

Quick Review on the State Council's New Outbound Investment Regulation: Key Changes, Compliance Risks, and Recommendations

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On June 1, 2026, the *Provisions of the State Council on Outbound Investment* (Order No. 837 of the State Council, hereinafter referred to as the “**New Outbound Investment Regulation**” or “**New Regulation**”) were officially promulgated and will take effect on July 1, 2026. This marks China's **first administrative regulation** in the field of outbound investment. Prior to this issuance, the highest legislation in this field was departmental rules. The New Outbound Investment Regulation systematically integrates outbound investment rules previously scattered across various departmental rules, elevating them for the first time to the level of an administrative regulation. This signals that China's outbound investment supervision is entering a new, more systematic phase.

I. Core Elements of the New Regulation: Who is Regulated, What is Regulated, and How to Regulate

The core elements of the New Outbound Investment Regulation lie in three breakthrough areas: expansion of the scope of application, more comprehensive regulatory matters, and, for the first time at the administrative regulation level, clearly defined penalties.

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1. Who is Regulated: Individual Outbound Investment Formally Included under Administrative Regulation

Article 2 of the New Outbound Investment Regulation explicitly states that investors include domestic enterprises, other organizations, and resident individuals. Previously, departmental rules such as the *Administrative Measures for Outbound Investment by Enterprises* and the *Administrative Measures on Overseas Investments* only regulated outbound investment by domestic enterprises

and did not explicitly include individuals; other organizations were merely required to comply by reference.

Before the issuance of the New Outbound Investment Regulation, individual outbound investment was primarily governed by *Notice of the State Administration of Foreign Exchange on Issues Relating to Foreign Exchange Control for Overseas Investment and Financing and Round-tripping by Chinese Residents through Special Purpose Vehicles* (“SAFE Circular 37 (2014)”) and *Notice of the State Administration of Foreign Exchange on Further Simplifying and Improving the Foreign Exchange Management Policies for Direct Investment* (“SAFE Circular 13 (2015)”), which required foreign exchange registration for outbound financing and return investment activities through special purpose vehicles. Outbound foreign currency purchases by individuals were mainly regulated by the *Capital Project Foreign Exchange Business Guidelines (2024 Edition)* (commonly seen in scenarios such as domestic individuals participating in overseas listed companies' equity incentive plans or foreign currency purchases under SPV structures). Now, by directly stating at the administrative regulation level that individuals fall within the scope of investors, and by clarifying that specific measures will be formulated by the competent investment and commerce authorities under the State Council, the New Regulation formally brings individual outbound investment under a unified national regulatory framework.

2. What is Regulated: Expansion to Cover Various Investments and Cross-Border Personnel Movement

Firstly, the scope of “investment” has expanded. The definition of “outbound investment” in Article 2 of the New Regulation essentially adopts the broadest definition found in the *Administrative Measures for Outbound Investment by Enterprises*, and expressly extends the definition to cover indirect acquisitions of rights and interests, meaning that multi-layer SPV structures, non-equity control structures (e.g., contractual control), and other structures are all covered.

Secondly, cross-border personnel regulation is newly included. Article 13 of the New Regulation explicitly prohibits the transfer of state-prohibited or restricted technologies, data and regulated content by dispatching technical personnel across borders. This means that the three key elements “technology, data, and personnel” are now simultaneously integrated into outbound investment supervision, making compliance review more focused on substantive effects.

3. How to Regulate: Clarify the Penalty Rules and Increase the Severity of Penalties

Articles 27 to 31 of the New Outbound Investment Regulation systematically set out penalties for violations at the administrative regulation level for the first time. The core penalties under Article 27 provide for three types of violations and corresponding penalty standards:

Violation Type	Penalty Standard
Investing in state-prohibited projects	Order immediate cessation of investment; confiscate illegal gains. Refusal to comply triggers fines ranging from 0.5‰ to 1‰ of total investment value, with the responsible person fined RMB 50,000 to 100,000
Failure to complete required approval/filing or submission of false materials	Fine equivalent to 0.1‰ to 0.5‰ of total investment value; continued non-compliance raises fine to 0.5‰–1‰ of total investment value, with the responsible person fined RMB 20,000 to 50,000
Obtaining approval/filing by bribery or deception	Revoke relevant approval/filing, confiscate illegal gains and impose fines of 0.1‰–0.5‰ of investment amount; where investment has already been disbursed, fines rise to 0.5‰–1‰ of total investment value, with the responsible person fined RMB 20,000 to 50,000

