Global Public M&A Guide - People’s Republic of China

General Legal Framework

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# 2. General Legal Framework

[Last updated: 1 January 2025, unless otherwise noted]

**2.1 Main legal framework**

The main rules and principles governing public takeover bids can be found in:

Law of the People’s Republic of China on Securities (“**Securities Law**”);

Measures for the Administration on Acquisition of Listed Companies (as amended on 20 March 2020) (“**Acquisition Measures**”);

Measures for the Administration of Material Asset Reorganization of Listed Companies (as amended on 17 February 2023).

The Securities Law sets out the general rules on public takeover bids and provides the disclosure requirements. The Acquisition Measures provide additional specific regulations for public takeover bids.

**2.2 Other rules**

While the Securities Law and Acquisition Measures contain the main legal framework for public takeover bids in the PRC, additional rules should be followed when preparing or conducting a public takeover bid. These include:

The four opinions issued by the China Securities Regulatory Commission (“**CSRC**”), the governing body of public companies, which set out guidance for some provisions in the Acquisition Measures; and

Guidelines issued by Shenzhen Stock Exchange and Beijing Stock Exchange, which contains the provisions on public company takeovers of public companies listed on the Shenzhen Stock Exchange and Beijing Stock Exchange.

**2.3 Supervision and enforcement by the CSRC**

Public takeover bids are subject to the supervision and control of the CSRC. The CSRC is the principal securities regulator in the PRC.

The CSRC has a number of legal tools to supervise and enforce compliance with the public takeover bid rules. It can conduct regulatory talks, issue warning letters, order suspension or cessation of the acquisition, or take other regulatory measures.

**2.4 General principles**

The following principles apply to public takeovers in the PRC:

Shareholders of the same type of shares should be treated equally during a tender offer;

The minority shareholders must be protected, including by the use of mandatory tender offers and the prohibition of insider trading; and

A duty to disclose shareholdings upon reaching certain thresholds.

**2.5 Foreign investment provisions**

Industry-related restrictions

The PRC National Development and Reform Commission ("**NDRC**") and the PRC Ministry of Commerce ("**MOFCOM**") jointly promulgated the *Catalogue of Encouraged Foreign Investment Industries (2022)* ("**Catalogue**"), effective as of 1 January 2023, which set out a list of industries in which foreign investment is encouraged. On 6 September 2024, the NDRC and MOFCOM jointly released the *Special Administrative Measures for Access of Foreign Investment (Negative List) (2024)* ("**Negative List**"), effective as of 1 November 2024, which lists industries that are restricted or prohibited for foreign investment.

Foreign investment into restricted industries is subject to an approval requirement while foreign investors are not allowed to invest in any prohibited industries such as compulsory education, press and publishing, radio and television broadcasting, transmission, production and operation.

All foreign investment should be carried out by reporting the investment information to the relevant commercial authorities based on the Foreign Investment Law, effective as 1 January 2020. Detailed requirements for reporting are stipulated in the Measures for the Reporting of Foreign Investment Information with effect from 1 January 2020.

Foreign investment in A-share listed companies

Foreign investors must obtain the A-share stock of A-share listed companies either by way of:

obtaining QFII or RQFII qualifications;

strategic investment by foreign investors, which is subject to the *Measures for the Administration of Strategic Investment in Listed Companies by Foreign Investors* ("**Strategic Investment Measures**", effective as of 31 January 2006, and revised in 2024) and *Announcement No.15 [2023] of the China Securities Regulatory Commission—Announcement on Issuing the Opinions on the Application of the Applicable Provisions of Articles 9, 10, 11, 13, 40, 57, and 60 of the Measures for the Administration of Registration of Securities Offering by Listed Companies—Opinions No. 18 on the Application of Securities and Futures Laws* (effective as of 17 February 2023). The Strategic Investment Measures revised in 2024 has removed the requirement of prior approval by MOFCOM before the strategic investment, and replaced it with a requirement for the foreign investor or listed company to report the investment information to MOFCOM after the completion of the strategic investment; or

obtaining a listing of Global Depository Receipts on an overseas stock exchange under the Stock Connect Scheme.

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