

**National Center for Complaints of
Foreign-Invested Enterprises**

Handling Guideline

April 29, 2021

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Note: the English version of Appendix 2- 8 are not applicable.

Chapter I National Center for Complaints of Foreign-Invested Enterprises

According to the Rules on Handling Complaints of Foreign-Invested Enterprises (hereinafter referred to as the "Rules"), the National Center for Complaints of Foreign-Invested Enterprises (hereinafter referred to as the "National Center") is temporarily set in the Investment Promotion Agency of the Ministry of Commerce(CIPA) to be responsible for accepting the complaints filed with the National Center for coordination to resolve matters by foreign-invested enterprises or foreign investors alleging that administrative agencies (including organizations authorized with the function of public affairs administration by laws and regulations) and their functionaries have infringed their legitimate rights and interests; and accepting issues concerning investment environment and suggestions about improvements in relevant policies and measures reported to the National Center.

The National Center is responsible for handling the following specific complaints:

- (1) where the matter is related to administrative actions of the relevant departments under the State Council, people's governments of provinces, autonomous regions and municipalities directly under the Central Government and their staff members;
- (2) where suggestions are made for relevant departments under the State Council and people's governments of provinces, autonomous regions and municipalities directly under the Central Government to improve relevant policies and measures; and
- (3) where the matter has significant national or international impact, and could be handled by the Center as the Ministry of Commerce deems fit.

The National Center organizes publicity campaigns on laws, regulations and policies relating to foreign investment, conducts training on handling complaints of foreign-invested enterprises, shares experience in handling complaints, puts forward relevant policy recommendations, supervises handling complaints of foreign-invested enterprises at local levels, and effectively avoids the occurrence of complaints.

Foreign-invested enterprises or foreign investors may file complaints by letter, fax and e-mail in accordance with relevant provisions of the Rules.

Hotline for complaints and consulting: 010-64404523

Fax: 010-64515130

Email for complaints: fiocomplaint@cipainvest.org.cn

Mailing address for the written version of complaints: 3rd Floor, Building 1, 28 Donghou Lane, Andingmenwai, Dongcheng District, Beijing Municipality, 100710

Chapter II Acceptance Conditions and Requirements

I. Related Definitions

(1) Complaints.

The first category of complaints are filed with agencies handling complaints for coordination to resolve matters by foreign-invested enterprises or foreign investors alleging that administrative actions of administrative agencies (including organizations authorized with the function of public affairs administration by laws and regulations) and their staff members have infringed their legitimate rights and interests.

The second category of complaints are issues concerning investment environment and suggestions about improvements in relevant policies and measures reported by complainants to agencies handling complaints.

(2) Complainants.

Complainants are foreign-invested enterprises or foreign investors within the territory of the People's Republic of China.

(3) Complainees.

Complainees are relevant departments under the State Council and their staff members; people's governments of provinces, autonomous regions and municipalities directly under the Central Government and their staff members; administrative organs involved in matters that have significant national or international impact and could be handled by the Center as the Ministry of Commerce deems fit and their staff members.

II. Requirements for Complaint Materials

Complainants shall submit written complaint materials when filing a complaint. Complaint materials may be submitted on-site, or by letter, fax, e-mail, online application system and other ways. The complaint materials shall include:

- (1) the Complainant's name, correspondence address, postcode, relevant contact person and contact information, relevant identity certificate, and the date of filing;
- (2) the Complainee's name, correspondence address, postcode, relevant contact person and contact information;
- (3) specific issues and claims of the complaint (it is suggested that a complaint application should be written in the Template for Complaints of Foreign-Invested Enterprises);
- (4) relevant facts, evidences and reasons; together with relevant legal basis, if any; and
- (5) description whether circumstances referred to in the subparagraphs (8) and (9) of Article 14 of the Rules exist.

Complaint materials shall include information prescribed by subparagraph (1) of the preceding paragraph, issues concerning investment environment and specific suggestions on policies and measures, if the complaint is about issues concerning investment environment.

The complaint materials shall be written in Chinese. If relevant evidences and original documents are written in foreign languages, accurate and complete Chinese translations shall be submitted.

A complainant may entrust others to file a complaint. If a complainant entrusts others to file a complaint, in addition to the materials prescribed above, the identity certificate of the complainant, power of attorney issued by the complainant and identity certificate of the entrusted party shall also be submitted. The power of attorney shall specify the entrusted matters, the scope and the time limit.

