

Annex 1 Comparison of Joint Venture Law and Foreign Investment Law

(I) Sino-Foreign Equity Joint Ventures

Item	Law on Sino-Foreign Equity Joint Ventures and its Implementing Regulations	Foreign Investment Law	Changes
Examination and approval procedures for establishment, change, termination, etc. of an enterprise	The examination and approval system shall be implemented for the restricted investment areas within the Negative List. If the implementation of special access administrative measures prescribed by the State is not involved, the record-filing administration system shall apply.	Management system of the Negative List	It is clarified that the management system of the Negative List is adopted.
Business form	A limited liability company	The Company Law shall apply.	A limited liability company or a joint stock company

Restrictions on the proportion of foreign investment	The proportion of investment by a foreign investor shall generally be no lower than 25%.	The Company Law shall apply.	Unless as specially prescribed in the Negative List, the investment proportion of foreign investors is not restricted.
An enterprise's decision-making body	The board of directors is the highest authority of an enterprise.	The Company Law shall apply.	The highest authority of an enterprise is the board of shareholders or the general meeting.
Board of shareholders	No board of shareholders is set up.	The Company Law shall apply.	The functions of the board of shareholders include deliberating on and approving the following major matters: <ul style="list-style-type: none"> • Modification of the articles of association • The company's capital increase or capital reduction • Merger or division of the company • Dissolution and liquidation of the company, subject to approval by shareholders who represent not less than two-thirds of the voting rights of the company
Board of directors	The board of directors shall consist of no less than three members. The directors shall be appointed by the parties to the joint venture. The functions of the board of	The Company Law shall apply.	The company is not required to set up the board of directors and may appoint one executive director only. Any director or executive director is elected by the board of shareholders or the general meeting.

	<p>directors include deliberating on and approving the following major matters:</p> <ul style="list-style-type: none"> • Modification of the articles of association of the joint venture • Termination and dissolution of the joint venture • Increase or decrease in the registered capital • Merger or division of the joint venture, subject to approval by all directors present at the meeting of the board of directors 		<p>The changes in the functions of the board of directors include:</p> <ul style="list-style-type: none"> • Convening meetings of the board of shareholders and reporting to the shareholders on its work • Executing resolutions of the board of shareholders • Designating the company's operational plans and investment plans • Formulating the company's profit distribution plans and loss recovery plans • Developing the company's basic management system
Legal representative	The chairman of the board is the legal representative of the joint venture.	The Company Law shall apply.	The chairman, executive director or manager acts as the legal representative of the company.
Equity transfer	One party to the joint venture shall transfer its equity to a third-party subject to the approval by the other parties to the joint venture. The other parties to the joint venture enjoy the preemptive right.	The Company Law shall apply.	Where any shareholder proposes transferring his/her/its stock rights to any person other than the shareholders, any such proposal shall be subject to the consent of a majority of the other shareholders. The transferor shall give the other shareholders a written notice of the proposed equity transfer and seek their consent. Any of the other shareholders who fail to respond within 30 days of receipt of the written notice shall be deemed to have consented to

			the transfer. Where a majority of the other shareholders disagree with the proposed transfer, the shareholders who disagree with the proposed transfer shall purchase the equities to be transferred. In the event that they refuse to purchase the equities in question, they shall be deemed to have consented to the transfer.
Profit distribution	A joint venture shall distribute profits in proportion to the capital contributions of the joint venture parties.	The Company Law shall apply.	The parties to a Sino-foreign equity joint venture may, in accordance with the relevant provisions of the Company Law, agree on the proportion and method of profit distribution themselves.
After-tax funds	A joint venture may draw a reserve fund, a bonus and welfare fund for staff and workers and an enterprise expansion fund according to the proportions decided by the board of directors.	The Company Law shall apply.	Where a company distributes its after-tax profits for the current financial year, it shall draw 10% of its profits as the company's statutory common reserve, until the company's statutory common reserve reaches not less than 50% of the company's registered capital. The company may, subject to a resolution of the board of shareholders or the general meeting, also draw a discretionary common reserve from its after-tax profits.
Liquidation group of an enterprise	Members of the liquidation committee are generally selected from among the directors of a joint venture.	The Company Law shall apply.	The liquidation group of a limited liability company shall be comprised of its shareholders, while that of a joint stock limited company shall be comprised of

			its directors or any other individuals determined by the general meeting.
--	--	--	---

