



China's regulatory framework for outbound investment takes shape

In brief

- » China's State Council announced the issuance of the new **Outbound Investment Regulations** on 1 June, set to take effect on 1 July. It aims at establishing comprehensive and coordinated legal framework approach to govern and guide outbound investments, including protective and supportive measures.

Feedback



In detail

China is establishing a holistic regulatory framework on outbound investments. The **Outbound Investment Regulations**, issued by State Council on 1 June, consist of 34 articles covering the establishment of integrated legal systems covering the approval, support, protection and prohibition systems for outbound investment. The new regulations will take effect on 1 July 2026.

Almost all the measures stated therein are not new, as they are addressed in existing laws and regulations. However, the regulations do signify some innovations in the following senses.

Revolutionary shift in regulatory perspective

Perhaps the most ground-breaking significance of the new regulations is the shift from department-level provisions to unified State Council-level framework.

Enacted by the State Council, the highest administrative body, these regulations carry much higher legal authority and provide greater clarity than departmental rules delivered in a fragmented manner, some of which are listed below:

- (a) Administrative Measures on Forex for Offshore Direct Investment by Domestic Entities (SAFE, 2009) ¹
- (b) Administrative Measures on Offshore Investment (MOFCOM, 2014) ²
- (c) Administrative Measures on Enterprises' Outbound Investment (NDRC, 2017) ³
- (d) Administrative Measures for Approval and Filing of Offshore Investment Projects (NDRC, 2018)

Another noteworthy paradigm shift is the transition from legality review to alignment with national security and state interests. The prioritization of national security and state interests has been evident in provisions for trade remedy measures and export controls, but its presence in the outbound investment domain has historically been less pronounced. The new regulations fundamentally changes this landscape by providing the following:

- » Article 3 establishes the overarching principle to “*pursue an open policies*”, “*implement a holistic approach to national security*” and “*coordinate development and security*”
- » Article 13 explicitly prohibits the transfer of restricted technologies, services, or data through indirect means, including cross-border technical training and overseas staffing.
- » Article 15 institutionalizes a formal security review mechanism, granting authorities the power to review and block investments that “*affect or may affect national security*”.
- » Articles 24 and 25 introduce countermeasure mechanisms, allowing China to impose reciprocal restrictions on foreign entities that adopt discriminatory measures against Chinese investors.

Revolutionary shift in regulatory perspective		
Before		After (from 1 July 2026)
1. Fragmented		1. Unified
2. Legality review		2. Security-first review
3. Entities-focused		3. All Investors
4. Passive control		4. Active support / protection

1. SAFE : State Administration for Foreign Exchange
 2. MOFCOM : Ministry of Commerce
 3. NDRC : National Development and Reform Commission

Consolidated and expanded scope

The interpretation of “outbound investment” has been addressed in various department-level rules, but the new regulations now consolidate and clarify a unified interpretation as:

“Activities whereby an investor directly or indirectly acquires the ownership, control, right of business management of, or other relevant rights and interests in enterprises and assets, among others, in other countries or regions by contributing assets or rights and interests, providing financing or security, or other means”

Notably, the consolidated version brings under a single regulatory framework all types of Chinese investors, not only entities and organizations but also resident individuals. Individuals, though not covered by the four major department-level rules (items 1[a] to 1[d] above), they are covered under existing SAFE regulations (e.g. SAFE circular, Huifa [2014] No. 37).

The new regulations fundamentally change this landscape, listing resident individuals side by side with enterprises, other organizations, granting all three entirely equal legal status, as shown in the table below.

Consolidated & expanded scope — Who is covered from 1 July 2026?		
Enterprises	Other organizations	Individuals ★
For example: - Chinese companies - Overseas subsidiaries - Overseas JVs	For example: - Industry associations - Research institutions - Non-profit organizations - Cross-border cooperatives - Foundations	For example: - Setting up offshore holding companies - Setting up offshore SPVs - Moving assets (incl. IPs) offshore - Placing wealth in offshore trusts - Participating in offshore red-chip or VIE structures - Providing technical guidance or training overseas

This means that from 1 July 2026, “individuals” will be subject to the same approval and filing procedures, security review, compliance requirements, and legal liability provisions as enterprises.

