FOREIGN INVESTMENT IN EDUCATION IN THE PRC

Foreign Investment Industries Guidance in Education Industry

Under the *Foreign Investment Industries Guidance Catalogue (Amended in 2017)* (《外商投資產業指導目錄(2017修訂)》) (the "Foreign Investment Catalog") which was amended and promulgated jointly by the NDRC and the MOFCOM on June 28, 2017 and became effective on July 28, 2017, and *Special Management Measures (Negative List) for Foreign Investment Access (2018)* (《外商投資准入特別管理措施(負面清單)(2018版)》) (the "Negative List") issued by the MOFCOM and the NDRC on June 28, 2018, which took effective on July 28, 2018, foreign-invested industries are classified into two categories, namely (1) encouraged foreign-invested industries and (2) foreign-invested industries which are regulated by the Negative List. The Negative list has further classified regulated foreign-invested industries into restricted foreign-invested industries and prohibited foreign-invested industries. Unless otherwise prescribed by the PRC laws, industries which are not set out in the Foreign Investment Catalog or the Negative List are permitted foreign-invested industries.

Pursuant to the Foreign Investment Catalog and the Negative List, "non-formal vocational training institutes" (非學制類職業培訓機構) are encouraged foreign-invested industries, and other "vocational training" which are not set out in the Foreign Investment Catalog or the Negative List are permitted foreign-invested industries, unless otherwise provided in the PRC laws. Nevertheless, pursuant to the restrictions placed by applicable PRC laws, no foreigner is permitted to independently establish any school or other education institution within the PRC that aims to enroll mainly PRC citizens, and **"**Regulation on Sino-Foreign Cooperation in Operating Schools" (please see below) shall be applicable when foreign organizations or individuals invest in education institutions within the PRC.

Regulations on Sino-Foreign Cooperation in operating schools

Pursuant to the *Regulation on Sino-Foreign Cooperation in Operating Schools of the PRC* (《中華人民共和國中外合作辦學條例》) (the "Sino-Foreign Cooperation Regulation") which was promulgated by the State Council on March 1, 2003 and became effective on September 1, 2003 and was amended on July 18, 2013 and on March 2, 2019, and the *Implementing Rules for the Regulations on Operating Sino-foreign Schools* (《中華人民共和國中外合作辦學條例實施辦法》) (the "Implementing Rules") which were issued by the MOE on June 2, 2004 and became effective on July 1, 2004, foreign educational institutions, other organisations or individuals shall not independently establish schools or other educational institutions in the PRC with target enrolment of Chinese citizens mainly.

The Sino-Foreign Cooperation Regulation and the Implementing Rules mainly apply to the activities of education institutions established in the PRC cooperatively by foreign education institutions and Chinese education institutions, the students of which are to be recruited primarily among the PRC citizens, and encourage substantive cooperation between overseas educational organisations with relevant qualifications and experience in providing high-quality education and PRC educational organisations to jointly operate various types of schools in the PRC, with such cooperation in the areas of higher education and occupational education being encouraged. The overseas educational organisation must be a foreign educational institution with relevant qualification, experience in education, and high-quality education ability. Any Sino-foreign cooperation school and cooperation programme shall be approved by relevant education authorities and obtain the Permit of Sino-Foreign Cooperation in Operating School.

The *Administrative Measures for the Sino-foreign Cooperative Education on Vocational Skills Training* (《中外合作職業技能培訓辦學管理辦法》) (the "Sino-foreign Vocational Skills Training Measures") was promulgated by the Ministry of Labour and Social Security on July 26, 2006 and came into effect on October 1, 2006 and then was amended on April 30, 2015 by the MHRSS. The Sino-foreign Vocational Skills Training Measures shall apply to the establishment, activities and management of vocational skills training institutions and educational projects initiated by Chinese educational institutions and foreign educational institutions (including vocational skills training institutions) by cooperation. Foreign educational institutions, other organizations or individuals may not independently establish the vocational skills training institutions with Chinese citizens as the main enrollment targets in the PRC, and can only establish the vocational skills training institutions in cooperation with Chinese cooperators in the form of Sino-foreign cooperation, and the cooperators of the Sino-foreign vocational skills training institutions shall meet the requirements and conditions stipulated in the Sino-Foreign Cooperation Regulation. The establishment of a Sino-foreign vocational skills training institution shall be examined and approved by the local MHRSS of the people's government of the province, autonomous region or municipality directly under the Central Government where the proposed institution is located.

On June 18, 2012, the MOE issued the *Implementation Opinions of the MOE on Encouraging and Guiding the Entry of Private Funds into the Field of Education to Promote Healthy Development of Private Education* (Jiaofa [2012] No. 10) (《教育部關於鼓勵和引導民間資金進入教育領域促進民辦教育健康發展的實施意見》) (教發[2012]10號) to encourage private investment and foreign investment in the field of education. According to these opinions, the proportion of foreign capital in a Sino-foreign cooperative education institution shall be less than 50%.

REGULATIONS ON PRIVATE EDUCATION IN THE PRC

Education Law of the PRC

On March 18, 1995, the NPC enacted the *Education Law of the PRC* (《中華人民共和國教育法》) (the "Education Law"), which was effective from September 1, 1995, amended on August 27, 2009 and further amended on December 27, 2015. The PRC implements a vocational education system and a continuing education system. The people's governments at all levels, relevant administrative departments and industry organizations, as well as enterprises and institutions shall take measures to develop and guarantee citizens' vocational school education or various forms of vocational training. The Education Law stipulates that the government formulates plans for the development of education, establishes and operates schools and other educational institutions. Furthermore, it provides that in principle, enterprises, social organisations and individuals are encouraged to establish and operate schools and other types of educational institution in accordance with the relevant PRC laws and regulations. The Education Law also stipulates that some basic conditions shall be fulfilled for the establishment of a school or any other education institution, and the establishment, modification or termination of a school or any other education institution shall, in accordance with the relevant PRC laws and regulations, go through examination, verification, approval, registration or filing procedures.

The Education Law was amended (the "Amended Education Law") by the SCNPC on December 27, 2015, and became effective on June 1, 2016. The Amended Education Law does not include the requirement that no organisation or individual may establish or operate a school or any other educational institution for profit-making purposes, but schools and other educational institutions founded with governmental funds or donated assets are forbidden to be established as for-profit organisations.

Regulations on Vocational Education

According to the *Vocational Education Law of the PRC* (《中華人民共和國職業教育法》) (the "Vocational Education Law"), which was promulgated by the SCNPC on May 15, 1996 and came into effect on September 1, 1996, the state encourages institutional organisations, social organisations and other social groups and individuals to operate vocational schools and vocational training institutions according to relevant provisions of the state.

Vocational school education includes primary, secondary and higher vocational school education. Primary and secondary vocational school education shall be conducted respectively by primary and secondary vocational schools. Higher vocational school education shall be conducted by higher vocational schools or by common institutions of higher learning in accordance with the actual needs and conditions. Other schools may implement vocational school education at corresponding levels in accordance with the overall planning by the education administrative department. Vocational training includes pre-employment training, training to facilitate change of occupations, apprenticeship training, on-the-job training, job-transfer training and other vocational training. All these categories of training may, in light of actual conditions, be divided into three levels: primary, secondary and higher vocational training. Vocational training is carried out by the corresponding vocational training institutions and/or vocational schools. Other schools or educational institutions may, depending on their own capabilities, carry out various forms of vocational training to meet social needs.

The MOE issued the *Rules on Management of Secondary Vocational Schools* (《中等職業學校管理規程》) on May 13, 2010, according to which, the establishment of secondary vocational schools shall be based on the standards issued by the national and provincial education administrative departments and its establishment, change and termination shall be approved by or filled with the provincial education authorities. Secondary vocational schools provide a combination of academic education and vocational training, and offer full time and part time programs.

The education administrative department, the labour administrative department and other relevant departments of the State Council shall each be responsible for the work relating to vocational education within the scope of their functions and duties as specified by the State Council.

The Law for Promoting Private Education and the Implementation Rules for the Law for Promoting Private Education

The *Law for Promoting Private Education of the PRC* (《中華人民共和國民辦教育促進法》) became effective on September 1, 2003 and was amended on 29 June 2013, on 7 November 2016 and on December 29, 2018, and the *Implementation Rules for the Law for Promoting Private Education of the PRC* (《中華人民共和國民辦教育促進法實施條例》) became effective on April 1, 2004. Under these regulations, "private schools" are defined as schools established by social organizations or individuals using non-government funds. The establishment of a private school shall meet the local need for educational development and the requirements provided for by the Education Law and relevant laws and regulations, and the standards for the establishment of private schools shall conform to those for the establishment of public schools of the same grade and category. In addition, private schools providing academic qualifications education, pre-school education, education for self-study examinations and other education shall be subject to approval by the education authorities at or above the county level, while private schools engaging in occupational qualification training and occupational skill

training shall be subject to approvals from the authorities in charge of labor and social welfare at or above the county level. A duly approved private school will be granted a Permit for operating a Private School (民辦學校辦學許可證), and shall be registered with the Ministry of Civil Affairs of the PRC (民政部), (the "MCA") or its local counterparts as a privately run non-enterprise institution (民辦非企業單位).

