

Client Alert

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BAKER & MCKENZIE

August 2008

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New China Foreign Exchange Regulations Take Effect

On 5 August 2008, the State Council of China promulgated the revised Regulations of the People's Republic of China on Administration of Foreign Exchange, which take immediate effect.

The first Foreign Exchange Regulations, which were promulgated on 29 January 1996 and subsequently revised on 14 January 1997, set out the basic principles of China's foreign exchange regulatory regime. According to the government's news release, the revised Foreign Exchange Regulations are made in response to the developments of the international and China's domestic financial markets, which involved the huge foreign exchange reserve of China, the continuing appreciation of Renminbi against most other foreign currencies and the continuous inflow of hot-money into China. The major changes to the original Foreign Exchange Regulations are:

- The requirement that domestic institutions and individuals must repatriate all their foreign-exchange income to China has been removed. This means that domestic institutions and individuals are now allowed to keep their foreign-exchange income aboard.
- The requirement that domestic institutions must sell all their foreign-exchange income to domestic banks has been removed. This means that domestic institutions are now allowed to keep their current item foreign-exchange income in foreign currencies.
- Domestic institutions and individuals, in principle, are allowed to invest in offshore securities and derivatives products.
- Domestic banks have no restrictions for granting direct commercial loans to overseas borrowers. Other domestic institutions are also allowed to advance overseas commercial loans, subject to the pre-approval of State Administration of Foreign Exchange ("SAFE").

Irrespective of these changes, it should be noted that only in-principle changes to the Foreign Exchange Regulations are made and it is yet to be seen as to how these changes will be implemented when the corresponding implementing rules are published by SAFE.

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