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**Client Alert**

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## China Removed Restriction on Foreign Investment in Payment Services



On 19th March 2018, the People's Bank of China (PBOC) published the Notice of People's Bank of China No.7 [2018] (the "Notice"), which removes restriction on payment services provided by foreign-invested payment institutions and sets up the rules and regulatory requirements. This Notice has followed the instructions of the 19th CPC National Congress on speeding up the reform process and promoting the full opening of the payment service market. It will lead to a new era of payment industry in China.

Previously, according to Article 8 of the *Measures for the Administration of Payment Services of Non-Financial Institutions* promulgated by PBOC in June 2010, foreign investment in payment services shall be subject to separate regulation of the PBOC upon approval of the state council. However, such regulation has not been released by PBOC, which means foreign investor cannot be engaged in payment services. Therefore, in order to obtain a payment business license, Alibaba Group transferred the ownership of Alipay to a domestic company. Foreign-invested payment company such as Paypal, who does not have a payment business license in PRC, can only carry on cross-border payments services in PRC.

After the issuance of the Notice, foreign-invested payment institutions shall follow the same rule with domestic ones, and will adopt uniform access standards and regulatory requirements.

### **A. The Access Standards Stipulated by the Notice**

The Notice stipulates that foreign-invested payment institutions intending to provide online payment services for domestic transactions and cross-border transactions within the territory of PRC should have corresponding qualifications and access conditions, and enjoying "national treatment", acquiring payment business license according to the terms of *Measures for the Administration of Payment Services of Non-Financial Institutions*. Such conditions include:

- (a) **Commercial Presence.** Foreign institutions providing payment service in PRC shall establish foreign-invested enterprises as the main body for applying payment business licenses;
- (b) **Payment Service Facilities.** A foreign-invested payment institution shall have a business system and a disaster recovery system that are safe, standardized, and capable of independently processing payment business and those system shall be located within PRC;
- (c) **Information Storage Capability.** Foreign-invested payment institutions shall obey the laws of PRC. The personal information and financial information collected and generated within PRC shall be stored in PRC only.

In addition to the above conditions, foreign investment payment institutions should also meet the requirements on capital strength, major sponsors, anti-money laundering measures and other requirements as stipulated in the *Measures for the Administration of Payment Services of Non-Financial Institutions*, which means the main applicants for establishing foreign-invested payment institutions shall "have experiences for more than 2 years on providing information processing support services for financial institutions or e-commerce activities", "make profit for consecutively 2 years", and etc. At the same time, if the applicants intend to provide payment service nationwide, their paid-in capital shall not be less than RMB 100 million; if they want to provide payment service only within a province (autonomous region or municipality), and their paid-in capital shall not be less than RMB 30 million.

In addition, foreign investment payment institutions shall from time to time meet the regulatory requirements of PBOC in terms of corporate governance, day-to-day operations, risk management, fund processing, and deposit of deposits.

## **B. Impact on Payment Services Market**

In the recent years, non-banking payment institutions developed quickly to satisfy various payment needs of people through business and technological innovations. It played an important role in payment service for small retail business. Some large domestic payment institutions have “going out” to provide payment services to clients worldwide. Meanwhile, with the increasing of China’s opening-up to the world, more and more foreign-invested institutions are seeking to enter China’s payment service market. After the release of the Notice, foreign payment institutions will enjoy “national treatment” and have the same accessibility with domestic institutions. The Notice provides a clear guidance for foreign investment institutions to enter the Chinese market.

Removal of restrictions on foreign investment will bring new competition to China’s domestic payment service business. This will lead to innovation to payment service business. It will also increase the service quality of the business, and bring new ideas to the development of third-party payment institutions. Currently the market is dominated by Alipay and Tencent Finance, which accounts for 90% of the market share, although there are 243 current operating payment institutions in China. In the long term, it is expected to see more major competitors in China, although it will not be easy to take away market share from these two tycoons. ■

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