Reasonable Return and Development Fund

Under the above regulations, a private school may elect to be a school that its school sponsors do not require reasonable returns or a school that its school sponsors require reasonable returns. A private school that its school sponsors do not require reasonable returns cannot distribute dividends to its school sponsors. For a private school that its school sponsors require reasonable returns, it may distribute reasonable returns to its school sponsors after deducting school operation costs, reserves for the development fund (as further described in the paragraph below) and provision for certain costs in accordance with the PRC laws and regulations, and it shall consider factors such as the school's tuition, the ratio of the funds used for education-related activities to the course fees collected, admission standards and educational quality when determining the percentage of the school's net income that would be distributed to the school sponsors as reasonable returns. However, the current PRC laws and regulations do not provide a formula or guidelines for determining what constitutes a "reasonable return". In addition, the current PRC laws and regulations do not set forth different requirements or restrictions on a private school's ability to operate its education business based on such school's status as a school that its school sponsors require reasonable returns or a school that its school sponsors do not require reasonable returns.

At the end of each year, every private school is required to allocate a certain amount to its development fund for the construction or maintenance of the school or procurement or upgrade of educational equipment. For a private school that its school sponsors require reasonable returns, this amount is at least 25% of the annual net income of the school, while in the case of a private school that its school sponsors do not require reasonable returns, this amount is at least 25% of the annual increase in the net assets of the school, if any.

Pursuant to the 2016 Decision as further described in the paragraphs below, private schools will no longer be classified as schools that its school sponsors require reasonable returns and schools that its school sponsors do not require reasonable returns. Instead, school sponsors of a private school which provides education services other than nine-year compulsory education may choose to establish as a for-profit private school or a non-profit private school.

The Decision on Amending the Law for Promoting Private Education of the PRC, or the 2016 Decision

On November 7, 2016, the SCNPC published the *Decision on Amendment of the Law for Promoting Private Education of the PRC* (《關於修改<中華人民共和國民辦教育促進法>的決定》), which became effective on September 1, 2017. According to 2016 Decision, as long as the school does not involve in the provision of compulsory education, school sponsors of the private school are allowed to register and operate the school as for-profit or non-profit private schools.

The following table sets forth the key differences between a for-profit private school and a non-profit private school under the 2016 Decision:

Item	For-profit private school	Non-profit private school
Receipt of operating profits	School sponsors are allowed to receive operating profits, and the surplus from operations shall be handled in accordance with the provisions of the Company Law of the PRC and other laws and regulations	School sponsors are not allowed to receive operating profits, and all surplus from operations shall be used for the operation of the school
Licenses and registration	Private school operating licenses, business licenses and other registrations required to go through by a corporate legal person	Private school operating licenses and registration certificate of private non-enterprise entities
Fees to be charged	Determined based on school operating costs and market demand, and no prior regulatory approval is required	Determined pursuant to the standards stipulated by the local governments
Tax treatment	Preferential tax treatment as stipulated by the State	Same preferential tax treatment as public schools
Land	Acquired either through land allocation or land transfer	Acquired through land allocation
Public funding	Public funding in the form of purchase of services, student loans, scholarships, lease or acquisition of unused State-owned assets	Public funding in the form of purchase of services, student loans, scholarships, lease or acquisition of unused State owned assets, and government grants, incentive funds and donations
Liquidation	Liquidated in accordance with the provisions of the Company Law of the PRC. School sponsors can obtain the school's remaining assets after the settlement of the school's indebtedness	School sponsors will be compensated or rewarded when the private school is liquidated. The remaining portion of school assets should continually be used for the operation of a nonprofit private school
Applicability	All private schools (except for schools providing compulsory education) may choose to become for-profit private schools	All private schools may choose to become non-profit private schools

If the school sponsors of our existing not-for-profit private Schools choose to register and operate their Schools as non-profit private schools, they shall procure the School to amend its articles of association in accordance with 2016 Decision and continue the school operation pursuant to such revised articles of association. Furthermore, upon the termination of such non-profit private schools, the government authority may grant some compensation or reward to the school sponsors who have made capital contribution to such schools from the remaining assets of the schools upon their liquidation and then apply the rest of the assets to the operation of other non-profit private schools.

If the school sponsors of our existing not-for-profit private schools choose to register and operate their schools as for-profit private schools, the schools shall go through some procedures including but not limited to conducting financial settlement, defining the property right, paying relevant taxes and expenses and renewing their registration, the details of which shall be subject to concrete measures to be promulgated by the provincial, autonomous regional or municipal government.

Several Opinions on Encouraging Social Groups to Engage in Education and Promote the Healthy Development of Private Education

According to the *Several Opinions on Encouraging Social Groups to Engage in education and Promote the Healthy Development of Private Education* (《關於鼓勵社會力量興辦教育促進民辦教育健康發展的若干意見》) (the "State Council Opinions"), which was issued by the State Council of the PRC on December 29, 2016, innovative institutional mechanisms shall be implemented in the field of private education, which include but are not limited to: (i) classification registration and management shall be applicable to private schools and the school sponsors of private schools shall, at their own discretion, choose to run non-profit private schools or for-profit private schools; (ii) different government support policies shall be applicable to private schools. The people's government at all levels are responsible for formulating and perfecting support policies for non-profit private schools including but not limited to government subsidies, government procurement services, fund incentives, donation incentives and land allocation. At the same time, the people's government at all levels may support the development of for-profit private schools by ways including but not limited to government procurement services and preferential tax treatments in accordance with the economic and social development and the request for public service; and (iii) broaden the financing channels for private schools, encourage and attract private funds to enter into the field of private education. Financial institutions are encouraged to provide loans to private schools with the pledge of the schools' operating income in the future or intellectual property rights, while individual persons or entities are encouraged to make donation to non-profit private schools.

Local people's government at various levels should perfect the government support policies for private schools, which include but are not limited to: (i) implementing the same subsidy policies for private schools, such that students of private schools and public schools shall enjoy student loans, scholarships and other state funding policies equally; (ii) implementing incentive policies regarding taxes and fees for private schools. Private schools shall enjoy preferential tax treatments in accordance with national regulations while non-profit private schools enjoy the same tax preferential treatments as public schools. Private schools shall be entitled to the same price policies for use of electricity, water, gas and heat as public schools; and (iii) implementing different land supply policies. Non-profit private schools enjoy the same land policy as public schools and may get land by way of land allocation while for-profit private schools shall get land in accordance with national regulations and policies.

Implementing Measures on Classification Registration of Private Schools

According to the *Implementing Measures on Classification Registration of Private Schools* (《民辦學校分類登記實施細則》) ("Classification Registration Rules"), which was issued jointly by the MOE, the MHRSS, the MCA, the State Commission Office of Public Sectors Reform and the SAMR on December 30, 2016 without stipulating any definite effective date, the establishment of a private school is subject to approval. Private Schools approved to be established shall apply for the registration certificate or license in accordance with the Classification Registration Rules after they are granted with the license for school operation by the competent government authorities. The Classification Registration Rules shall apply to private schools. Non-profit private schools which meet the requirements under the *Interim Administrative Regulations on the Registration of Private Non-enterprise Entities* (《民辦非企業單位登記管理暫行條例》) and other relevant regulations shall apply to the civil affairs department for registration as private non-enterprise entities. Non-profit private schools which meet the requirements under the *Interim Regulations on the Administration of the Registration of Public Institutions* (《事業單位登記管理暫行條例》) and other relevant regulations shall apply to the relevant administrative authority for registration as public institutions. For-profit private schools shall apply to the industry and commerce department for registration in accordance with the jurisdiction provisions set out by relevant laws and regulations.

The Classification Registration Rules are also applicable to existing not-for-profit private schools.

Implementing Measures for the Supervision and Administration of For-profit Private Schools

According to the *Implementing Measures for the Supervision and Administration of For-profit Private Schools* (《營利性民辦學校監督管理實施細則》), which was issued jointly by the MOE, the MHRSS and the SAMR on December 30, 2016 without stipulating any definite effective time, social organizations or individuals are permitted to run for-profit private colleges and universities and other higher education institutions, high schools and kindergartens, but are prohibited from running for-profit private schools implementing compulsory education.

