

Enterprises in China Allowed to Borrow More Money from Abroad

Against the backdrop of recent measures to control capital outflows from the country, the PBoC increased the upper limit of financing from abroad. This move of the regulator gives enterprises in China more room to procure financing from outside China. The new policy offers a more generous alternative to the “borrowing gap model” formerly applicable to foreign-invested enterprises in China.

On January 11, 2017, the People’s Bank of China (“**PBoC**”) issued its *Circular on Issues concerning the Overall Macro-prudential Management System for Cross-border Financing* (中国人民银行关于全口径跨境融资宏观审慎管理有关事宜的通知) (“**Circular 2017**”), which came into force on the same day and replaces PBoC’s previous *Circular on the Nationwide Implementation of the Overall Macro-prudential Management System for Cross-border Financing* (中国人民银行关于在全国范围内实施全口径跨境融资宏观审慎管理的通知) effective as of May 2016 (“**Circular 2016**”). Compared to Circular 2016, Circular 2017 is aimed at adhering to the current policy of “expanding capital inflow” by further loosening the cross-border financing for enterprises and banks.

In simple words:

- *The upper limit for financing from abroad has been increased from one time an enterprise's net assets to two times the enterprise's net assets. This means enterprises in China (including domestic enterprises and foreign-invested enterprises) may take out loans from abroad ("foreign debt"), either in RMB or a foreign currency, in an amount twice as high as that under Circular 2016.*
- *Foreign-invested enterprises may choose within a 1-year transition period whether to use the old “borrowing gap” rule (registered total investment minus registered capital = permissible foreign debt of FIE) or the new model under Circular 2017.*

The following table provides an overview of major changes newly introduced by Circular 2017 in comparison to Circular 2016:

Issues	Circular 2016	Circular 2017
Who does the Circular apply to?	<ul style="list-style-type: none"> ▪ Enterprises (excluding government financing vehicles and real estate enterprises) and financial institutions incorporated within the territory of China 	<ul style="list-style-type: none"> ▪ Same as Circular 2016; and ▪ Additionally, Circular 2017 expressly applies to the branches of foreign banks (including from HK, Macao and Taiwan) in China
How to calculate the cross-border financing cap?	<ul style="list-style-type: none"> ▪ Cap = Capital/Assets * Leverage Ratio * Macro-prudential Adjustment Parameter ▪ Capital/Assets equals the net assets for non-financial enterprises ▪ Macro-prudential Adjustment Parameter for enterprises: 1 	<ul style="list-style-type: none"> ▪ Formula same as Circular 2016; ▪ Macro-prudential Adjustment Parameter for enterprises: 2
Which options are available for foreign-invested enterprises?	<ul style="list-style-type: none"> ▪ To choose between: <ul style="list-style-type: none"> ✓ the existing cross-border financing model (i.e. borrowing gap model for FIEs), or ✓ the model under Circular 2016 ▪ No transition period defined 	<ul style="list-style-type: none"> ▪ To choose between: <ul style="list-style-type: none"> ✓ the existing cross-border financing model, or ✓ the model under Circular 2017 ▪ Transition period defined as one year commencing from January 11, 2017; ▪ After the transition period, the administration model for FIEs will be determined by PBoC and SAFE



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