The new regime also makes it clear (under article 13) that such activities as providing technical guidance or training to overseas resulting in the unauthorized export of goods, technologies, services and data are prohibited. In practice these activities have been less expressly presented as outbound investment.

Another obvious change to the scope is the broadened interpretation of outbound investment, which is no longer limited to capital flow. Under the current regime, many outbound investments that did not require domestic capital outflows could bypass domestic regulatory oversight.

For example, investors could set up a shell company overseas to make investments abroad based on a credit guarantee of the Chinese parent company. Since no capital was transferred out of the country, they have evaded the rules.

The new regulations define outbound investment very broadly to cover “assets or rights and interests, providing financing or security, or other means”. In other words, even the investment or transfer of intangible assets to overseas for gaining rights or interests in return should also constitute outbound investment.

Systemic upgrades of legal toolkit

It should be remarked and clarified that the following measures are not new but rather unified and upgraded within a full-cycle framework under the new regulations which consolidates existing requirements from various departmental rules into a single administrative regulation. Therefore, the new regulations should not be misinterpreted as introducing new countermeasures or tools, nor as replacing existing laws and regulations. Rather, they integrate and synthesize them into a unified framework as illustrated in the figure below.

(a) Investigation mechanism

Article 23 empowers MOFCOM to initiate investigations (proactively or upon application) when Chinese enterprises encounter investment barriers or obstacles in a host country, and to adjust investment policies or restrict imports/exports.

The same authority is provided under the “Foreign Trade Law” (NPC, 2025).

(b) Approval mechanism

Article 15 calls for an improvement to the current approval mechanism to assess outbound investments or related acts that could affect national security. The regulatory perspective has fundamentally shifted from a mere pre-transaction registration formality to a substantive, risk-based assessment.

This authority is not new but has existed in prior departmental regulations that establish the approval and filing framework for sensitive and non-sensitive investments. The key difference under the new regulation is the explicit elevation of compliance to an active approval requirement, integrating qualitative factors such as impact on national interests and security, rather than a passive registration of intent.

(c) Countermeasures mechanism

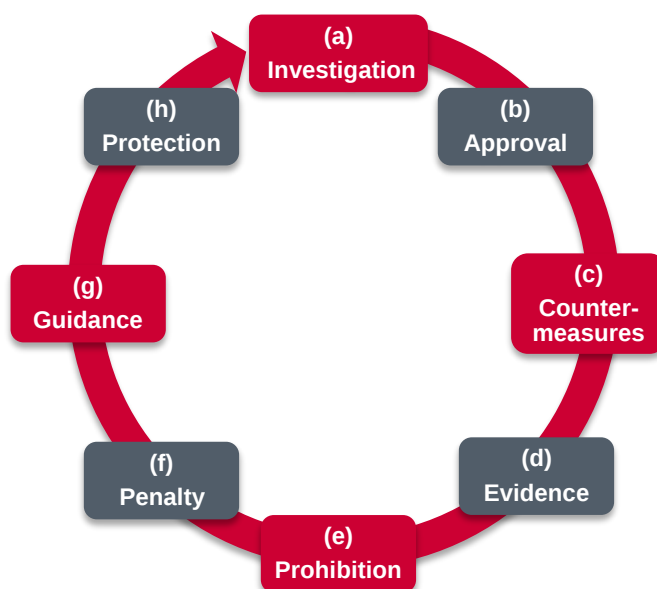
Article 24 provides that the Chinese government may take reciprocal actions against nations, regions or parties that impose discriminatory restrictions on Chinese investments, including prohibiting investment in China, restricting entry, or revoking residence permits.