According to the implementation regulations, a social organization or individual running a for-profit private school shall have the financial strength appropriate to the level, type and scale of the school, and their net assets or monetary funds shall be able to satisfy the costs of the school construction and development. Furthermore, the social organization running the for-profit private school shall be a legal person who is in good credit standing, and shall not be listed as an enterprise operating abnormally or be listed as an enterprise that is in material non-compliance with the laws or be dishonest. Individuals running for-profit private schools should be PRC citizens who reside in China, be in good credit standing without any criminal record and enjoy political rights and complete civil capacity.

For-profit private schools shall establish a board of directors, boards of supervisors (or supervisors), administrative organs, organizations of the Communist Party of China, an employee representatives' assembly as well as a labor union. The Secretary of the Communist Party of China shall be a member of the board of directors and of the administrative organs of the school and no less than 1/3 of the members of the board of supervisors of the school shall be the employee representatives.

For-profit private schools shall implement the financial and accounting policies required by the *Company Law of the PRC* (《中華人民共和國公司法》, the "PRC Company Law") and other relevant regulations and include all of their income into their financial accounts and issue legal invoices and other documents as required by tax authorities for such income. For-profit private schools enjoy legal person property rights and shall be entitled to manage and use all of their assets in accordance with applicable regulations in their duration. The school sponsors of for-profit private schools shall neither withdraw his/her share of the registered capital nor mortgage the teaching facilities for loans or guarantees. The balance of the school operation could only be distributed upon the annual financial settlement.

For-profit private schools shall, in accordance with the Provisional Regulations on Enterprise Information Publicity, publicize their credit information such as annual report information, administrative license information and administrative penalty information through the national enterprise credit information publicity system. In addition to information that has been made public by the school, the social organizations or individuals could make a written application to the school for additional information.

Any division, merger, termination and other major changes of for-profit private schools shall be subject to the approval of the board of directors of the schools, the approval of the relevant government authorities as well as the registration requirements set by the industry and commerce departments. Any division, merger, termination or change of name of for-profit private undergraduate colleges and universities shall be subject to the approval of the Ministry of Education while other alteration matters shall be approved by the relevant provincial government.

According to the *Notice of the SAMR and the Ministry of Education on the Registration and Administration of the Name of For-Profit Private Schools* (《工商總局、教育部關於營利性民辦學校名稱登記管理有關工作的通知》), which was issued jointly by the MOE and the SAMR and Commerce on August 31, 2017 and became effective on September 1, 2017, for-profit private school shall registered as a limited liability company or a joint stock limited company according to the PRC Company Law and the Law for Promoting Private Education and its name shall comply with the relevant laws and regulations on company registration and education.

According to the *Notice of the State Administration for Market Regulation and the Ministry of Human Resources and Social Security on Regulating the Relevant Work of the Administration of the Name Registration of For-profit Non-state Skilled Worker Schools and For-profit Non-state Vocational Skills Training Institutions* (《市場監管總局、人力資源和社會保障部關於規範營利性民辦技工院校和營利性民辦職業技能培訓機構名稱登記管理有關工作的通知》), which was issued jointly by the Administration for Market Regulation and the MHRSS on April 11, 2018 and became effective on the same date, for-profit private skilled worker schools and for-profit private vocational skills training institutions shall registered as a limited liability company or a joint stock limited company according to the PRC Company Law and the *Law for Promoting Private Education* (《中華人民共和國民辦教育促進法》) and its name shall comply with the relevant laws and regulations on company registration and education.

Local Implementation Opinions on the New Classification System for Private Schools

According to the 2016 Decision and the State Council Opinions, various provincial governmental authorities shall issue their own implementation opinions and licensing measures in relation to the specific implementation methods and operative approaches of the said law based on the local conditions. As of the Latest Practicable Date, 29 provinces have issued the Implementation Opinions. Most of these Implementation Opinions provide a transition period ranging from one to six years. The school sponsors of existing not-for-profit private schools can select to register the schools as either for-profit or non-profit private schools during the transition period. As of the Latest Practicable Date, other regions had not yet issued such implementation opinions.

According to the Implementation Opinions, local provincial governments have introduced the following principle opinions:

- to implement new classification system for private schools, whereby private schools including private educational institutions are classified as non-profit and for-profit private schools and administered accordingly;

- to arrange for a transition period during which existing not-for-profit private schools can select to register as either non-profit or for-profit private schools and be regulated based on their classification; and

- to perfect the exit mechanism for private schools, whereby the financial settlement of a private school at termination shall conform to relevant laws and regulations, and its articles of associations.

The Implementation Opinions are newly promulgated and there are uncertainties in connection with implementation and enforcement of such implementation opinions.

Tuition

Pursuant to the *Interim Measures for the Management of the Collection of Private Education Fees* (《民辦教育收費管理暫行辦法》), which was promulgated by the NDRC, the MOE and the MHRSS on March 2, 2005, the types and amounts of fees charged by a private school providing academic qualifications education shall be examined and verified by the education authorities or the labor and social welfare authorities and approved by the governmental pricing authority. A private school that provides non-academic qualifications education shall file its pricing information with the governmental pricing authority and publicly disclose such information.

According to the *Notice regarding Cancelation of the Fee Charge Permit System and Strengthening the Supervision in process and afterwards* (《關於取消收費許可制度加強事中事後監管的通知》), which was issued jointly by the NDRC and the Ministry of Finance on January 9, 2015, the fee charge permit system shall be canceled nationwide from January 1, 2016.

According to the 2016 Decision, the types and amounts of fees charged by private schools shall be determined based on costs and market demand. The fees charged by for-profit private schools will be determined by the schools at their discretion, while the fees charged by non-profit private schools shall be regulated by the relevant local government authorities.

Regulations on Safety and Health Protection of Schools

Pursuant to the *Food Safety Law of the PRC* (《中華人民共和國食品安全法》), which became effective on October 1, 2015 and amended on December 29, 2018, collective canteens of schools shall obtain the licence in accordance with the laws and strictly abide by the laws, regulations and food safety standards. With regard to order of meals from meal suppliers, orders shall be placed with suppliers which have obtained the food production and trading licences and inspection shall be conducted on the food ordered as required.

According to *Administrative Measures on Licence of Catering Industry* (《餐飲服務許可管理辦法》), which was promulgated on March 4, 2010 and became effective on May 1, 2010, a licensing system for catering industry is implemented. A catering service provider shall obtain food service licence, and assume the food safety liability in accordance with the law. Pursuant to *Administrative Measures for Food Operation Licensing* (《食品經營許可管理辦法》) promulgated on August 31, 2015 and became effective on October 1, 2015 and amended on 17 November 2017 with effect from the same day, a food operation licence shall be obtained in accordance with the law so as to engage in food selling and catering services within the territory of the PRC. The principle of one licence for one site shall apply to the licencing for food operation, classified licencing for food operation according to food operators' types of operation and the degree of risk of their operation projects is also implemented.

Pursuant to *Administrative Measures for the Supervision of Food Safety in Catering Service* (《餐飲服務食品安全監督管理辦法》), which was promulgated on March 4, 2010 and became effective on May 1, 2010, catering service providers shall carry out catering service activities in accordance with laws, regulations, food safety standards and relevant requirements, hold themselves accountable for society and the general public, ensure food safety, accept social supervision, and assume responsibilities for food safety in catering service.

According to the *Circular on Strengthening Hygiene and Epidemic Prevention and Food Hygiene and Safety of Private Schools* (《教育部辦公廳關於加強民辦學校衛生防疫與食品衛生安全工作的通知》), which was promulgated on April 29, 2006, private schools should pay high attention to and strengthen the school hygiene and epidemic prevention and the food hygiene and safety.

According to the *Regulation on Sanitary Work of Schools* (《學校衛生工作條例》), which was promulgated on June 4, 1990 amended on May 19, 2004, schools shall carry out sanitary work. The main tasks of sanitary work include monitoring health conditions of students, getting students to receive health education, helping students develop good health habits, improving health environment and health conditions for teachers, strengthening prevention and treatment of infectious disease and common diseases among students.

MOJ Draft for Comments

On April 20, 2018, the MOE issued the MOE Draft for Comments. On August 10, 2018, the MOJ issued the MOJ Draft for Comments based on a revised version of the MOE Draft for Comments.

The major provisions of the MOJ Draft for Comments include, among others:

(1) Article 12

Article 12 provides that social organizations that adopt centralized school management models are not allowed to acquire non-profit private schools or control them through ways such as franchising or "contractual arrangements." However, the MOJ Draft for Comments is silent on the definition of centralized school management models.

(2) Article 21

The registered capital of a for-profit private school providing education for academic qualifications shall be compatible with the type, level and scale of the school. For a private school providing higher education for academic qualifications, the minimum registered capital shall be RMB200 million; for a private school providing other types of education for academic qualifications, the minimum registered capital shall be RMB10 million.

