



Foreign Direct Investment Law

Shanghai Circulates Incentive Policy 2.0 for Foreign-Invested R&D Centers

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On October 16, 2017, Shanghai Municipal People's government circulated the *Several Opinions on Further Supporting Foreign-Invested Research and Development Centers to Participate in Shanghai's Construction of a Science and Technology Innovation Center with Global Influence* (Hu Fu Fa [2017] No. 79, hereinafter "**Opinions**"), which can be regarded as a policy 2.0 to promote the establishment and development of foreign-invested research and development centers ("R&D Centers") following the issuance in 2012 of the *Several Opinions of Shanghai Municipality on Encouraging the Establishment of Foreign-Invested Research and Development Centers* by the Shanghai Municipal Commission of Commerce, the Science and Technology Commission of Shanghai Municipality and the Shanghai Municipal Development and Reform Commission.

The Opinions contain 16 sections, and provide numerous and unprecedented support policies for R&D Centers, which focus on the following aspects:

I Providing Funding and Support to R&D Center Establishment and Innovation Technology Projects

The Opinions introduce detailed support funding policies for R&D Centers established in Shanghai, including funding for starting up and property leases for global R&D Centers or independent R&D Centers with more than 100 research personnel.¹ In response to multinationals' trend towards open innovation in recent years, the Opinions first provide support

¹ In Section 1 of the Opinions, for global R&D Centers or legally independent R&D Centers with more than 100 research personnel, they can receive 5 million RMB funding for starting up, and will receive a property lease funding amounting to 30% of the rent at the standard of no more than 1,000 square meters and no more than 8 RMB per sqm per day for a period of three years.

funding for property leases² for foreign-invested open innovation platforms, which are encouraged to join together the innovation resources of other multinationals, medium, small or micro enterprises and innovation teams to build “open innovation ecosystems.” In addition, the Opinions also provide special funding amounting to RMB 3 million for enterprise technology platforms at the municipal level which will engage in improving innovation capability, upgrading core technologies and intelligent green manufacturing, and for major R&D projects in strategic emerging industries.

II Encouraging R&D Centers to Collaborate with Scientific Research Institutions, Government Platforms and Social Capital

The Opinions encourage R&D Centers to collaborate with scientific research institutions, public service platforms, government projects and industry funds, domestic and overseas innovation service providers and social capital, to share innovation resources with those sources and platforms to promote the transformation of research innovations. The Opinions also encourage R&D Centers to utilize government scientific research platforms, such as the Shanghai public research service platform, the government-planned project experts database, the Shanghai municipal finance science and technology investment information management platform and the National Eastern Tech-Transfer Center. The Opinions further provide guidance and support policies for R&D Centers to utilize such platforms and channels, and also to direct social capital to support R&D Centers in order to apply innovations to production in Shanghai³.

III Focusing on Protection and Realization of Intellectual Property for R&D Centers

One of the highlights in the Opinions is the focus on protecting and realizing the intellectual property of R&D Centers. The Opinions detail awards for each PCT patent or domestic invention patent applied for by an R&D Center.⁴ To improve the multiple dispute settlement mechanism in the intellectual property area, the Opinions also attempt to combine administrative and judicial intellectual property protection approaches together to explore “integrated one-step services” that incorporate patent examinations, fast approvals and fast patent rights protections. Meanwhile, the Opinions encourage foreign investment in intellectual property services, and encourage internationally known intellectual property service institutions to develop their business in Shanghai to cultivate a better intellectual property service and protection environment.

² In Section 2 of the Opinions, regarding open innovation platforms allows for property lease funds amounting to 30% of the rent at the standard of no more than 1,000 square meters and no more than 8 RMB per sqm per day from the government at the district level for a period of three years.

³ See Sections 5-8 of the Opinions.

⁴ Section 10 of the Opinions provides that each successful PCT application may be awarded up to 250,000 RMB, with a subsidy of up to 50,000 RMB per country for up to 5 countries; each successful high-quality domestic invention patent may be awarded up to 15,000 RMB.

IV Building an Environment Favorable for Talents, Simplifying Entry and Exit Policy

With respect to R&D Centers, Shanghai is competitive in human resources both domestically and in surrounding countries. The Opinions stipulate measures to assist R&D Centers to attract and gather research talents, including convenient measures for the entry and exit of Chinese talents, and for the entry and exit, work permits and residence permits for foreign talents. Foreign talents can also be listed in the government-planned project experts database. In particular, the Opinions allow foreign research personnel who are engaged by R&D Centers to directly apply for permits to work in China for the first time, which provides the most convenient working permit system ever for the foreign talents working in R&D Centers.

V Other Support Policies

Besides the above-mentioned policies, the Opinions also simplify the import and inspection formalities for samples and reagents for R&D Center operations and research. As for financial support policies, the Opinions expand the scope of free trade accounts so that R&D Centers can use these accounts to enjoy flexible cross-border financial service policies. The Opinions also encourage qualified R&D Centers to purchase insurances such as important technology equipment insurance, research and development equipment insurance, product liability insurance and product quality insurance.

Furthermore, the Opinions not only set out specific preferential policies for the establishment, development and operation of R&D Centers, but also specify the governmental departments responsible for the implementation of certain policies to make clear to these departments of their duties which is significant for guiding the practical operation of these policies. The new policies in the Opinions will promote R&D Centers to participate in the establishment of Shanghai as a scientific innovation center, while also helping R&D Centers to achieve better development in Shanghai.

● **Important Announcement**

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