Such comparable authority already exists under the “Unreliable Entity List Rules” (MOFCOM, 2020) and the “Anti-Foreign Sanctions Law” (NPC, 2021)⁴. The new regulations provide that even completed overseas investments can be halted if deemed a national security risk, with authorities empowered to order the disposal of related shares and assets. Again, this authority is not new but provided in existing regulations, e.g. the “Administrative Measures on Enterprises’ Outbound Investment” (NDRC, 2017) and the “Rules on Blocking the Improper Extraterritorial Application of Foreign Laws and Measures” (MOFCOM, 2021).

(d) Evidence compliance mechanism

Article 22 mandates that when participating in overseas arbitration, litigation, or assisting foreign law enforcement, enterprises must comply with Chinese data security and state secret protection laws before providing evidence to foreign parties.

This requirement echoes existing obligations under the “Data Security Law” (NPC, 2021), the “State Secrets Law” (NPC, 2024), and the “Cybersecurity Law” (NPC, 2025), which already restrict cross-border data transfers and evidence disclosure without proper government approval.



4. NPC : Standing Committee of National People's congress

(e) Prohibition mechanism

The Provisions reiterate the prohibition on transferring restricted goods, technologies, services, and data abroad without government approval, including via dispatching technical personnel, providing technical support, or operating training programs (Article 16).

This prohibition has long existed under the “Export Control Law” (NPC, 2020) and the “Administrative Regulations on the Export Control of Dual-Use Items” (State Council, 2024), which govern the outbound transfer of controlled technologies and technical assistance.

(f) Penalty measures

The regulations also explicitly outline penalties for illegal overseas investments, including orders to halt investments and dispose of assets within a specified timeframe, confiscation of investment returns, and fines ranging from 0.05% to 1% of the total investment amount. Authorities may also impose a ban on overseas investments for up to three years or restrict new business registrations.

The real innovation lies in the institutionalization of the guidance and protection mechanism said below, shifting the focus of outbound investment governance from formalistic control to active guidance and support.

(g) Guidance mechanism

The regulations pledges to provide national comprehensive service systems integrating foreign affairs, legal, financial, tax, financing, economic and trade, logistics, immigration, customs, and trade promotion resources (article 6). Provincial and above local governments are for the first time charged with a statutory obligation to construct and provide public services supporting outbound investment. Previously, such guidance was fragmented across various policy documents and departmental notices without a unified legal mandate.

(h) Protection mechanism

The regulations offer integrated state-backed safeguards including consular protection (legal and emergency assistance for Chinese investors and overseas project employees), information services, risk prevention, policy-backed insurance, banking support, and promotion of dispute resolution through negotiation, mediation, and arbitration (articles 18-21). While consular protection exists broadly as available to Chinese citizens, the new regulations incorporates it into outbound investment spectrum for the first time.

WTS China's observation

The new regulations present a comprehensive framework to guide, support, and approve outbound investment, offering improved clarity and transparency not only to Chinese investors but also to foreign investors seeking to collaborate on Chinese-backed projects.

As clarified above, the regulations should not be misinterpreted as a loophole-closing exercise designed to introduce new authority to ban or unwind transactions. Rather, they aim to establish a full-cycle regulatory system based on the existing laws and regulations, for assessing and developing outbound investments in a more coordinated and consolidated manner. The new regulations bear profound implications not only to Chinese investors, but also multinational companies (MNCs).

For Chinese investors, the expanded scope now explicitly covers resident individuals alongside organizations and entities, meaning that activities previously outside the regulatory framework will now require formal approval or filing, bringing them into the compliance net. Caution should therefore be exercised to assess whether existing or planned activities fall within the new scope. In addition, the heightened emphasis on national security review and the prohibition on indirect technology transfers demand more rigorous due diligence.

MNCs should also prepare for a shift toward a more balanced mind-set in corporate governance. This includes recognizing that foreign entities which impose discriminatory restrictions on Chinese investors during overseas investment processes may face corresponding restrictions or bans on their own investment and business activities in China. Seen in this light, the regulations represent a centralized effort to enhance scrutiny while ensuring reciprocal treatment, aligning with broader national security considerations.



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