(3) Article 45

Article 45 provides that any material, long-term or recurring agreement entered into between a non-profit private school and its connected parties shall be reviewed and approved by the education administrative authorities as well as the local authorities of MHRSS in terms of the necessity and legality of such agreement and its compliance with the applicable laws and regulations.

REGULATIONS ON COMPANIES IN THE PRC

PRC Company Law

The establishment, operation and management of corporate entities in the PRC are governed by the PRC Company Law, which was promulgated on December 29, 1993 and amended on December 25, 1999, August 28, 2004, October 27, 2005, December 28, 2013 and October 26, 2018. Under the PRC Company Law, companies are generally classified into two categories: limited liability companies and limited companies by shares. The PRC Company Law also applies to foreign-invested limited liability companies but where other relevant laws regarding foreign investment have provided otherwise, such other laws shall prevail.

There is no longer a prescribed timeframe for the shareholders to make full capital contribution to a company, except otherwise required in other relevant laws, administrative regulations and State Council decisions. Instead, shareholders are only required to state the capital amount that they commit to subscribe in the articles of association of the company. Further, the initial payment of a company's registered capital is no longer subject to a minimum amount requirement and the business licence of a company will not show its paid-up capital. In addition, shareholders' contribution of the registered capital is no longer required to be verified by capital verification agencies.

Regulations on Foreign Investment and FIL

The establishment procedures, examination and approval procedures, registered capital requirement, foreign exchange restriction, accounting practices, taxation and labor matters of a wholly foreign-owned enterprise are governed by the *Wholly Foreign-owned Enterprise Law of the PRC* (《中華人民共和國外資企業法》, the "Wholly Foreign-owned Enterprise Law"), which was promulgated on April 12, 1986 and amended on October 31, 2000 and on September 3, 2016. The implementation regulations under the Wholly Foreign-owned Enterprise Law (《中華人民共和國外資企業法實施條例》 was promulgated on December 12, 1990 and amended on April 12, 2001 and February 19, 2014, which took effective as from March 1, 2014.

The Wholly Foreign-owned Enterprise Law has been further revised by the SCNPC on September 3, 2016 and has become effective from October 1, 2016. According to the amendments, for a wholly foreign-owned enterprise which the special entry management measures does not apply to, its establishment, operation duration and extension, separation, merger or other major changes shall be applicable to record-filing approach. The special entry management measures stipulated by the State shall be promulgated or approved to be promulgated by the State Council. Pursuant to the No. 22 Announcement of 2016 (《中華人民共和國國家發展和改革委員會和中華人民共和國商務部2016年第22號公告》 ("the Announcement") issued by NDRC and MOFCOM on October 8, 2016, the special entry management measures shall be implemented with reference to the relevant regulations as stipulated in the Foreign Investment Catalog in relation to the restricted foreign-invested industries, prohibited foreign-invested industries and encouraged foreign-invested industries which have requirements as to shareholding and qualifications of senior management.

Pursuant to the *Interim Administrative Measures for the Record-filing of the Establishment and Modification of Foreign-invested Enterprises* (《外商投資企業設立及變更備案管理暫行辦法》) (the "Measures") which was promulgated by MOFCOM on October 8, 2016 and amended on July 30, 2017 and June 29, 2018, establishment and modifications of foreign-invested enterprises not subject to the approval under the special entry management measures shall be filed with the delegated commercial authorities.

On March 15, 2019, the National People's Congress approved the FIL, which will come into effect on January 1, 2020. The FIL is the fundamental law for foreign investment in PRC, which will replace the Law on Sino-Foreign Equity Joint Ventures (《中外合資經營企業法》), the Law on Sino-Foreign Contractual Joint Ventures (《中外合作經營企業法》) and the Law on Foreign-Capital Enterprises (《外資企業法》) as the general law applicable for the foreign investment within the PRC.

The FIL defines foreign investment as any investment activity directly or indirectly carried out in the PRC by one or more foreign natural persons, enterprises or other organizations ("Foreign Investor(s)"), and specifically stipulates four forms of investment activities as foreign investment, namely, (a) establishment of a foreign-invested enterprise in the PRC by a Foreign Investor, either individually or collectively with any other investor, (b) obtaining shares, equities, assets interests or any other similar rights or interests of an enterprise in the PRC by a Foreign Investor; (c) investment in any new construction project in the PRC by a Foreign Investor, either individually or collectively with any other investor, and (d) investment in any other manners stipulated under laws, administrative regulations or provisions prescribed by the State Council.

The FIL establishes the administration systems for foreign investment, which mainly consists of national treatment plus negative list system, foreign investment information report system and security review system. The said systems, together with other administration measures stipulated under the FIL, constitute the frame of foreign investment administration. Under the national treatment plus negative list system, Foreign Investors shall not invest in any field prohibited by the negative list and shall meet the investment conditions stipulated for any field restricted by the negative list; while for foreign investments outside the negative list, national treatment will be given.

The FIL sets forth principles and measures to promote foreign investment in the PRC and specifically provides that the PRC legally protects Foreign Investors' investment, earnings and other legitimate rights and interests in the PRC.

The FIL further provides that foreign-invested enterprises established before the FIL coming into effect may retain their original form of organizations within five years after the FIL comes into effect. The specific implementing measures will be prescribed by the State Council.

Provisions on the Merger and Acquisition of Domestic Enterprises by Foreign Investors

Under the *Provisions on the Merger and Acquisition of Domestic Enterprises by Foreign Investors in the PRC* (《關於外國投資者併購境內企業的規定》) (the "M&A Rules") which was promulgated on September 8, 2006 and was amended and came into effect on June 22, 2009, a foreign investor is required to obtain necessary approvals when (i) a foreign investor acquires equity interests in a domestic non-foreign invested enterprise thereby converting it into a foreign-invested enterprise, or subscribes for new equity interests in a domestic enterprise via an increase of registered capital thereby converting it into a foreign-invested enterprise; or (ii) a foreign investor establishes a foreign-invested enterprise which purchases and operates the assets of a domestic enterprise, or which purchases the assets of a domestic enterprise by agreement and injects those assets to establish a foreign-invested enterprise. In the case where a domestic company or enterprise, or a domestic natural person, through an overseas company established or controlled by it/him, acquires a domestic company that is related to or connected with it/him, approval from MOFCOM is required.

According to the Measures, the merger and acquisition of domestic non-foreign-invested enterprises by foreign investors shall, if not involving special entry management measures and affiliated mergers and acquisitions, be subject to the record filing approach.

REGULATIONS ON PROPERTY IN THE PRC

Pursuant to the *Property Law of the PRC* (《中華人民共和國物權法》) (the "Property Law") which was promulgated on March 16, 2007 and became effective on October 1, 2007, educational, medical and health and other public welfare facilities of institutions and social groups with the aim of benefiting the public such as schools, kindergartens, hospitals, etc. and other properties that cannot be mortgaged as prescribed by law or administrative regulation may not be mortgaged.

According to the Property Law, transferable fund units and equity, property right in intellectual property rights of transferable exclusive trademark rights, patent rights, copyrights, etc., accounts receivable and other property rights that can be pledged as stipulated by any law or administrative regulation may be pledged.

REGULATIONS ON INTELLECTUAL PROPERTY IN THE PRC

Copyright

Pursuant to the *Copyright Law of the PRC* (《中華人民共和國著作權法》) (the "Copyright Law"), which was amended on February 26, 2010 and became effective on April 1, 2010. Copyrights include personal rights such as the right of publication and that of attribution as well as property rights such as the right of production and that of distribution. Reproducing, distributing, performing, projecting, broadcasting or compiling a work or communicating the same to the public via an information network without permission from the owner of the copyright therein, unless otherwise provided in the Copyright Law, shall constitute infringements of copyrights. The infringer shall, according to the circumstances of the case, undertake to cease the infringement, take remedial action, and offer an apology, pay damages, etc.

Trademark

Pursuant to the *Trademark Law of the PRC* (《中華人民共和國商標法》) (the "Trademark Law"), which was revised on August 30, 2013 and April 23, 2019, the right to exclusive use of a registered trademark shall be limited to trademarks which have been approved for registration and to goods for which the use of trademark has been approved. The period of validity of a registered trademark shall be ten years, counted from the day the registration is approved. According to the Trademark Law, using a trademark that is identical with or similar to a registered trademark in connection with the same or similar goods without the authorization of the owner of the registered trademark constitutes an infringement of the exclusive right to use a registered trademark. The infringer shall, in accordance with the regulations, undertake to cease the infringement, take remedial action, and pay damages, etc. The Trademark Law of the PRC was amended on April 23, 2019 and will become effective on November 1, 2019.