(II) Sino-Foreign Cooperative Joint Ventures

Item	Law on Sino-Foreign Cooperative Joint Ventures and its Implementing Rules	Foreign Investment Law	Changes
Examination and approval procedures for the establishment, change, termination, etc. of an enterprise	The examination and approval system shall be implemented for the restricted investment areas within the Negative List. If the implementation of special access administrative measures prescribed by the State is not involved, the record-filing administration system shall apply.	Management system of the Negative List	Same as the above-mentioned changes in the Law on Sino-Foreign Equity Joint Ventures ("ditto")
Business form	A limited liability company or cooperative joint venture without the status of a legal person	The Company Law shall apply.	Ditto
Restrictions on the proportion of foreign investment	The foreign party's investment in a cooperative joint venture that has obtained the status of a Chinese legal person in accordance with the law shall generally not be less than 25% of the registered capital of the cooperative joint venture.	The Company Law shall apply.	Ditto

Equity transfer	The assignment of all or part of the rights in a cooperative joint venture contract between the joint venture parties, or from one joint venture party to a third party other than the other joint venture party (parties) shall be subject to the written consent of the other joint venture party (parties).	The Company Law shall apply.	Ditto
An enterprise's decision-making body	The board of directors or joint management committee shall be the supreme authority of the cooperative joint ventures.	The Company Law shall apply.	Ditto
Board of shareholders	No board of shareholders is set up.	The Company Law shall apply.	Ditto
Board of directors	<p>The board of directors or the joint management committee shall have no less than three members. The members of the board of directors or joint management committee shall be appointed by the parties to the cooperative joint venture.</p> <p>The functions of the board of directors or the joint management committee include:</p> <ul style="list-style-type: none"> • Amendments to the articles of association • Increase or reduction in the registered capital • Dissolution of the cooperative joint venture 	The Company Law shall apply.	Ditto

	<ul style="list-style-type: none"> • Mortgage of assets of the cooperative joint venture • Merger, division or change in the form of organization of the cooperative joint venture 		
Legal representative	The chairman of the board of directors or the head of the joint management committee acts as the legal representative.	The Company Law shall apply.	Ditto
A cooperative joint venture without the status of a legal person	Special provisions for cooperative joint ventures without the status of a legal person	Nil	A limited liability company, a joint stock company or a partnership may be selected.

(III) Wholly Foreign-Owned Enterprises

Item	Law on Wholly Foreign-Owned Enterprises and its Implementing Rules	Foreign Investment Law	Changes
Examination and approval procedures for the establishment, change, termination,	The examination and approval system shall be implemented for the restricted investment areas within the Negative List. If the implementation of special access administrative measures prescribed by the State is not involved, the record-filing administration system shall apply.	Management system of the Negative List	Ditto

etc. of a company			
Business form	The organizational form of a wholly foreign-owned enterprise shall be a limited liability company, or, subject to approval, may also be other forms of liability.	The Company Law shall apply.	Ditto
After-tax funds	<p>Wholly foreign-owned enterprises shall make allocations to reserve funds and to bonus and welfare funds for their employees from their after-tax profits. The allocations made to the reserve funds of an enterprise shall be no lower than 10% of the enterprise's after-tax profits, until the total amount of funds so allocated is equal to or greater than 50% of the enterprise's registered capital.</p> <p>Wholly foreign-owned enterprises shall independently determine their allocation rates to bonus and welfare funds for employees.</p>	The Company Law shall apply.	Ditto
Liquidation group of an enterprise	A liquidation committee shall be composed of the legal representative of the wholly foreign-owned enterprise concerned, representatives of the creditors of the enterprise and representatives of the relevant competent authorities. In addition, persons such as accountants and lawyers registered in China shall be invited to serve on the committee.	The Company Law shall apply.	Ditto