业投资企业和外商投资股权投资企业），在其境内所投资项目真实、合规的前提下，按实际投资规模将外汇资本金直接结汇或将结汇待支付账户中的人民币资金划入被投资企业账户。

上述企业以外的一般性外商投资企业以资本金原币划转开展境内股权投资的，按现行境内再投资规定办理。以结汇资金开展境内股权投资的，应由被投资企业先到注册地外汇局（银行）办理境内再

投资登记并开立相应结汇待支付账户，再由开展投资的企业按实际投资规模将结汇所得人民币资金划往被投资企业开立的结汇待支付账户。被投资企业继续开展境内股权投资的，按上述原则办理。

五、进一步规范结汇资金的支付管理

(一) 外国投资者、外商投资企业及其他相关申请主体应按规定如实向银行提供相关真实性证明材料，并在办理资本金结汇所得人民币资金的支付使用（包括外汇资本金直接支付使用）时填写《直接投资相关账户资金支付命令函》（见附件）。

(二) 银行应履行“了解客户”、“了解业务”、“尽职审查”等展业原则，在为外商投资企业办理资本金对外支付及结汇所得人民币资金支付时承担真实性审核责任。在办理每一笔资金支付时，均应审核前一笔支付证明材料的真实性与合规性。银行应留存外商投资企业外汇资本金结汇及使用的相关证明材料 5 年备查。

银行应按照《国家外汇管理局关于发布<金融机构外汇业务数据采集规范（1.0 版）>的通知》（汇发[2014]18 号）的要求，及时报送与资本金账户、结汇待支付账户（账户性质代码 2113）有关的账户、跨境收支、境内划转、账户内结售汇等信息。其中，结汇待支付账户与其他人民币账户之间的资金划转，应通过填写境内收付款凭证报送境内划转信息，并在“发票号”栏中填写资金用途代码（按照汇发[2014]18 号文件“7.10 结汇用途代码”填写）；除货物贸易核查项下的支付，其他划转的交易编码均填写为“929070”。

(三) 对于企业确有特殊原因暂时无法提供真实性证明材料的，银行可在履行尽职审查义务、确定交易具备真实交易背景的前提下为企业办理相关支付，并应于办理业务当日通过外汇局相关业务系统向外汇局提交特殊事项备案。银行应在支付完毕后 20 个工作日内收齐并审核企业补交的相关证明材料，并通过相关业务系统向外汇局报告特殊事项备案业务的真实性证明材料补交情况。

对于外商投资企业以备用金名义使用资本金的，银行可不要求其提供上述真实性证明材料。

单一企业每月备用金（含意愿结汇和支付结汇）支付累计金额不得超过等值 10 万美元。

对于申请一次性将全部外汇资本金支付结汇或将结汇待支付账户中全部人民币资金进行支付的外商投资企业，如不能提供相关真实性证明材料，银行不得为其办理结汇、支付。

六、其他直接投资项下外汇账户资金结汇及使用管理

境内机构开立的境内资产变现账户和境内再投资账户内资金结汇参照外商投资企业资本金账户管理。

境内个人开立的境内资产变现账户和境内再投资账户，以及境内机构和个人开立的境外资产变现账户可凭相关业务登记凭证直接在银行办理结汇。

外国投资者前期费用账户资金结汇按支付结汇原则办理。

境外汇入保证金专用账户和境内划入保证金专用账户内的外汇资金不得结汇使用。如发生担保履约或违约扣款的，相关保证金应划入接收保证金一方经外汇局（银行）登记后或外汇局核准开立的其他资本项目外汇账户并按照相关规定使用。

上述直接投资项下账户内利息收入和投资收益均可在本账户内保留，然后可凭利息、收益清单划入经常项目结算账户保留或直接在银行办理结汇及支付。

七、 进一步强化外汇局事后监管与违规查处

- （一） 外汇局应根据《中华人民共和国外汇管理条例》、《外国投资者境内直接投资外汇管理规定》等有关规定加强对银行办理外商投资企业资本金结汇和使用等业务合规性的指导和核查。核查的方式包括要求相关业务主体提供书面说明和业务材料、约谈负责人、现场查阅或复制业务主体相关资料、通报违规情况等。对于严重、恶意违规的银行可按相关程序暂停其资本项目下外汇业务办理，对于严重、恶意违规的外商投资企业等可取消其意愿结汇资格，且在其提交书面说明函并进行相应整改前，不得为其办理其他资本项下外汇业务。
- （二） 对于违反本通知办理外商投资企业资本金结汇和使用等业务的外商投资企业和银行，外汇局依据《中华人民共和国外汇管理条例》及有关规定予以查处。