Patent

Pursuant to the *Patent Law of the PRC* (《中華人民共和國專利法》) (the "Patent Law"), which was revised on December 27, 2008 and became effective on October 1, 2009, after the grant of the patent right for an invention or utility model, except where otherwise provided for in the Patent Law, no entity or individual may, without the authorization of the patent owner, exploit the patent, that is, make, use, offer to sell, sell or import the patented product, or use the patented process, or use, offer to sell, sell or import any product which is a direct result of the use of the patented process, for production or business purposes. And after a patent right is granted for a design, no entity or individual shall, without the permission of the patent owner, exploit the patent, that is, for production or business purposes, manufacture, offer to sell, sell, or import any product containing the patented design. Where the infringement of patent is decided, the infringer shall, in accordance with the regulations, undertake to cease the infringement, take remedial action, and pay damages, etc.

REGULATIONS ON LABOUR PROTECTION IN THE PRC

Labours

According to the *Labour Law of the PRC* (《中華人民共和國勞動法》) (the "Labour Law"), which was promulgated by the SCNPC on July 5, 1994, came into effect on January 1, 1995 and was amended on August 27, 2009 and December 29, 2018, an employer shall develop and improve its rules and regulations to safeguard the rights of

its workers. An employer shall establish and develop labour safety and health systems, stringently implement national protocols and standards on labour safety and health, get workers to receive labour safety and health education, guard against labour accidents and reduce occupational hazards. Labour safety and health facilities must comply with the relevant national standards. An employer must provide workers with the necessary labour protection gear that complies with labour safety and health conditions stipulated under national regulations, as well as provide regular health examination for workers that are engaged in work with occupational hazards. Labourers engaged in special operations must receive specialised training and obtain the pertinent qualifications. An employer shall develop a vocational training system. Vocational training funds shall be set aside and used in accordance with national regulations and vocational training for workers shall be carried out systematically based on the actual conditions of the company.

The *Labour Contract Law of the PRC* (《中華人民共和國勞動合同法》), which was promulgated by the SCNPC on June 29, 2007, amended on December 28, 2012 and came effect on July 1, 2013, coupled with the *Implementation Regulations on Labour Contract Law* (《勞動合同法實施條例》), which was promulgated and became effective on September 18, 2008, regulate the parties to labour contracts, namely employers and employees, and contain specific provisions relating to terms of labour contracts. Under the Labour Contract Law and the Implementation Regulations on Labour Contract Law, a labour contract must be made in writing. An employer and an employee may enter into a fixed-term labour contract, an un-fixed term labour contract, or a labour contract that concludes upon the completion of certain work assignments, after reaching agreement upon due negotiations. An employer may legally terminate a labour contract and dismiss its employees after reaching agreement upon due negotiations with its employees or by fulfilling the statutory conditions. Where a labour relationship has already been established without a written labour contract, the written labour contracts shall be entered into within one month from the date on which the employee commences to work.

Social Insurance

The *Law on Social Insurance of the PRC* (《中華人民共和國社會保險法》), which was promulgated on October 28, 2010 and became effective on July 1, 2011 and amended on December 29, 2018, has established social insurance systems of basic pension insurance, unemployment insurance, maternity insurance, work injury insurance and basic medical insurance, and has elaborated in detail the legal obligations and liabilities of employers who do not comply with relevant laws and regulations on social insurance.

According to the *Interim Regulations on the Collection and Payment of Social Insurance Premiums* (《社會保險費徵繳暫行條例》), the *Regulations on Work Injury Insurance* (《工傷保險條例》), the *Regulations on Unemployment Insurance* (《失業保險條例》) and the *Trial Measures on Employee Maternity Insurance of Enterprises* (《企業職工生育保險試行辦法》), enterprises in the PRC shall provide benefit plans for their employees, which include basic pension insurance, unemployment insurance, maternity insurance, work injury insurance and basic medical insurance. An enterprise must provide social insurance by processing social insurance registration with local social insurance authorities or agencies, and shall pay or withhold relevant social insurance premiums for or on behalf of employees.

According to the *Interim Measures for Participation in the Social Insurance System by Foreigners Working within the Territory of China* (《在中國境內就業的外國人參加社會保險暫行辦法》) (the "Interim Measures"), which was promulgated by the MOHRSS on September 6, 2011 and became effective on October 15, 2011, employers who recruit foreigners shall participate in the basic pension insurance, unemployment insurance,

basic medical insurance, occupational injury insurance, and maternity leave insurance in accordance with the relevant laws, with the social insurance premiums to be contributed respectively by the employers and foreigner employees as required. In accordance with such Interim Measures, the social insurance administrative authorities and agencies shall have the right to oversee and inspect the legal compliance of foreign employees and employers. Employers who do not pay social insurance premium in conformity with the laws shall be subject to the administrative provisions provided in the Social Insurance Law and the relevant regulations and rules mentioned above.

According to the *Reform Plan of the State Tax and Local Tax Collection Administration System* (《國税地税徵管體制改革方案》), which was issued by the General Office of the Communist Party of China and the General Office of the State Council of the PRC on July 20, 2018, from January 1, 2019, all the social insurance premiums including the premiums of the basic pension insurance, unemployment insurance, maternity insurance, work injury insurance and basic medical insurance will be collected by the tax authorities. Furthermore, according to the *Notice by the General Office of the State Administration of Taxation on Conducting the Relevant Work Concerning the Administration of Collection of Social Insurance Premiums in a Steady, Orderly and Effective Manner* (《國家税務總局辦公廳關於穩妥有序做好社會保險費徵管有關工作的通知》) issued on September 13, 2018 and the *Urgent Notice of the General Office of the Ministry of Human Resources and Social Security on Implementing the Spirit of the Executive Meeting of the State Council in Stabilizing the Collection of Social Security Contributions* (《人力資源和社會保障部辦公廳關於貫徹落實國務院常務會議精神切實做好穩定社保費徵收工作的緊急通知》) issued on September 21, 2018, all the local authorities responsible for the collection of social insurance are strictly forbidden to conduct self-collection of historical unpaid social insurance contributions from enterprises. *Notice of the State Administration of Taxation on Implementing Measures to Further Support and Serve the Development of Private Economy* (《國家税務總局關於實施進一步支援和服務民營經濟發展若干措施的通知》) issued on November 16, 2018 repeated that tax authorities at all levels may not organize self-collection of arrears of taxpayers including private enterprises in the previous years.

Housing Provident Fund

According to the *Administrative Regulations on the Administration of Housing Provident Fund* (《住房公積金管理條例》), which was promulgated and became effective on April 3, 1999, and was amended on March 24, 2002 and March 24, 2019, housing provident fund paid and deposited both by employee themselves and their unit employer shall be owned by the employees. A unit employer shall undertake registration of payment and deposit of the housing provident fund in the housing provident fund management centre and, upon verification by the housing provident fund management centre, open a housing provident fund account on behalf of its employees in a commissioned bank. Employers shall timely pay and deposit housing provident fund contributions in full amount and late or insufficient payments shall be prohibited. With respect to unit employers who violate the regulations hereinabove and fail to complete housing provident fund payment and deposit registrations or open housing provident fund accounts for their employees, such unit employers shall be ordered by the housing provident fund administration centre to complete such procedures within a designated period. Those who fail to complete their registrations within the designated period shall be subject to a fine from RMB10, 000 to RMB50,000. When unit employers are in breach of these regulations and fail to pay deposit housing provident fund contributions in full amount as they fall due, the housing provident fund administration centre shall order such unit employers to pay within a prescribed time limit period, failing which an application may be made to a people's court for compulsory enforcement.

REGULATIONS ON TAXATION IN THE PRC

Enterprise Income Tax ("EIT")

In accordance with the EIT Law, which was promulgated on March 16, 2007 and became effective from January 1, 2008 and amended on February 24, 2017 and December 29, 2018, and the *Regulation on the Implementation of Enterprise Income Tax Law of the PRC* (《中華人民共和國企業所得税法實施條例》), which was promulgated on December 6, 2007 and amened on April 23, 2019, enterprises are classified as either "resident enterprises" or "nonresident enterprises". Enterprises that are set up in the PRC under the PRC laws, or that are set up in accordance with the law of the foreign country (region) whose actual administration institution is in PRC, shall be considered as "resident enterprises".

Enterprises established under the law of the foreign country (region) with "de facto management bodies" outside the PRC, but have set up institutions or establishments in PRC or, without institutions or establishments set up in the PRC, have income originating from PRC, shall be considered as "non-resident enterprises". A resident enterprise shall pay EIT on its income originating from both inside and outside PRC at an EIT rate of 25%. A non-resident enterprise that has establishments or places of business in the PRC shall pay EIT on its income originating from PRC obtained by such establishments or places of business, and on its income which deriving outside PRC but has actual connection with such establishments or places of business, at the EIT rate of 25%. A non-resident enterprise that does not have an establishment or place of business in the PRC, or it has an establishment or place of business in the PRC but the income has no actual connection with such establishment or place of business, shall pay EIT on its passive income derived from the PRC at a reduced rate EIT of 10%.