In addition, from the effective date of the penalty decision, the competent authorities may reject any approval/filing application submitted by the violator for three years, or prohibit the violator from engaging in outbound investment for one to three years. **The three-tiered administrative sanctions (corporate fines + individual liability + market entry prohibition) will directly affect investors' subsequent planning for other overseas investments, further emphasizing investors' compliance responsibilities and requiring investors to prudently assess risks from the stage of preparing application materials.**

II. Key Points for Enterprises Under the Interaction Between the Existing Regulatory Framework and the New Regulation

Existing outbound investment compliance spans multiple regulators including development and reform, commerce, foreign exchange and taxation authorities. Among these, NDRC approval/filing, MOFCOM approval/filing, and foreign exchange registration remain core formalities.

Regulatory Authority	Rules	Mandatory Action for Enterprises
National Development and Reform Commission (“NDRC”) / Local Development and Reform Commission (“DRC”)	Administrative Measures for Outbound Investment by Enterprises (NDRC Order No. 11)	Approval for sensitive projects; filing for non-sensitive projects; filing/approval must be completed before implementation
Ministry of Commerce (“MOFCOM”) / Local Commerce Commissions	Administrative Measures on Overseas Investment (MOFCOM Order No. 3 of 2014)	Obtain the Certificate of Outbound Investment by Enterprises after approval/filing; comply with

		outbound investment information reporting obligations as required
State Administration of Foreign Exchange ("SAFE") / Handling Bank	SAFE Circular 30 (2009), SAFE Circular 13 (2015), Guidelines for Capital Project Foreign Exchange Business (2024 Edition) etc.	After completing DRC and MOFCOM procedures, complete foreign exchange registration at the bank within jurisdiction

Regarding the New Outbound Investment Regulation, its integration with existing rules and key regulatory points are as follows:

- **Integration with Existing Rules:** the New Regulation explicitly provides that investors shall complete statutory approval, filing, information reporting and cross-border capital registration procedures in accordance with prevailing laws for all outbound investment and overseas financial market investment activities¹.
- **Outbound Investment Security Review Formally Incorporated as an Independent Legal Regime:** the scope of the security review includes not only the initial investment but also asset transfers and equity dispositions occurring post-closing.
- **Outbound Financial Investment and Outbound Reinvestment Explicitly Brought Within the Scope of the New Regulation:** such activities shall be carried out in accordance with the New Outbound Investment Regulation and other relevant regulations. Although the New Regulation does not elaborate on this, there are already specific provisions in the existing rules².

Previously, regulatory focus was largely on the "pre-investment" stage, primarily reviewing the filing/approval and fund registration processes. The New Regulation emphasizes **full-lifecycle supervision**, encompassing daily operations, internal control, personnel and asset security, as well as subsequent transfers and sales of assets and equity after the project is implemented. Supporting regulations for post-investment supervision are still pending issuance by the State Council, and we will keep track of relevant regulatory updates.

¹ For investments in overseas financial markets through QDII, QDLP, etc., the *Administration of Qualified Domestic Institutional Investors in Foreign Securities Investments Trial Procedures* and provincial rules for outbound investments through Qualified Domestic Limited Partners will continue to apply, consistent with the existing regulatory system.

² According to the *Administrative Measures on Overseas Investments*, the competent authorities for outbound reinvestment by enterprises are currently MOFCOM and provincial commerce commissions. Specifically, when an overseas enterprise invested by a domestic enterprise conducts any overseas reinvestment, the domestic enterprise shall report to the commerce authority after completing the overseas legal procedures. For central state-owned enterprises, they shall fill in the relevant information through the management system, print the Report Form for Outbound Reinvestment by Overseas Chinese Enterprises, affix its seal, and submit it to MOFCOM; For local enterprises, they shall fill in the relevant information through the management system, print the Reinvestment Report Form, affix its seal, and submit it to the provincial commerce commission.

III. Common Violation Scenarios and Practical Recommendations

Based on existing rules, the violation scenarios and penalties set out in the New Outbound Investment Regulation, we summarize several common violation scenarios in the outbound investment process for investors' reference:

Scenario 1: Failure to Complete Required Filing/Approvals

Typical scenario: the project has already started or the transaction has been completed before the investors apply for filing/approval. Many enterprises mistakenly believe that "signing the project contract" constitutes the start of implementation. However, legally, "before implementation" means before committing assets, equity, or providing financing or guarantees — any such action taken before filing/approval constitutes a violation, potentially leading to administrative penalties including fines and market entry prohibition.

