

China - Procedures on Foreign Exchange Control in Bonded Areas, 1995

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Procedures on Foreign Exchange Control in Bonded Areas 1
(Promulgated by the State Administration of Exchange Control on
December 18, 1995)

Article 1 2

This set of procedures has been formulated in accordance with provisions of related 3
laws and regulations, with the aim of perfecting the foreign exchange control in the
bonded areas to enhance the development of the export-oriented economy. 4

Article 2 4

The bonded areas referred to in this set of procedures are the economic areas on the 5
territory of the People's Republic of China (referred to hereinafter as inside China)es-
tablished with the approval of the State Council to be put under the special supervision
of the customs. 6

Article 3 6

The “outside areas ”referred to in this set of procedures are the areas inside China other 7
than the bonded areas. 8

Article 4 8

The “in-area institutions” referred to in this set of procedures are the administrative 9
organs, enterprises, institutions and other economic organizations inside the bonded
areas. 10

Article 5 10

The “in-area enterprises” referred to in this set of procedures are the enterprises, 11
Chinese-founded or foreign-funded, registered in the bonded areas. 12

Article 6 12

The departments responsible for the administration of foreign currencies in the bonded 13
areas are the State Administration of Exchange Control and its subsidiaries (referred
to hereinafter as exchange control bureaus). 14

Article 7 14

Foreign exchange income and expenditure of institutions and individuals inside the 15

bonded areas shall be controlled by these set of procedures.

Foreign exchange business by financial institutions and their subsidiaries inside the bonded areas shall be reported to the State Administration of Exchange Control for approval. 16

Article 8 17

Trade-related goods flowing in and out of the bonded areas shall be priced and settled with foreign exchanges. Daily articles bringing in the areas for consumption of in-area institutions and the rentals for houses and lands, may be priced and settled with either Renminbi or foreign exchanges. 18

Article 9 19

The in-area enterprises can settle their accounts either with Renminbi or foreign exchanges. 20

Article 10 21

Administrative organs inside the bonded areas shall price and settle their transactions in Renminbi. 22

Article 11 23

The in-area enterprises shall submit the following documents to exchange control bureaus for foreign exchange registration formalities within 30 days after the approval of their establishment: 24

1. Documents issued by State administrative departments on approving the enterprise's establishment; 25
2. Business licenses issued by the industrial and commerce administrative departments; 26
3. The enterprises' contracts, articles of association or other agreements already approved. 27

The exchange control bureaus, after examining and verifying the validity of the documents, shall issue Registration Card of Exchange Control of the Bonded Areas. 28

Article 12 29

The in-area enterprises shall, with a Registration Card of Exchange Control of the Bonded Areas, open a basic foreign exchange account with a local financial institution inside the bonded areas to handle day-to-day transfer and settlement of accounts and 30

cash transactions. They can also open a special foreign exchange account with a local financial institution inside the bonded areas. However, they cannot open more than two basic foreign exchange accounts. Neither can they open basic foreign exchange accounts outside their own bonded areas. No foreign exchange accounts shall be opened outside the bonded areas unless approved by the exchange control bureaus.

Article 13

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In-area enterprises, if they want to open foreign exchange accounts in other bonded areas, will have to file applications with the exchange control bureaus of the local bonded areas, and after approval, present the approval documents to the exchange control bureau of the bonded area where the new account is to be opened for further approval.

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Article 14

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In-area enterprises, if they want to open foreign exchange accounts overseas, will have to have the approval of the local exchange control bureaus. The overseas accounts shall be utilized in line with the stipulated receipt and payment scope and the usage period.

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Article 15

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In-area financial institutions, when opening foreign exchange accounts for in-area enterprises, shall fill in the related blanks of the Registration Card of Exchange Control of the Bonded Areas, clearly listing the bank's name, currency, account number and income and expenditure scope, as well as the bank's official seal.

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Article 16

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In-area banks designated to handle foreign exchange business shall follow the middle exchange rates as promulgated by the People's Bank of China in processing selling and settlement of foreign exchange for in-area enterprises, with the exchange rates within the stipulated fluctuation scope.