According to *Notice of the Ministry of Finance and the State Administration of Taxation on Tax Policies Relating to Education* (Caishui [2004] No. 39) (《財政部、國家税務總局關於教育税收政策的通知》) (財税[2004]39號) (the "Circular 39") and *Notice of the Ministry of Finance and the State Administration of Taxation on Issues Concerning Strengthening the Administration over the Collection of Business Tax on Educational Services* (Caishui [2006] No. 3) (《財政部、國際税務總局關於加強教育勞務營業税徵收管理有關問題的通知》) (財税[2006]3號) (the "Circular 3"), public schools are not required to pay EIT on fees they have collected upon approval and have incorporated under the fiscal budget management or the special account management of the funds outside the fiscal budget, and are not required to pay EIT on the financial allocations they have received and special subsidies they have obtained from their administrative departments or institutions at higher levels. According to the Law of PRC for Promoting Private Education and its implementing rules, a private school that does not require reasonable returns enjoys the same preferential tax treatment as public schools, whereas the preferential tax treatment policies applicable to private schools that require reasonable returns are separately formulated by the relevant authorities under the State Council.

Income Tax in Relation to Dividend Distribution

The PRC and the government of Hong Kong entered into the *Arrangement between the Mainland of the PRC and Hong Kong for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* (《內地和香港特別行政區關於對所得税避免雙重徵税和防止偷漏税的安排》) (the "Arrangement") on August 21, 2006 and implemented the Arrangement on April 1, 2015. According to the Arrangement, the 5% withholding tax rate applies to dividends paid by a PRC company to a Hong Kong tax resident, provided that such Hong Kong tax resident directly holds at least 25% of the

equity interests in the PRC company. The 10% withholding tax rate applies to dividends paid by a PRC company to a Hong Kong tax resident if such Hong Kong tax resident holds less than 25% of the equity interests in the PRC company.

Pursuant to the *Circular of the State Administration of Taxation on Relevant Issues relating to the Implementation of Dividend Clauses in Tax Agreements* (Guoshui Han [2009] No. 81) (《國家稅務總局關於執行稅收協定股息條款有關問題的通知》) (國稅函[2009] 81號), which was promulgated by the State Administration of Taxation of the PRC (the "SAT") and became effective on February 20, 2009, all of the following requirements shall be satisfied before a fiscal resident of the other party to a tax agreement can be entitled to such tax agreement treatment as being taxed at a tax rate specified in the tax agreement for the dividends paid to it by a Chinese resident company: (i) such a fiscal resident who obtains dividends should be a company as provided in the tax agreement; (ii) the equity interests and voting shares of the Chinese resident company directly owned by such a fiscal resident reaches a specified percentage; and (iii) the equity interests of the Chinese resident company directly owned by such a fiscal resident, at any time during the twelve months prior to receipt of the dividends, reach a percentage specified in the tax agreement.

Value-added Tax ("VAT")

According to the *Temporary Regulations on Value-added Tax* (《中華人民共和國增值税暫行條例》), which was amended on November 10, 2008, February 6, 2016 and November 19, 2017 and came into effect on November 19, 2017, and the *Detailed Implementing Rules of the Temporary Regulations on Value-added Tax* (《中華人民共和國增值税暫行條例實施細則》), which was amended on October 28, 2011 and became effective on November 1, 2011, all taxpayers selling goods, providing processing, repairing or replacement services or importing goods within the PRC shall pay value-added tax. The tax rate of 17% shall be levied on general taxpayers selling or importing various goods; the tax rate of 17% shall be levied on the taxpayers providing processing, repairing or replacement service; the applicable rate for the export of goods by taxpayers shall be nil, unless otherwise stipulated.

Furthermore, according to the *Trial Scheme for the Conversion of Business Tax to Value-added Tax* (Caishui [2011] No. 110) (《關於印發<營業税改徵增值税試點方案>的通知》) (財税[2011] 110號), which was promulgated by the MOF and the SAT, the State began to launch taxation reforms in a gradual manner with effect from January 1, 2012, whereby the collection of VAT in lieu of business tax items was implemented on a trial basis in regions showing significant radiating effects in economic development and providing outstanding reform examples, beginning with production service industries such as transportation and certain modern service industries.

In accordance with *Circular on Comprehensively Promoting the Pilot Programme of the Collection of Value-added Tax in Lieu of Business Tax* (Caishui [2016] No. 36) (《《關於全面推開營業税改徵增值税試點的通知》) (財税[2016]36號), which was promulgated on March 23, 2016 and came into effect on May 1, 2016, upon approval of the State Council, the pilot programme of the collection of VAT in lieu of business tax shall be promoted nationwide in a comprehensive manner starting from May 1, 2016, and all business tax payers engaged in the building industry, the real estate industry, the financial industry and the life service industry shall be included in the scope of the pilot programme with regard to payment of value-added tax instead of business tax. For general service income, the applicable VAT rate is 6%.

Other Tax Exemptions

In accordance with the Circular 39 and Circular 3, the real properties and land used by schools established by enterprises shall be exempt from house property tax and urban land use tax. Schools expropriating arable land upon approval shall be exempt from arable land use tax. Schools and education institutions established by any enterprises, government affiliated institutions, social groups or other social organisations or individuals and citizens with non-state fiscal funds for education and open to the public shall upon the approval by the administrative department for education or for labour of the relevant government at the county level or above which has also issued the relevant school running license, be exempt from deed tax on their ownership of land and houses used for teaching activities.

REGULATIONS ON FOREIGN EXCHANGE IN THE PRC

The principal regulation governing foreign currency exchange in China is the *Administrative Regulations of the PRC on Foreign Exchange* (《中華人民共和國外匯管理條例》) (the "Foreign Exchange Administrative Regulations"), which was promulgated by the State Council on January 29, 1996, amended on January 14, 1997, August 5, 2008, September 23, 2012, October 23, 2014 and February 2016. Under Foreign Exchange Administrative Regulations, Renminbi is generally freely convertible for payments of current account items, such as trade and service-related foreign exchange transactions and dividend payments, but is not freely convertible for capital account items, such as direct investment or engaging in the issuance or trading of negotiable securities or derivatives unless the prior approval by the competent authorities for the administration of foreign exchange is obtained.

In accordance with the Foreign Exchange Administrative Regulations, foreign-invested enterprises in the PRC may purchase foreign exchange without the approval of the SAFE for paying dividends by providing certain evidencing documents (board resolutions, tax certificates, etc.), or for trade and services-related foreign exchange transactions by providing commercial documents evidencing such transactions. They are also allowed to retain foreign currency (subject to a cap approval by the SAFE) to satisfy foreign exchange liabilities. In addition, foreign exchange transactions involving overseas direct investment or investment and trading in securities, derivative products abroad are subject to registration with the competent authorities for the administration of foreign exchange and approval or filings with the relevant government authorities (if necessary).

According to the *Circular on the Management of Offshore Investment and Financing and Round Trip Investment By Domestic Residents through Special Purpose Vehicles* (Huifa [2014] No. 37) (《關於境內居民通過特殊目的公司境外投融資及返程投資外匯管理有關問題的通知》) (匯發[2014]37號) (the "Circular 37"), which is promulgated and came into effect on July 4, 2014, the SAFE carry out registration management for domestic resident's establishment of special purpose vehicles (each a "SPV"). A SPV is defined as "offshore enterprise directly established or indirectly controlled by the domestic resident (including domestic institution and individual resident) with their legally owned assets and equity of the domestic enterprise, or legally owned offshore assets or equity, for the purposes of investment and financing." "Round Trip Investments" refer to "the direct investment activities carried out by a domestic resident directly or indirectly via a SPV, such as establishing a foreign-invested enterprise or project within the PRC through a new entity, merger or acquisition and other ways, while obtaining ownership, control, operation and management and other rights and interests." Before a domestic resident contributes its legally owned onshore or offshore assets and equity to a SPV, the

domestic resident shall conduct foreign exchange registration for offshore investment with the local branch of the SAFE, and in the event of any change of basic information such as the individual shareholder, name, operation term, or if there is a capital increase, decrease, equity transfer or swap, merge, spin-off or other amendment of the material items, the domestic resident shall complete foreign exchange alteration of the registration formality for offshore investment. In addition, according to the procedural guidelines as attached to the Circular 37, the principle of review has been changed to "the domestic individual resident is only required to register the SPV directly established or controlled by him (first level)".