III. Circumstances for Rejection

- (1) The Complainant is not a foreign-invested enterprise or foreign investor;

- (2) The Complainant applies for coordination to settle civil and commercial disputes with other natural persons, legal persons or other organizations, or not within the scope of complaints of foreign-invested enterprises prescribed by the Rules;
- (3) The complaint is not within the acceptable scope of the National Center;
- (4) The complaint materials fail to meet the requirements after being supplemented or corrected;
- (5) The Complainant forged or altered the evidence or the complaint is manifestly without factual basis;
- (6) The Complainant re-files a complaint to the National Center without submitting any new evidence or legal basis;
- (7) The same complaint matter has been accepted or the respective procedure has been terminated by public complaints and proposals administration or other departments; or
- (8) The same complaint matter has been referred to, or settled by, administrative reconsideration, administrative litigation or other procedures.

IV. Time Limit for Acceptance

- (1) Where the complaint materials are incomplete, the National Center shall notify the Complainant in a single written notice within 7 working days after receiving the complaint materials and request the Complainant to make supplementation or correction within 15 working days in the form of the Notice of Supplementation or Correction for Complaint Materials of Foreign-Invested Enterprises.
- (2) The National Center shall make decision on whether to accept the complaint within 7 working days upon receipt of complete complaint materials. The complaint shall be accepted, provided that it satisfies the conditions, and the Notice of Acceptance of Complaint Cases of Foreign-Invested Enterprises shall be issued to complainant.
- (3) Where the complaint fails to satisfy the conditions, the National Center shall issue the Notice of Rejection of Complaint Cases of Foreign-Invested Enterprises with reasons for rejection to the Complainant, within 7 working days.
- (4) Where the matter is not within the acceptable scope of the National Center, the National Center may inform the complainant to file the complaint to relevant agencies handling complaints.

Chapter III Handling Methods and Process

I. Handling Requirements

(1) Work rules

Once a complaint is accepted, the National Center shall conduct sufficient communications with the Complainant and the Complainee, collect information, coordinate to handle the complaint in accordance with law, and work for an appropriate solution for the complaint.

According to the specifics of the complaint matter, the National Center may organize meetings, and invite the Complainant and the Complainee to state their opinions and discuss possible solutions to the complaint matter. If needed in the complaint handling process, the National Center may seek opinions of relevant experts on professional issues.

(2) Obligations of complainants

When handling a complaint, the National Center may request the Complainant to render assistance by offering further explanations, and providing documents or other necessary assistance; the Complainant shall provide assistance as requested; the National Center may request the Complainee to provide information, and the Complainee shall cooperate as requested.

II. Handling Methods

According to the specifics of complaints, the National Center may handle complaints in the following ways:

- (1) promoting mutual understanding (including reaching a settlement agreement) between the complainant and the complainee;
- (2) coordinating with the complainee;
- (3) submitting recommendations on improving relevant policies and measures; or
- (4) other appropriate handling methods.

The settlement agreement signed between the Complainant and the Complainee shall specify the matters and contents of the settlement. The settlement agreement concluded in accordance with law shall be binding on the Complainant and the Complainee. If the Complainee fails to implement the effective settlement agreement, Article 41 of the Implementation Regulation of the Foreign Investment Law of the People's Republic of China shall apply.

III. Time Limit for Handling

The National Center shall complete the complaint handling process within 60 working days after the acceptance of the complaints. For complaints involving multiple departments or complicated matters, the time limit can be extended as appropriate.

IV. Reasons for Termination

The complaint handling process shall be terminated if any of the following circumstances exists:

- (1) the agency handling complaints coordinates to handle the complaint in accordance with Article 18 of the Rules, and the Complainant agrees to terminate the process;
- (2) the complaint lacks factual basis; or if the Complainant refuse to provide materials, which makes it impossible to examine relevant facts;
- (3) the Complainant's claim lacks legal basis;
- (4) the Complainant withdraws the complaint in writing;
- (5) the Complainant no longer meets the identity qualification;
- (6) after being contacted by the agency handling complaints, the Complainant has not participated in the

complaint handling process for 30 consecutive days without justifiable reasons; or

(7) during the complaint handling process, if the same complaint matter has been accepted or the respective procedure has been terminated by public complaints and proposals administration or other departments, or the same complaint matter has been referred to, or settled by, administrative reconsideration, administrative litigation or other procedures, the complaint shall be deemed as withdrawn in writing by the Complainant.

Once the complaint handling process is terminated, the National Center shall notify the Complainant of the result in writing within 3 working days.

V. Registration of Conclusion

When a complaint case is concluded, the case handled by coordination shall be registered and archived, and the case materials, related work logs and handling results shall be detailed and complete.

Appendix 1 Flow Chart of Complaints of Foreign-Invested Enterprises

Flow Chart of Complaints of Foreign-Invested Enterprises

