



## Newsletter

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October 31, 2024

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## Update

### **State Council Issues Document to Promote Pilot Measures for Institutional Opening-Up in Free Trade Zones to Align with International High Standards**

On October 25, 2024, the State Council published the *Notice on Promoting the Replication and Promotion of Pilot Measures for Institutional Opening-Up in Free Trade Zones to Align with International High Standards* (the "Notice") on its website, which came into effect on October 19, 2024.

The Notice, accompanied by an attachment, includes the Task Allocation Table for the Replication and Promotion of Pilot Measures for Institutional Opening-Up in Free Trade Zones to Align with International High Standards. It specifies 30 pilot measures, clearly stating that nationwide, all real and compliant transfers related to foreign investors' investments should be allowed to be freely remitted in and out without delay. Such transfers include capital contributions, profits, dividends, interest, capital gains, royalties, management fees, technical guidance fees, and other fees; proceeds from the sale of all or part of an investment; proceeds from the liquidation of all or part of an investment; payments made under

contracts, including loan agreements; compensation or damages obtained legally; and payments arising from dispute resolution.

### **Shanghai Lingang Proposes 20 Opinions and 15 Policies to Build an Equity Investment Cluster**

On October 14, 2024, the Shanghai Lingang Administrative Committee website published the *Notice on Issuing the Implementation Opinions on Intensifying Pilot Efforts to Build an Equity Investment Cluster in the Lingang New Area of China (Shanghai) Pilot Free Trade Zone* (the “Implementation Opinions”) and the *Notice on Issuing Several Policies (Trial) to Support the Construction of the Equity Investment Cluster in the Lingang New Area of China (Shanghai) Pilot Free Trade Zone* (the “Policies”), which will come into effect on October 14, 2024.

The Implementation Opinions consist of five parts with a total of twenty items, focusing on creating a demonstration zone for equity investment clustering, promoting the integration of finance with the real economy, fostering the full-chain development of fundraising, investment, management, and exit, and optimizing business services for equity investment support. The Policies include three parts with a total of fifteen items, explicitly proposing measures to attract institutions to cluster in the area. These measures include providing up to RMB 30 million in rewards based on the actual scale of raised funds, offering up to RMB 20 million in investment incentives based on the amount invested in non-listed enterprises, and encouraging early-stage, small, and technology investments by providing rewards up to 10% of the actual investment amount in seed and start-up technology enterprises, with a maximum reward of RMB 10 million.

### **China to Promote the Special Rectification of Illegally Returning Fiscal and Tax Awards and Subsidies**

On October 18, 2024, Chinese Premier Li Qiang presided over a State Council executive meeting (the “Meeting”) to study and deploy relevant initiatives to deeply promote the construction of a unified national market.

The Meeting noted that it is necessary to promote the construction of a unified national market combined with the implementation of a package of incremental policies, to promote a number of reform matters, and to solve specific problems. All regions shall adhere to better development in fair competition, resolutely eliminate local protectionism and market segmentation and promote smooth flow of commodities, factors and resources within a larger scope. The meeting said it is necessary to promote special rectification in such fields as illegal return of fiscal and tax incentives and subsidies, government procurement of services and obstruction of fair competition, so that all types of enterprises can grow and expand in fair competition.

### **NFRA Strengthens Supervision of Syndicated Loan Businesses**

The National Financial Regulatory Administration (NFRA) issued the *Measures for the Administration of*

*Syndicated Loan Business* (the “Measures”), which will come into effect on November 1, 2024.

The Measures consist of seven chapters and 61 articles, including the general provisions, syndicate membership, initiation and formation of syndicated loans, syndicated loan contracts, syndicated loan management, syndicated loan assignment transactions and supplementary provisions, which further clarifies the regulatory guidance, enriches the mode of syndication, optimizes the distribution ratio and the rules of assignment in the secondary market, regulates the principles and ways of syndication fees, and puts forth more systematic requirements for the management of syndicated loans.

### **China to Promote the Development of Green Finance**

Four departments, including the People’s Bank of China (PBC) ,the China Securities Regulatory Commission (CSRC) , jointly issued *Opinions on Playing the Role of Green Finance and Serving the Construction of a Beautiful China* (the “Opinions”), which put forward 19 key initiatives in four aspects.

The Opinions make it clear that a number of landmark major engineering projects should be planned in a coordinated manner to increase docking financing support; Green financial products such as green bonds and green asset securitization should be developed to strengthen green financing support; and green financial product innovation should be intensified by focusing on key links and areas such as the carbon market, resource and environmental elements, and ecological and environmental oriented development (EOD) projects. The Opinions propose to improve the supporting basic system, promote the establishment of a unified green financial standard system, improve carbon accounting standards and methods, and promote financial institutions and business entities to explore environmental, social and governance (ESG) evaluation.

### **Four Departments Deploy Six Specific Measures to Increase Support for Enterprises**

On October 14, 2024, the State Council Information Office held a press conference where officials from the State Administration for Market Regulation, the Ministry of Industry and Information Technology, the Ministry of Justice, and the National Financial Regulatory Administration introduced measures to increase support for enterprises.

The official from the State Administration for Market Regulation introduced that the specific policy measures to support enterprises from the four departments mainly encompass six aspects: First, precisely supporting the development of different business entities. Second, effectively reducing the burden on enterprises. Third, creating a fair competitive market environment. Fourth, strengthening the element guarantees for business entities. Fifth, resolutely safeguarding the legitimate rights and interests of business entities. Sixth, strictly regulating the enforcement and supervision activities related to enterprises. Additionally, the official from the Ministry of Justice introduced the draft of the Private Economy Promotion Law, which is currently open for public comments.