Pursuant to *Circular of the State Administration of Foreign Exchange on Further Simplifying and Improving the Direct Investment-related Foreign Exchange Administration Policies* (Huifa [2015] No. 13) (《關於進一步簡化和改進直接投資外匯管理政策的通知》) (匯發[2015] 13號) , which was promulgated on February 13, 2015, implemented and became effective on June 1, 2015, the initial foreign exchange registration for establishing or taking control of a SPV by domestic residents can be conducted with a qualified bank, instead of the local foreign exchange bureau.

On March 30, 2015, the SAFE promulgated the *Circular on Reforming the Management Approach regarding the Settlement of Foreign Exchange Capital of Foreign-invested Enterprises* (Huifa [2015] No. 19) (《關於改革外商投資企業外匯資本金結匯管理方式的通知》) (匯發[2015]19號) (the "Circular 19"), which came into effect from June 1, 2015. According to the Circular 19, the foreign exchange capital of foreign-invested enterprises shall be subject to the Discretional Foreign Exchange Settlement ("Discretional Foreign Exchange Settlement"). The Discretional Foreign Exchange Settlement refers to the foreign exchange capital in the capital account of an foreign-invested enterprise for which the rights and interests of monetary contribution has been confirmed by the local foreign exchange bureau (or the book-entry registration of monetary contribution by the banks) can be settled at the banks based on the actual operational needs of the foreign-invested enterprise. The proportion of Discretional Foreign Exchange Settlement of the foreign exchange capital of a foreign-invested enterprise is temporarily determined as 100%.

The Renminbi converted from the foreign exchange capital will be kept in a designated account and if a foreign-invested enterprise needs to make further payment from such account, it still needs to provide supporting documents and go through the review process with the banks.

Furthermore, the Circular 19 stipulates that the use of capital by foreign-invested enterprises shall follow the principles of authenticity and self-use within the business scope of enterprises. The capital of a foreign-invested enterprise and capital in Renminbi obtained by the foreign-invested enterprise from foreign exchange settlement shall not be used for the following purposes:

1. directly or indirectly used for payment beyond the business scope of the enterprises or payment prohibited by relevant laws and regulations;

2. directly or indirectly used for investment in securities unless otherwise provided by relevant laws and regulations;

3. directly or indirectly used for granting entrusted loans in Renminbi (unless permitted by the scope of business), repaying the inter-enterprise borrowings (including advances by third parties) or repaying bank loans in Renminbi that have been sub-lent to a third party; and

4. paying the expenses related to the purchase of real estate that is not for self-use (except for the foreign-invested real estate enterprises). SAFE issued the *Circular on Reforming and Regulating Policies on the Control over Foreign Exchange Settlement of Capital Accounts* (Huifa [2016] No. 16) (《關於改革和規範資本專案結匯管理政策的通知》 (匯發 [2016]16號), or the "Circular 16") on June 9, 2016, which became effective simultaneously. Pursuant to the Circular 16, enterprises registered in the PRC may also convert their foreign debts from foreign currency to Renminbi on self-discretionary basis.

The Circular 16 provides an integrated standard for conversion of foreign exchange under capital account items (including but not limited to foreign currency capital and foreign debts) on a discretionary basis which applies to all enterprises registered in the PRC. The Circular 16 reiterates the principle that Renminbi converted from foreign currency-denominated capital of a company may not be directly or indirectly used for purposes beyond its business scope or prohibited by PRC laws or regulations, while such converted Renminbi shall not be provided as loans to its non-affiliated entities.

OVERVIEW OF THE LAWS AND REGULATIONS OF HONG KONG

The following summarizes the principal Hong Kong laws and regulations of Hong Kong relating to the operations of HK New Oriental. As this is a summary, it does not contain the detailed analysis of the Hong Kong laws which are relevant to our Group's business in Hong Kong.

Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong)

Pursuant to section 5 of the Business Registration Ordinance, every person carrying on any business in Hong Kong shall obtain a business registration certificate. The business registration application shall be made within one month of the commencement of business.

Any person who fails to apply for business registration or display a valid business registration certificate at the place of business shall be guilty of an offence, and shall be liable to a fine of HK$5,000 and imprisonment for one year.

Inland Revenue Ordinance (Chapter 112 of the Laws of Hong Kong)

The Inland Revenue Ordinance provides, amongst other things, that profits tax shall be charged on every person carrying on a trade, profession or business in Hong Kong in respect of his or her assessable profits arising in or derived from Hong Kong, which stands as of the Latest Practicable Date at 8.25% on assessable profits up to $2,000,000 and 16.5% on any part of assessable profits over $2,000,000 for corporate taxpayers. As our Group carries on businesses in Hong Kong, we are subject to the profits tax regime under the Inland Revenue Ordinance.

As stipulated by section 80(2) of the Inland Revenue Ordinance, a person commits an offence if he or she, without reasonable excuse, (i) makes an incorrect tax return by omitting or understating anything; (ii) makes an incorrect statement in connection with a claim for any tax deduction or allowance; or (iii) gives any incorrect information in

relation to any matter or thing affecting his or her (or some other person's) tax liability. Such a person is liable on conviction to a fine of up to HK$10,000 and a further fine of three times the amount of tax which has been undercharged as a consequence. However, no person shall be liable to any penalty under section 80 of the Inland Revenue Ordinance unless the complaint concerning such offence was made within six years of the year of assessment concerned.

Mandatory Provident Fund Schemes Ordinance (Chapter 485 of the Laws of Hong Kong)

Under the Mandatory Provident Fund Schemes Ordinance, employers must take all practicable steps to ensure that their regular employees (except for certain exempt persons) aged between at least 18 but under 65 years of age and employed for 60 days or more becomes a member of a Mandatory Provident Fund ("MPF") scheme within the first 60 days of employment.

For both employees and employers, it is mandatory to make regular contributions into a registered MPF scheme. For an employee, subject to the maximum and minimum levels of income (HK$30,000 and HK$7,100 per month, respectively, as of the Latest Practicable Date), an employer will deduct 5% of the relevant income on behalf of an employee as mandatory contributions to a registered MPF scheme with a ceiling of HK$1,500 as of the Latest Practicable Date. Employers will also be required to contribute an amount equivalent to 5% of an employee's relevant income to the MPF scheme, subject only to the maximum level of income (HK$30,000 per month as of the Latest Practicable Date), i.e. with a ceiling of HK$1,500 as of the Latest Practicable Date.

Employees' Compensation Ordinance (Chapter 282 of the Laws of Hong Kong)

The Employees' Compensation Ordinance establishes a no-fault and non-contributory employee compensation system for work injuries and lays down the rights and obligations of employers and employees in respect of injuries or death caused by accidents arising out of and in the course of employment, or by prescribed occupational diseases.

Under section 5 of the Employees' Compensation Ordinance, if an employee sustains an injury or dies as a result of an accident arising out of and in the course of his employment, his employer is in general liable to pay compensation even if the employee might have committed acts of faults or negligence when the accident occurred. According to section 40 of the Employees' Compensation Ordinance, all employers (including contractors and subcontractors) are required to take out insurance policies to cover their liabilities both under the ECO and at common law for injuries at work in respect of all their employees (including full-time and part-time employees). An employer who fails to comply with the ECO to secure an insurance cover is liable on conviction to a fine of HK$100,000 and imprisonment for two years. According to section 48 of the Employees' Compensation Ordinance, an employer shall not, without the consent of the Commissioner for Labour, terminate, or give notice to terminate, the contract of service of an employee (who has suffered incapacity or temporary incapacity in circumstances which entitle him to compensation under the Employees' Compensation Ordinance) before occurrence of certain events. Any person who commits breach of this provision is liable on conviction to a maximum fine of HK$100,000.

Minimum Wage Ordinance (Chapter 608 of the Laws of Hong Kong)

The Minimum Wage Ordinance provides for a prescribed minimum hourly wage rate for every employee employed under the Employment Ordinance (Chapter 57 of the Laws of Hong Kong). With effect from 1 May 2019, the statutory minimum wage rate is raised from HK$34.5 per hour to HK$37.5 per hour. Concurrently, the monetary cap on the requirement of employers keeping records of the total number of hours worked by employees is also revised from HK$14,100 per month to HK$15,300 per month. Any provision of the employment contract which purports to extinguish or reduce the right, benefit or protection conferred on the employee by the Minimum Wage Ordinance is void.

Occupiers Liability Ordinance (Chapter 314 of the Laws of Hong Kong)

The Occupiers Liability Ordinance regulates the obligations of a person occupying or having control of premises on injury resulting to persons or damage caused to goods or other property lawfully on the land.