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Article 17

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All foreign exchange incomes earned by in-area institutions shall be transferred inside the bonded areas.

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Article 18

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In-area interests can retain the foreign exchange or sell them to designated banks inside

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the bonded areas. Foreign exchange revenues by in-area administrative organs shall be sold to designated banks that handle foreign exchange inside the bonded areas. Without the approval of the exchange control bureaus, the in-area administrative organs cannot keep the exchanges outside the bonded areas or sell the exchanges to banks outside the bonded areas.

Without the approval of the exchange control bureaus, the borrowing of foreign ex- 43
changes in and outside the bonded areas by the in-area enterprises should not be
settled.

Article 19 44

In-area enterprises, when withdrawing foreign exchange used for designated business 45
activities, shall submit Registration Card of Exchange Control of the Bonded Areas that
has been validated annually, payment agreement or contract or the payment notice from
overseas or in-area financial or non-financial institutions and other valid proofs and busi-
ness receipts as required for withdrawal from their foreign exchange accounts.

Article 20 46

In-area enterprises without foreign exchange account or without enough foreign ex- 47
change capital, may get foreign exchange from designated foreign exchange banks
inside the bonded areas on the strength of a Registration Card of Exchange Control of
the Bonded Areas and other valid proofs and business vouchers as stipulated in the
Provisional Regulations on Controlling Exchange Settlement, Exchange Selling and
Exchange Payment.

Article 21 48

In-area enterprises shall present approval documents from foreign exchange bureaus 49
and the annually validated Registration Card of Exchange Control of the Bonded Ar-
eas to cash foreign exchange from their foreign exchange accounts for the following
expenditures:

1. The transfer of foreign exchange capital; 50
2. The remittance of expenses required for opening subsidiaries or offices established 51
overseas with permission, or operational capital thereof;
3. Repaying principal and interest of foreign exchange loans provided by domestic and 52
overseas financial institutions or overseas enterprises and individuals;
4. The remittance of investment overseas; 53
5. The remittance of advance loans and commission exceeding the stipulated propor- 54
tion and amount;
6. Other foreign exchange expenditures stipulated by the State Exchange Control Ad- 55

ministration.

Article 22

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In-area enterprises can retain profits, dividends and bonuses in foreign exchange . If such funds are sent outside the bonded areas, the transactions shall be governed by exchange control regimes outside the bonded areas.

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Article 23

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Overseas investors of in-area enterprises, when remitting profits, dividends and bonuses, cash from the enterprises' basic foreign exchange accounts, provided that they present the annually validated Registration Card of Exchange Control of the Bonded Areas, the profit distribution resolutions by the board of directors and tax payment certificates.

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Article 24

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Overseas investors of in-area enterprises, if they intend to invest their profits, dividends and bonuses in Renminbi in new projects, shall file applications with the exchange control bureaus, presenting profit distribution resolutions by the board of directors, tax payment certificates and verification documents from registered accounting services. The investment procedures cannot proceed unless approved.

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Article 25

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In liquidation due to closing or expiration of the business term, in-area enterprises shall cancel the Registration Card of Exchange Control of the Bonded Areas, return the card and proceed with the liquidated formalities and have their accounts closed within the designated periods stipulated by the State. After liquidation, foreign exchange belonging to overseas investors may be remitted overseas after approval; foreign exchange belonging to Chinese investors shall be transferred outside the bonded areas and handled in accordance with regulations on exchange control outside the bonded areas.

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Article 26

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Salaries and other legal incomes by foreigners, overseas Chinese, residents of Taiwan, Hong Kong and Macao, after payment of related taxes, may be remitted or brought overseas.

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Article 27

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When goods are transferred into the bonded areas from outside or vice versa, examination and underwriting of the export foreign exchange income and import foreign exchange payment shall be handled by enterprises outside the bonded areas in accordance with Procedures on the Administration, the Examination and Underwriting of Export Exchange Income and The Provisional Procedure on the Administration of the Examination and Underwriting of Import Exchange Payment. When goods are transferred from the bonded areas to overseas or vice versa, the in-area enterprises do not handle formalities of the examination and underwriting.