### **China Issues Opinions to Promote High-quality Development of Futures Market**

On October 11, 2024, seven departments, including the China Securities Regulatory Commission, jointly issued the *Opinions on Strengthening Supervision, Preventing Risks and Promoting the High-quality*

*Development of Futures Market* (the “Opinions”) on the website of the Chinese government, which introduced measures in 10 aspects. The Opinions came into effect on September 30, 2024.

The Opinions propose to strengthen the penetrating supervision of various trading behaviors, strictly implement the regulatory requirements such as account real-name registration system and trader appropriateness, improve the entry threshold for market participants, and perfect the rules for position consolidation; Severe crackdowns on illegal acts such as market manipulation and insider trading, and banning those who violate serious laws and regulations from entering the market; Strengthen the supervision of the whole process of high-frequency transactions and cancel the reduction of handling fees for high-frequency transactions; Improve the regulatory rules for derivatives in the capital market, and unify the regulatory scale and intensity of derivatives trading for securities and futures operating institutions.

### **GAC Plans to Implement Write-off Management of Bonded Logistics Ledger**

On October 10, 2024, the General Administration of Customs (GAC) released the *Announcement of the General Administration of Customs on Implementing Write-off Management of Bonded Logistics Ledger (Exposure Draft)* (the “Announcement”) for public comments until October 24, 2024.

First, the Announcement specifies the scope of the bonded logistics ledger subject to implementing write-off management, which includes the logistics ledger in the areas under special customs supervision and bonded supervision premises in the customs supervision system, and includes the ledger for cross-border e-commerce. Second, it clarifies the specific provisions on the write-off management of logistics books, and specifies the management requirements on the setup write-off cycle, reporting and verification period, content of reporting and verification, and disposal of write-offs of logistics books. Third, it specifies the specific requirements for switching between the old and new logistics books, and sets a six-month transition period and specifies relevant requirements related to the transition period.

## Article(s)

### **Issues Related to Termination of Employment Contract Upon Expiration of Employee’s Medical Treatment Period**

by *Esther Lin*

#### **I. Medical Treatment Period**

In China, an employee enjoys legal medical treatment period. The “Medical Treatment Period” refers to the time limit within which the labor contract with a corporate employee shall not be rescinded if he/she is on leave to undergo medical treatment due to an illness or non-work-related injury.

##### **1. National Regulations**

According to Article 3 of the *Provisions on the Medical Treatment Period for Corporate Employees Due to Illnesses or Non-Work-Related Injuries*, a corporate employee who needs to cease work for medical treatment due to an illnesses or non-work related injury shall be given three to twenty-four months as a

medical treatment period according to his/her actual working years and his/her working years in the corporation:

a. In the case that his/her actual working years is not more than ten years:

Medical Treatment Period	Working Years
3 months	< 5 years
6 months	>= 5 years

b. In the case that his/her actual working years exceeds ten years:

Medical Treatment Period	Working Years
6 months	< 5 years
9 months	5 years <= Working years <10 years
12 months	10 years <= Working years <15 years
18 months	15 years <= Working years <20 years
20 months	>= 20 years

## 2. Shanghai Regulations

According to the *Provisions on Criteria of the Medical Treatment Period for Workers Who Suffer from Illness or Non-job-related Injuries during the Period of Performance of A Labor Contract* issued by the Shanghai government in 2015, a medical treatment period shall be determined based on the years during which a worker serves an employer. A worker who serves an employer for the first year may enjoy a three-month medical treatment period, and thereafter, such medical treatment period may be increased by one month for each service year, with the ceiling of not more than 24 months. Thus, in Shanghai, the **legal medical treatment period** for an employee is N+2 (“N” refers to how many years the employer has worked for this company).

For some employees suffering from special diseases (such as cancer, mental illness and paralysis, etc.) who do not recover within 24 months, the medical treatment period for them may be extended appropriately upon the approval of the enterprises and labor authorities. The stroke is not covered in this situation.

## II. Compensation

The compensation includes rescinding economic compensation and medical compensation.

According to the Labor Law and Labor Contract Law, the employer may rescind a labor contract if the employee, upon expiration of medical treatment, is unable to take up his/her original job or any other work arranged by the employer due to illness or non-work-related injury by notifying the employee in

writing thirty (30) days in advance, or by making an additional payment of one month's salary to the employee. In this way, the employer shall also make economic compensation to the employee.

Economic compensation shall be paid to an employee based on the number of years of service of the employee and based on the standard of one month's salary for each completed year of service. Where the period of service is more than six months but less than a year, it shall be deemed as a completed year of service; where the period of service is less than six months, the employer shall pay half a month's salary to the employee as economic compensation. The monthly salary here shall mean the average salary of an employee over 12 months before the rescission or termination of the labor contract.

In addition, according to the *Labor Contract Regulations of Shanghai Municipality* issued in 2002, the employer shall provide the employee with medical compensation equivalent to the amount of no less than 6 months' salaries of the employee in addition to the economic compensation.

If an employee's legal medical treatment has expired and he/she still cannot get back to the original position in the company, the company may dissolve the labor contract by paying accordingly compensation. The minimum compensation for rescinding the labor contract stipulated by labor law is average salary \* (N+1), "N" refers to the employee's working years, "1" refers to the additional payment of one month's salary for not notifying the employee in writing thirty (30) days in advance. Besides, the company also needs to pay medical compensation of 6 months' salaries.

Therefore, provided an employee's medical treatment period has expired, the minimum compensation for him/her is his/her average salary \*(N+1+6).

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