Practical Recommendations:

- Complete all required filing/approval procedures before committing assets, equity, or providing financing or guarantees.
- Consult with lawyers and competent authorities before filing/approval, and retain records.
- For complex projects, allow sufficient time for document preparation and approval processing.

Scenario 2: Reinvestment in Overseas Fund-raising Projects without Filing/Approvals

Typical scenario: Some domestic investors previously completed outbound investment projects through structures such as ODI, QDII, QDLP, QDIE, etc. However, upon the expiration of the projects, the offshore structures have not been deregistered, and the proceeds from the overseas projects have not been legally repatriated to China, leading to an accumulation of offshore funds. These funds may then seek out other overseas fund-raising opportunities and invest in such projects, but it may not go through legal procedures. Such situations may face stricter regulation and administrative penalties under the Administrative Measures on Overseas Investment and the New Outbound Investment Regulation.

Practical Recommendations:

- The background causes of such violations are complex. Moreover, the structures mentioned may also involve regulatory requirements from the CSRC, DRC, MOFCOM, SAFE, and even financial supervision authorities. The author will write separate articles to specifically explore the compliance path in such situations
- As a domestic investor, pay attention to the fund repatriation requirements for overseas investment projects during the filing process. If there is a need for reinvestment, full communication with the commerce authorities should be conducted and a reinvestment report should be submitted.
- As the fundraiser for overseas-related projects, it is important to conduct necessary due diligence on investors and require them to provide commitments regarding the legality and compliance of the funding sources.

Scenario 3: Failure to Timely Complete the Filing for Material Changes to Outbound Investment Projects

Typical scenario: the filed amount does not match the actual investment amount (for example, the filed amount is \$10 million but the actual investment is \$15 million, which exceeds the recorded amount by more than 20%); or there are significant changes in other matters, including any addition or removal of investing entities, any material change in investment location, any material change in principal content or scale (usually also including situations where the filed project is for purpose A but is actually used for purpose B). Failure to timely handle the changes may result in being deemed as a violation and leading to administrative penalties.

Practical Recommendations:

- Declare the investment amount truthfully; after full communication with the regulatory authorities, it may be possible to reserve a reasonable buffer above the expected amount.
- Monitor changes in the investment amount after project implementation, and file an application for change immediately upon exceeding the threshold.
- For material changes in the investing entity, investment location, principal content, etc., file an application for change to the authority in a timely manner.

Scenario 4: Obtaining Filing/Approvals by Improper Means such as Submitting False Materials

Typical scenario: when applying for outbound investment filing, in order to meet regulatory requirements or expedite the approval process, investors may resort to improper means by submitting false materials for filing, such as fabricating the investment project or amount, fabricating the Chinese investing entity or its registration information, concealing the ultimate beneficial owner, etc. Additionally, if the filed project is for purpose A but is actually used for purpose B, in practice this may not only constitute a material change which requires filing an application for change, but may also potentially be deemed submission of false materials.

Practical Recommendations:

- Truthfully disclose the true circumstances of the investment project.
- Ensure that all submitted materials are truthful and complete; do not forge or tamper with any documents.
- If errors are discovered in materials already submitted during the filing process, proactively explain the situation to the authority and request withdrawal and resubmission. If errors are discovered after filing has been completed, promptly communicate with the authority to discuss the feasibility of correction.

Conclusion and Outlook

Overall, the introduction of the New Outbound Investment Regulation imposes clearer requirements in areas such as scope of application, regulatory matters, national security, anti-foreign sanctions, and responsibility assumption. This demands higher compliance standards from both corporate and individual investors. Going

forward, the core capability for outbound investment will not only involve identifying good projects and completing preliminary procedures, but also embedding compliance throughout the entire process from project initiation to exit.

Simultaneously, the New Outbound Investment Regulation explicitly states that specific regulation measures for outbound investment regarding resident individuals will be separately formulated by the competent investment authorities and commerce authorities under the State Council. This means that as supporting rules for individual outbound investment are gradually issued, the compliance path for individuals will likely become clearer. Relevant authorities may further refine regulatory requirements in practice based on the New Outbound Investment Regulation. Investors are advised to closely monitor policy developments, prepare for compliance in advance, and consult with lawyers when necessary.

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