

# *Asia Pacific Tax Newsalert*

A Washington National Tax Services (WNTS)  
Publication

CHINA

September 13, 2011

## *Regulatory Development on Relaxation of cross-border RMB capital account*

On 17 August 2011, China's Vice Premier Li Keqiang delivered the keynote speech at a Forum on the 12th Five -year Plan and Financial Cooperation in Hong Kong. The Vice Premier announced that the Chinese central government will actively support the growth of the Renminbi ("RMB") market in Hong Kong and its drive to become an offshore RMB centre.

To expedite this process, both the State Administration of Foreign Exchange ("SAFE") and the Ministry of Commerce ("MOFCOM") have respectively set out in recent notices the implementation policies of using RMB for settlement of cross-border capital account transactions.

This is a significant step towards RMB internationalization as cross-border capital account transactions can now be settled in RMB. All foreign investors may use RMB.

As part of this process, Hong Kong will take a pioneering role in implementing the policy with State Government support.

This Newsalert highlights the SAFE's and the MOFCOM's new policies and our observations on how RMB internalization may benefit the business communities in



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both mainland China and overseas.

## *SAFE policies*

SAFE issued Huizhongfa [2011] No.38 ("Circular 38") to its subordinate bureaus at the local level. Circular 38 provides detailed implementation guidelines for the following capital account transactions using RMB:

- RMB outbound investments by the People's Republic of China ("PRC") entities;
- Foreign direct investments ("FDI") in RMB by foreign investors that set up foreign investment enterprises ("FIE"s) or acquire existing PRC entities;
- Capital reductions, equity transfers, liquidations, early recoupment of FIE investments that use RMB;
- RMB loan extensions by PRC entities to overseas subsidiaries;
- RMB loan borrowings by PRC entities from overseas; and
- Capital gain and dividend payments for A-share and dividend payments for H-share investments using RMB by foreign shareholders.

## *MOFCOM Draft Notice*

Meanwhile MOFCOM has issued a Draft Notice which sets out the principles and policies when foreign investors use RMB for FDI. The Draft Notice is available for public comment.

## *Our Observations*

- The new RMB policies will provide the following immediate benefits to foreign investors:
  - Allow for the hedging of currency risk since the RMB has appreciated over the past few years.
  - Enable a better mechanism for RMB circulation between Mainland China and overseas.
  - Allow RMB fund raising through Hong Kong capital markets, such as issuing RMB corporate bonds.
- However, some areas still require further clarification from relevant authorities for implementing the new RMB policies, such as coordination between SAFE, MOFCOM or the People's Bank of China ("PBOC").

## *Conclusion*

The new policies from the SAFE and MOFCOM will benefit both foreign and Mainland China business from the aspects of exchange risks hedging, lowering financing cost and increasing investment channels.

The mainland and Hong Kong government authorities are expected to develop more detailed policies and mechanisms in the future.

We will monitor the RMB policies and notify you of any further developments.

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