The Occupiers Liability Ordinance imposes a common duty of care on an occupier of a premise to take reasonable care of the premise in all circumstances so as to ensure that his visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

Occupational Safety and Health Ordinance (Chapter 509 of the Laws of Hong Kong)

The Occupational Safety and Health Ordinance provides for the safety and health protection to employees in workplaces, both industrial and non-industrial.

Employers must as far as reasonably practicable ensure the safety and health in their workplaces by, among others:

(i) providing all necessary information, instruction, training, and supervision for ensuring safety and health;

(ii) providing and maintaining safe access to and egress from the workplaces; and

(iii) providing and maintaining a working environment that is safe and without risks to health.

Failure to comply with the above provisions constitutes an offence and the employer is liable on conviction to a fine of HK$200,000. An employer who fails to do so intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine of HK$200,000 and to imprisonment for six months.

Employment Ordinance (Chapter 57 of the Laws of Hong Kong)

The Employment Ordinance provides for, amongst other things, the protection of the wages of employees, to regulate general conditions of employment, and for matters connected therewith. Under section 25 of the Employment Ordinance, where a contract of employment is terminated, any sum due to the employee shall be paid to him as soon as it is practicable and in any case not later than seven days after the day of termination. Any employer who wilfully and without reasonable excuse contravenes section 25 of the Employment Ordinance commits an offence and is liable to a maximum fine of HK$350,000 and to imprisonment for a maximum of three years. Further, under section 25A of the Employment Ordinance, if any wages or any sum referred to in section 25(2)(a) are not paid within seven days from the day on which they become due, the employer shall pay interest at a specified rate on the outstanding amount of wages or sum from the date on which such wages or sum become due up to the date of actual payment. Any employer who wilfully and without reasonable excuse contravenes section 25A of the Employment Ordinance commits an offence and is liable on conviction to a maximum fine of HK$10,000.

REGULATIONS ON PRIVATE POSTSECONDARY EDUCATION IN THE STATE OF CALIFORNIA

California Private Postsecondary Education Act

The California Education Code establishes the structure of the school system in the State of California and governs the operations of both public and private educational institutions. As part of the California Education Code, on October 11, 2009, Assembly Bill 48, also known as the California Private Postsecondary Education Act of 2009 ("California Private Postsecondary Education Act"), was passed to regulate private postsecondary educational institutions in the State of California, the United States ("California").

Approval to Operate Private Postsecondary Educational Institution

The BPPE came into existence on January 1, 2010 following the passage of the California Private Postsecondary Education Act. BPPE was created primarily to regulate private postsecondary educational institutions operating in California.

Pursuant to the California Private Postsecondary Education Act, a private postsecondary educational institution in California must seek approval to operate from the BPPE by demonstrating that the educational institution has the capacity to satisfy the minimum operating standards prescribed by the BPPE under the applicable provisions of the California Code of Regulations promulgated pursuant to the California Private Postsecondary Education Act.

The applicable regulations provide that an institution must fulfill the minimum operating standards to reasonably ensure that: (i) the content of each education program can achieve its stated objective; (ii) the institution maintains specific written standards for student admissions for each education program and those standards are related to the particular education program; (iii) the facilities, instructional equipment, and materials are sufficient to enable students to achieve the education program's goals; (iv) the institution maintains a withdrawal policy and provides refunds; (v) the directors, administrators, and faculty are properly qualified; (vi) the institution is financially sound and capable of fulfilling its commitments to students; (vii) that, upon satisfactory completion of an education program, the institution gives students a document signifying

the degree or diploma awarded; (viii) adequate records and standard transcripts are maintained and are available to students; and (ix) the institution is maintained and operated in compliance with the California Private Postsecondary Education Act and all other applicable regulations and laws.

Approval for Approval to Operation for an Institution Non-Accredited

Formal application can be made to BPPE for approval to operate for a private postsecondary educational non-accredited. Such application process generally consists of two stages of review: completeness review and compliance review. After submission of an application to BPPE by an educational institution together with the required documentation and fees. If the application is incomplete, the BPPE issue an intake review notice to the institution within 30 days requesting additional documents, upon the receipt of which the application will be deemed to be complete. After the BPPE is satisfied with the completeness of the application, the application will be reviewed by a licensing analyst of BPPE for compliance with statutes and regulations. During this stage of compliance review, BPPE will issue deficiency letter to the institution requesting items needed to comply with statutes and regulations. If all items on deficiency letter (if any) are submitted and compliant, if applicable, the application will then be submitted to the Quality of Education Unit ("QEU") to review the education programs for compliance with statutes and regulations. Once the QEU has completed its review, and the institution has properly addressed all deficiencies, the application will be recommended for approval. Upon approval is granted by the BPPE, the institution will receive written notification that the application has been approved.

Approval by Means of Accreditation

A person operating an institution that is accredited by an accrediting agency recognized by the United States Department of Education has the option to obtain an approval to operate from the BPPE by means of the institution's accreditation by submitting an application for approval to operate an accredited institution. Such approval process is abbreviated from the standard approval to operate process (i.e. application for approval to operate for an institution non-accredited). This application process should only be used, however, when the applicant is seeking BPPE approval for exactly and only the institutional locations, educational program offerings and approval dates for which the institution has been accredited. The institution's main, branch and satellite locations must be accredited to offer the same programs at each location, have the same term of accreditation, and have the same ownership structure.

Voluntary Non-Governmental Accreditation Process

Accreditation is a voluntary non-governmental review process and an educational institution may apply to an accrediting body for accreditation. In the U.S., there are a limited number of national and regional accrediting bodies recognized by the U.S. Department of Education as reliable authorities concerning the quality of education or training offered by the educational institutions they accredit. For an educational institution, the eligibility criteria to become accredited depend on the specific rules as adopted by the relevant accrediting body.

The Accrediting Commission of Career Schools and Colleges ("ACCSC") is a national accrediting agency recognized by the U.S. Department of Education for its accreditation of postsecondary, non-degree-granting institutions and degree-granting institutions in the U.S. The accreditation process for ACCSC primarily involves the following progressive stages: (i) determination of eligibility, (ii) attendance of a

mandatory pre-accreditation workshop organized by ACCSC, (iii) application for initial accreditation within six months after the pre-accreditation workshop, (iv) on-site evaluation to be carried out by a team of experienced professionals at ACCSC, (v) team summary report to be issued by ACCSC summarizing its observations of the school and the subsequent filing of a response by the applicant, and (vi) grant of initial accreditation in case ACCSC concluded that its accreditation standards and requirements are met by the applicant. In order to meet the eligibility criteria set by ACCSC, an applicant must be a private postsecondary institution with trade, occupational, or career-oriented educational objectives. In order to be eligible, the applicant must also have been operating for two consecutive years prior to the application for accreditation (except for regularly scheduled breaks and vacation periods), and demonstrate that it commits to operate continuously thereafter. In general, an initial accreditation status will be granted to an educational institution for a maximum of five years based on its demonstrated ability to maintain continuous compliance with ACCSC's accrediting standards before renewal. According to ACCSC, it typically takes an applicant between 18 months and two years to complete the initial accreditation process.

The Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges ("ACCJC") is a regional accrediting agency recognized by the U.S. Secretary of Education for its accreditation of postsecondary institutions that offer two-year education programs and award the associate degree in (among other regions) California. The ACCJC focuses on community colleges, career and technical colleges, and junior colleges, through the creation and application of standards of accreditation and related policies, and through a process of review by higher education professionals and public members. The accreditation process for the ACCJC involves three progressive stages: (i) eligibility, (ii) candidacy, and (iii) initial accreditation. An educational institution will be granted eligibility after review by the ACCJC that the educational institution meets the eligibility requirements set by ACCJC. The Eligibility Review Committee of ACCJC will review the eligibility application and supporting documentation submitted by the institution and will then make the determination of eligibility. If the institution is determined to be eligible, the ACCJC will notify the institution in writing and develop a time frame for the institution's self-evaluation for candidacy. The ACCJC will also send a review team to visit the institution to review the its readiness for candidacy status. The ACCJC review team reviews the evidence submitted to verify how well the institution meets or exceeds the standards. Candidacy is a formal affiliation status granted to institutions that have successfully undergone an eligibility review, as well as a comprehensive evaluation process using the accreditation standards of ACCJC. Candidacy is granted to the institution when it demonstrates its ability to fully meet all the accreditation standards and policies of ACCJC within the two-year candidate period. Candidacy is awarded for a period of two years, during which time the institution may apply for initial accreditation. Initial accreditation will be awarded to an educational institution that has met the ACCJC's standards at a substantial level. The institution may request an additional two years in candidacy status but may not extend this status beyond a total of four years. If an institution fails to achieve initial accreditation after four years in candidacy status, it must wait for two years before submitting a new eligibility application to ACCJC and begin the process anew. When initial accreditation is granted, the institution is typically placed on a seven-year cycle for reaffirmation.