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SAFE Shenzhen promulgated Macro-prudential Operational rules on foreign debt management in Qianhai

On Mar 6, 2015 the State Administration of Foreign Exchange (the "SAFE") Shenzhen issued "Macro-prudential operational rules on foreign debt management in Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (hereinafter 'Qianhai')" (Shenwaiguan [2015] No.4) (hereinafter "No. 4 Circular") to further facilitate investment and financing activities in Qianhai. We will be introducing the highlights of No.4 Circular in this report.

I Highlights of the No.4 Circular

- Most notably, No.4 Circular allows enterprises in Qianhai to manage foreign debt at balance basis instead of occurrence basis calculating within investment gap in general areas in China .
- According to the No.4 Circular, the foreign debt quota for non-financial enterprises (including domestic invested enterprises and foreign invested enterprises) registered in Qianhai will be subject to a self-disciplinary mechanism, which means the outstanding foreign debt shall not exceed 2 times of their audited net asset at the end of previous year.
- For domestic invested enterprises in Qianhai borrowing foreign debt, the liability amount (including the foreign debt amount in application) shall not exceed 75% of their total asset.
- When the borrowing enterprises borrow foreign debt in foreign currency (hereinafter "FCY"), settlement can be conducted in compliance with relevant regulations.
- Enterprises in special sensitive industries such as real estate and those engaging in special means of financing (such as issuing bonds overseas) will need to comply with relevant existing regulations in general areas. Also regulations stated in the No.4 Circular will be temporality not applicable to enterprises of local government financing platform.
- Borrowing enterprises are allowed to choose to be in compliance with existing regulations for general areas as well, while no change shall be made afterwards.

II Registration procedures

The borrowing enterprises shall go through the registration procedures with SAFE Shenzhen by themselves or by their settlement bank within 15 working days following signing the contract (or amendment of the contract). Relevant settlement banks shall report to SAFE Shenzhen accordingly.

The following documents shall be provided for foreign debt registration:

- Application form (including but not limited to company`s basic information; detailed information of the foreign debt in application; usage of borrowing fund; current offshore borrowing stated as of the end of the borrowing date; foreign debt quota and etc.);

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- Information form of the borrowing parties;
- Original loan agreement and copy of major provisions; (if the contract is in a foreign language, a Chinese translation of major provisions must be attached)
- Business license;
- Audited financial reports of previous year;
- Supplementary documents of mentioned materials

Banks processing companies' registration procedures, shall keep the original materials for future investigation within 2 years after the foreign debt has been paid and the registration deleted from the record. SAFE Shenzhen shall keep the e-evidence of all original application materials.

III Foreign debt management in China

Recently China is making progress in the nationwide foreign debt management reform. There were circulars released on the different foreign debt quota management in many areas in China, including Dalian of Liaoning province, China (Shanghai) Pilot Free Trade Zone (hereinafter "PFTZ"), Pingtan Comprehensive Pilot Zone (hereinafter "Pingtan"), The Sino-Singapore Tianjin Eco-city, (hereinafter "Tianjin"), China-Singapore Suzhou Industrial Park (hereinafter "Suzhou"), Zhongguancun Science Park of Beijing (hereinafter "Zhongguancun"),Qianhai and Zhangjiagang Free Trade Zone of Jiangsu Province (hereinafter "Zhangjiagang"). Please refer to below chart on the comparison of foreign debt quota management methods in respective areas.

	Object	**Currency**	**Account**	**Foreign debt management model**	**Foreign debt management method**
General area	Foreign invested enterprise (hereinafter "FIE")	RMB	General account	Within investment gap	Managed by occurrence (unrecoverable)
		FCY	Special FCY account	Within investment gap	Short term: Managed by balance; Long term: Managed by occurrence
Dalian City and the rest of Liaoning province	FIE	FCY (*RMB not specified)	Special FCY account	Within 2 times of the net assets of previous year OR investment gap	Managed by balance
PFTZ (No.22 Circular[1])	Companies within PFTZ	RMB	RMB special account	Paid-in capital × 1 × policy parameter[2] OR investment gap (only applicable to FIEs which existed before the establishment of PFTZ)	Managed by balance

[1]http://shanghai.pbc.gov.cn/publish/fzh_shanghai/1400/2014/20140221154326388632623/20140221154326388632623_.html

[2] For non-banking financial institutions in PFTZ: paid-in capital × 1.5 × policy parameter (current as "1")

PFTZ (No.8 Circular[3])	Companies within PFTZ	RMB FCY	Free Trade Account	Paid-in capital (including paid-in capital and capital reserve) × leverage ratio × macro prudential coefficient (currently as "1")[4] OR investment gap ※ No change shall be made after choice of method	Managed by balance ※Off-balance sheet financing is included
Pingtan	Companies within the zone	RMB FCY	For FIEs: Within 2 times of the audited net assets of previous year; For domestic invested companies: Within 0.5 times of the audited net assets of previous year (※only for short-term foreign debt)		
Tianjin and Suzhou	Companies within the zones	RMB	Cross border RMB loans are allowed between companies in the zones and banks in Singapore. Usage of funds and applicable industries will be limited. ※ For Suzhou, the foreign debt quota will be set and controlled by the committee of the zone; for Tianjin, foreign debt quota will be set respectively by relevant authorities case by case		
Qianhai	Companies within the zones	RMB	In particular, cross border RMB loans are allowed between companies in the zone and banks that conduct RMB business in Hong Kong. Usage of funds and applicable industries will be limited. The foreign debt quota will be set and controlled by PBOC Shenzhen.		
Qianhai (No.4 Circular), Zhongguancun and Zhangjiagang	Companies within the zones	RMB FCY	Within 2 times of the audited net assets of previous year		

IV Comments

The release of No.4 Circular regarding Qianhai, together with other mentioned circulars regarding other areas of China, demonstrated the central government`s effort in lowering the financing cost for companies in China by further improving the foreign debt management mechanism. On Mar 11 2015, we visited SAFE Shenzhen and local PBOC to discuss and seek for further elaboration on the No.4 Circular. According to local officials from PBOC, although not stated precisely, the No.4 Circular

[3] http://shanghai.pbc.gov.cn/publish/fzh_shanghai/4187/2015/20150212172843817617313/20150212172843817617313_.html

[4] Corporates are allowed to borrow maximum 2 times their capital while non-bank financial institutions are allowed to borrow maximum 3 times their capital. The leverage ratio for PFTZ incorporated banks will be five times their capital.

applies mainly to company borrowing foreign debt in FCY. It is not clear at the moment if the foreign debt in RMB would be managed by balance or occurrence. Thus for companies choosing the provisions stated in No.4 Circular, borrowing foreign debt in FCY shall be highly recommended while still it is advised to consult with local authorities on the details of the Circular in practice timely. In the meantime, we are expecting detailed guidelines for borrowing foreign debt in RMB to be issued in the near future. Also, as we also mentioned in our previous reports, it is expected such foreign debt management scheme would be replicated all over China.

The interpretation and actual implementation of No.4 Circular should be worthy of attention. The up-to-date information will be provided continuously by our bank.