

FOREIGN EXCHANGE

The lawful currency of the PRC is the Renminbi, which is subject to foreign exchange control and is not freely convertible into foreign exchange at this time. The SAFE, under the authority of the PBOC, is empowered with the functions of administering all matters relating to foreign exchange, including the enforcement of foreign exchange control regulations.

Prior to 31 December 1993, a quota system was used for the management of foreign currency. Any enterprise requiring foreign currency was required to obtain a quota from the local SAFE office before it could convert Renminbi into foreign currency through the PBOC or other designated banks. Such conversion had to be effected at the official rate prescribed by the SAFE on a daily basis. Renminbi could also be converted into foreign currency at swap centers. The exchange rates used by swap centres were largely determined by the demand for, and the supply of, foreign currencies and the Renminbi requirements of enterprises in the PRC. Any enterprise that wish to buy or sell foreign currency at a swap centre first had to obtain the approval of the SAFE.

On 28 December 1993, the PBOC, under the authority of the State Council, promulgated the Notice Concerning Further Reform of the Foreign Currency Control System (「外匯管理體制」) (the “Notice”), effective from 1 January 1994. The Notice announced the abolition of the system of foreign exchange quotas, the implementation of conditional convertibility of Renminbi in current account items, the establishment of the system of settlement and payment of foreign exchange by banks, and the unification of the official Renminbi exchange rate and the market rate for Renminbi established at swap centres. On 26 March 1994, PBOC promulgated the “Provisional Regulations for the Administration of Settlement, Sale and Payment of Foreign Exchange” (the “Foreign Exchange Provisional Regulations”). The Foreign Exchange Provisional Regulations set out detailed provisions regulating the sale and purchase of foreign exchange by enterprises, economic organisations and social organisations in the PRC.

On 29 January 1996, the State Council promulgated the Regulations of the People’s Republic of China for the Control of Foreign Exchange (「中華人民共和國外匯管理條例」) (the “Control of Foreign Exchange Regulations”) which became effective from 1 April 1996. The Control of Foreign Exchange Regulations classify all international payments and transfers into current account items and capital account items. Current account items are no longer subject to SAEC approval while capital account items still are. The Control of Foreign Exchange Regulations were subsequently amended on 14 January 1997. This latest amendment affirmatively states that the State shall not restrict international current account payments and transfers.

On 20 June 1996, the PBOC promulgated the “Regulations for Administration of Settlement, Sale and Payment of Foreign Exchange” (「結匯、售匯及付匯管理規定」) (the “Settlement Regulations”) which took effect on 1 July 1996. The Settlement Regulations superseded the Provisional Regulations and abolished the remaining restrictions on convertibility of foreign exchange in respect of current account items while retaining the existing restrictions on foreign exchange transactions in respect of capital account items. On the basis of the Settlement Regulations, the PBOC also published the “Announcement on the Implementation of Foreign Exchange Settlements and Sales at Banks by Foreign-invested Enterprises (「中國人民銀行關於對外商投資企業實行銀行結售匯的公告」)” (the “Announcement”). The Announcement permits foreign-invested enterprises to open, on the basis of their needs, foreign exchange settlement accounts for current account receipts and payments of foreign exchange along with specialised accounts for capital account receipts and payments at designated foreign exchange banks.

On 25 October 1998, the PBOC and the SAFE promulgated the Notice Concerning the Discontinuance of Foreign Exchange Swapping Business (「關於停辦外匯調劑業務的通知」), pursuant to which and with effect from 1 December 1998, all foreign exchange swapping business in the PRC for foreign-invested enterprises shall be discontinued, while the trading of foreign exchange by foreign-invested enterprise shall come under the banking system for the settlement and sale of foreign exchange.

Since 1 January 1994, the former dual exchange rate system for Renminbi has been abolished and replaced by a managed floating exchange rate system, which is determined by demand and supply. The PBOC sets and publishes daily the Renminbi-US dollar base exchange rate. This exchange rate is determined with reference to the transaction price for Renminbi-US dollar in the inter-bank foreign exchange market on the previous day. The PBOC will also, with reference to exchange rates in the international foreign exchange market, announce the exchange rates of Renminbi against other major currencies. In foreign exchange transactions, designated foreign exchange banks may, within a specified range, freely determine the applicable exchange rate in accordance with the exchange rate announced by the PBOC.

Save for foreign-invested enterprises or other enterprises which are specially exempted by relevant regulations, all entities in China (with the exception of certain foreign trade companies and precaution-type enterprises with import-export operation right, which may be permitted to retain a certain amount of their foreign exchange income from their current account transactions and to use such monies to make foreign exchange payments for their current account transactions and permitted capital account transactions) must sell their foreign exchange income to designated foreign exchange banks. Foreign exchange income from loans issued by organisations outside the territory or from the issuance of bonds and shares (for example, foreign exchange income received by the Company from the sale of shares overseas) is not required to be sold to designated foreign exchange banks, but may be deposited in foreign exchange accounts at the designated foreign exchange banks.

Chinese enterprises (including foreign-invested enterprises) which require foreign exchange for transactions relating to current account items, may, without the approval of SAFE effect payment from their foreign exchange account or convert and pay at the designated foreign exchange banks, on the strength of valid receipts and proof. Foreign-invested enterprises which need foreign exchange for the distribution of profits to their shareholders, and Chinese enterprises which in accordance with regulations are required to pay dividends to shareholders in foreign exchange (like the Company), may on the strength of board resolutions on the distribution of profits and other relevant documents required effect payment from their foreign exchange account or convert and pay at the designated foreign exchange banks.

Convertibility of foreign exchange in respect of capital account items, like direct investment and capital contribution, is still subject to restrictions and prior approval from SAFE and the relevant branch must be sought.

Dividends to holders of H Shares are declared in Renminbi and are required to be paid in Hong Kong dollars.