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CHAPTER 1

Introduction: Regulatory Framework of Foreign Investment

1.1 OVERVIEW

It is well known that China implements two 'parallel' legal regimes respectively for foreign invested enterprises (*FIEs*) and domestic companies without foreign capital. There are particular requirements applicable to *FIEs*:

China has been careful to hedge each form of *FIE* with complex rules for qualification and approval designed to foster various aspects of Chinese industrial policy, channel foreign investment into particular economic or geographic areas, protect local Chinese business interests, promote China's technological development, or protect China's balance of payments. The result is a complex system of laws, regulations, and guidelines that sometimes apply across-the-board to all *FIEs* and sometimes only to a particular kind of *FIE*.¹

In structuring such complex system, the National People's Congress (*NPC*) is the top organ, acting as the national legislative organ of the People's Republic of China (*PRC*). *NPC* usually holds its annual session in March of every year, during which many important laws may be passed. During the time beyond its annual session, *NPC's* permanent organ, the Standing Committee, exercises most of the top legislature powers.

Of mention, Chinese government is now reviewing its much-lagged legal framework regulating foreign investment. Recently, the Ministry of Commerce published the draft Foreign Investment Law (*Draft FI Law*) in January 2015 to solicit public comments. Although it remains uncertain when the Draft *FI Law* will appear on the top legislature's agenda and when it will become the state law upon approval by the *NPC*

1. Patrick M. Norton & Nicolas Groffman (O'MM), 'Reorganizing Foreign Invested Enterprises in China: the New Merger and Division Regulations' < www.omm.com/webcode/webdata/content/publications/APRIL_2000.PDF > (April 2000).