

China's latest efforts to promote the financial leasing industry

Among other plans for macro and strategic developments under the 12th Five-Year Development Plan published in March 2011, China has specifically stated its decision to further develop the financial leasing industry. Most recently, the Ministry of Commerce (MOFCOM) and the National Development and Reform Commission (NDRC) have taken steps to implement this decision by issuing important documents. This briefing introduces these recent documents and discusses how they may affect the current legal framework that regulates the financial leasing industry.

Background

Currently investors can invest in two types of financial leasing companies in China: ordinary financial leasing companies ("Rong Zi Zu Lin" 融资租赁) regulated by MOFCOM and special financial leasing companies ("Jin Rong Zu Lin" 金融租赁, **CBRC FLCs**) regulated by the China Banking Regulatory Commission (**CBRC**).¹

MOFCOM's latest Guiding Opinions

On 27 December 2011, MOFCOM issued the *Guiding Opinions on Encouraging the Development of Financial Leasing Industry in the 12th Five-Year Period (Guiding Opinions)*.

The Guiding Opinions provide a blueprint for developing financial leasing companies regulated under the MOFCOM regime based on the following principles:

- *encouragement of innovative business models*

The government encourages financial leasing companies to become more specialised in different areas, to learn from international peers and to diversify their transaction structures.

- *optimisation of market structure*

Development of the financial leasing industry in Midwest China is encouraged. Diversification of investors in financial leasing companies is also encouraged and special support will be granted to industrial and infrastructure companies with respect to their investment in financial leasing companies.

- *support for fledgling business lines*

While maintaining traditional leasing businesses in aviation, shipping and equipment, exploration by financial leasing companies of business in support of the development of rural areas and new energy and materials is encouraged. Financial leasing companies are also encouraged to explore business opportunities with small and medium-sized enterprises that are in need of financing.

Key Issues

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¹ Please see our client briefing titled "[Financial Leasing in China: The Two Parallel Lines](#)" issued in February 2009

- *exploration of the overseas markets*

The government encourages financial leasing companies to conduct cross-border leasing transactions. MOFCOM will support competitive Chinese leasing companies in their offshore mergers and acquisitions and will promulgate relevant policies to support Chinese leasing companies' business development in the overseas markets.

- *diversification of the funding sources*

Mid-term and long-term funding sources are recommended to mitigate risks in funding. The government will support financial leasing companies in exploring new means of funding such as bonds issuance, trusts and funds etc. to reduce funding costs.

- *strengthening the risk management capabilities*

The government will guide financial leasing companies to improve their risk management system and will issue industry reports on a regular basis. Insurance companies are encouraged to develop new insurance products to support the financial leasing industry.

- *accelerating the development of relevant industries*

MOFCOM will promulgate further policies and regulations with an aim to devise a standard, regulated and efficient system for trading the leased assets and second-hand assets in order to promote the liquidity of assets.

In addition to setting out the above principles, MOFCOM reiterates in the Guiding Opinions that it will strengthen its supervision of the industry and improve the legal environment, the accounting system and other industry regulating systems to ensure the healthy development of financial leasing companies.

The revised Industry Catalogue for Foreign Investment

On 24 December 2011, NDRC and MOFCOM jointly issued the revised Industry Catalogue for the Guidance of Foreign Investment (**Catalogue**). The revised catalogue (**2011 Catalogue**) will become effective as from 30 January 2012 to replace its previously revised version issued in 2007.

One of the most significant changes under the 2011 Catalogue is that foreign investment in "Jin Rong Zu Lin" companies (which are referred to CBRC FLCs) is no longer classified as "restricted" but is now "permitted".

Currently there are very few foreign-invested CBRC FLCs and even in those few cases the foreign investors are minority shareholders only. How the change will alter the way in which CBRC approves the establishment of CBRC FLCs is not entirely clear. CBRC has not yet issued detailed regulations in this regard. Whether CBRC would relax its regulation of financial leasing companies as a result of the 2011 Catalogue remains to be seen.

Conclusion

The latest documents discussed above signal China's increasing recognition of the importance of the leasing industry. The industry has become more important not only because of its ability to provide alternative sources of financing in support of other industries of China, but also because of the overall economic significance it creates as an industry itself. Following the release of the above documents, it is expected that that MOFCOM and CBRC may issue new implementing rules to promote the development of financial leasing companies under their respective regimes.

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