八、 其他事项

本通知自 2015 年 6 月 1 日起实施。此前规定与本通知内容不一致的，以本通知为准。《国家外汇管理局综合司关于完善外商投资企业外汇资本金支付结汇管理有关业务操作问题的通知》（汇综发[2008]142 号）、《国家外汇管理局综合司关于完善外商投资企业外汇资本金支付结汇管理有关业务操作问题的补充通知》（汇综发[2011]88 号）和《国家外汇管理局关于在部分地区开展外商投资企业外汇资本金结汇管理方式改革试点有关问题的通知》（汇发[2014]36 号）同时废止。

国家外汇管理局各分局、外汇管理部接到本通知后，应及时转发辖内中心支局、支局和银行。执行中如遇问题，请及时向国家外汇管理局资本项目管理司反映。

附件：直接投资相关账户资金支付命令函

国家外汇管理局
2015 年 3 月 30 日

附表:

直接投资相关账户资金支付命令函

_____ 银行（行号:_____）:

请贵行将本公司直接投资相关**账户资金**，按照以下要求进行：☐ 结汇支付 ☐ 结汇所得人民币支付 ☐ 对外付汇

支付账户类型		支付账户账号		支付资金是否已办理 货币出资权益确认 (或货币出资入账登记)	
收款人	收款人所属 行业	支付金额及 币种	收款人开户 银行名称	收款人账号	支付资金 用途
合计					

重要提示：

一、直接投资相关账户及其结汇所得人民币资金不得用于以下用途：

（一）不得直接或间接用于企业经营范围之外或国家法律法规禁止的支出；

（二）除法律法规另有规定外，不得直接或间接用于购买银行保本型产品之外的投资理财产品或其他有价证券；

（三）不得直接或间接用于发放人民币委托贷款（经营范围许可的除外）、偿还企业间借贷（含第三方垫款）以及偿还已转贷予第三方的银行人民币贷款；

（四）除外商投资房地产企业外，不得用于支付购买非自用房地产的相关费用。

二、单一企业每月备用金（含意愿结汇和支付结汇）支付累计金额不得超过等值 10 万美元。

注：请按填表说明填写。

本公司承诺：本公司已认真阅读并完全理解上表中重要提示和所附填表说明的内容，本公司所填写《直接投资相关账户资金支付命令函》各项内容真实有效，并保证合法合规在经营范围内使用此次申请支付的资金。如擅自改变支付用途或虚假承诺，依照《中华人民共和国外汇管理条例》及相关法规，本公司及其法定代表人将承担相应的法律责任。

联系人：

联系电话：

公司法定代表人签章：

_____ 公司（盖章）

年 月 日

填表说明：

- 请在“结汇支付”、“结汇所得人民币支付”或“对外付汇”前的方框中打钩，“结汇支付”指相关直接投资账户内资金结汇后直接支付给实际收款人（含划入结汇待支付账户）；“结汇所得人民币支付”指将结汇待支付账户内的资金支付使用（含人民币资金购汇支付）；“对外付汇”指资本金直接对外付汇。本选项只能单选，如同时包括三种情况请分别填表。

2. 支付账户类型是指划出支付资金的账户类型，包括：资本金账户、境内再投资账户、境内资产变现账户、境外资产变现账户、前期费用账户、结汇待支付账户。
3. 填写支付资金用途时，请按标准用途（支付货款、支付工程款、支付保证金非同名、支付咨询费、支付其他服务费用、预付款、支付税款、支付工资等劳务报酬、土地出让金、购房、购买其他固定资产、股权出资、偿还银行贷款、同名划转、利息结汇、备用金、现钞、个人、购买银行保本型投资产品、转入结汇待支付账户、特殊备案、融资租赁、担保履约、小额贷款、保理业务、其他）填写（选择“预付款或其他”的，请另行提交资金用途说明）。
4. 支付资金用途不同需分开填写。
5. 公司法人代表授权委托他人填写本表的，另需提供授权委托书。

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