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Article 28

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If in-area enterprises commission any enterprises outside the areas to handle export businesses, the enterprises outside the areas, after going through formalities on export exchange income examination and underwriting in accordance with related regulations, transfer the original foreign exchange to the in-area enterprises, on strength of the proxy agreements. If in-area enterprises commission any enterprises outside the areas to handle import businesses, the in-area enterprises shall transfer the foreign exchanges to the enterprises outside the bonded areas on the strength of the proxy agreements and approval documents from the exchange control bureaus. The examination and underwriting of the import exchange payment shall be undertaken by the enterprises outside the bonded areas.

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Article 29

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When in-area enterprises act as agents for the import businesses for enterprises outside the areas, the enterprises outside the areas shall transfer foreign exchange to the in-area enterprises, on the strength of the proxy agreements. They will also go through the formalities of foreign exchange examination and underwriting in accordance with related regulations.

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Article 30

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When in-area enterprises plan to borrow foreign exchange funds from foreign-funded financial institutions, foreign financial institutions, enterprises and individuals in China, the transactions shall be governed by China's related regulations on foreign debts.

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Article 31

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When in-area enterprises make investment overseas, the transactions shall be governed by China's related regulations on overseas investment with foreign exchange.

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Article 32 76

The in-area institutions and individuals shall report their balances of international payments in accordance with the State's regulations. 77

Article 33 78

The in-area enterprises shall provide the exchange control bureaus with related tables and other data in accordance with regulations. 79

Article 34 80

The in-area enterprises shall have Registration Card of Exchange Control of the Bonded Areas validated before April 30 of each year with the exchange control bureaus on the strength of the original card and other required documents. After annual validation of their Registration Card of Exchange Control of the Bonded Areas in-area enterprises can handle the receipt and payment of foreign exchange with in-area financial institutions or handle exchange settlement and exchange selling with designated financial institutions inside the bonded areas on strength of the cards concerned with validated seals. The in-area enterprises whose Registration Card of Exchange Control of the Bonded Areas fail to be validated or who failed to handle the annual validation procedures before the deadline shall spend or receive foreign exchange case by case under permission by the exchange control bureaus. 81

Article 35 82

The exchange control bureaus will have annual examination of the in-area enterprises on the following items: 83

1. The handling of Registration Card of Exchange Control of the Bonded Areas; 84
2. The execution of the investment contracts of the foreign-funded enterprises or the obligations as assigned in the enterprises' articles of association; 85
3. The opening and usage of the foreign exchange accounts; 86
4. Balances of foreign exchange; 87
5. The usage of the purchased or sold foreign exchange; 88
6. Debts in foreign exchange; 89
7. The submission of reporting statements and tables; 90
8. Other items as stipulated by the State Administration of Exchange Control. 91

Article 36

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The exchange control bureaus shall conduct regular or irregular supervision and inspection in in-area institutions on their balances or foreign exchange. As to violations of this set of procedures, the exchange control bureau shall warn, fine, or circulate a notice of criticism of, those responsible enterprises. The exchange control bureaus can also mete out other punishments in accordance with the country's related laws and regulations on exchange control.

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Article 37

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The in-area financial institutions shall, in accordance with related regulations, provide in-area institutions with services of opening accounts, exchange settlement and selling and the receipt and payment of foreign exchange capital. The exchange control bureaus can punish those violating this set of procedures with warning, fines, suspension of the business of foreign exchange account opening, suspension of the business of exchange settlement and selling, or even the revocation of the License for Foreign Exchange Businesses.

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Article 38

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This set of procedures shall be interpreted by the State Administration of Exchange Control.

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Exchange control bureaus inside the bonded areas may formulate detailed rules for the implementation of these set of procedures to be put into force after being reported to and approved by the State Administration of Exchange Control.

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Article 39

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This set of procedures enter into effect as of January 1, 1996. The Provisional Procedures on Foreign Exchange Control in Bonded Areas, promulgated on June 29, 1991, and other detailed rules for their implementation are nullified at the same time.

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