**Declaration of Foreign Investor Qualification**

(Applicable to foreign juridical persons listed on an overseas stock exchange)

(Applicable to foreign juridical persons with a controlling shareholder listed on an overseas stock exchange)

1. The Investment Applicant hereby declares that:
2. With respect to the application submitted to the Investment Commission of MOEA to invest  **(name of the ROC enterprise)**  according to the "*Statute for Investment by Foreign Nationals*," the Investment Applicant (the “Company”), hereby certifies that it is a juridical person by the laws of its place of incorporation.

The Company has clearly understood that a third area company under the provisions of Article 3 of the *"Measures Governing Investment Permit to the People of Mainland Area"* shall not be applicable to the provisions of the "*Statute for Investment by Foreign Nationals*," and that violators of such provisions shall be applicable to the relevant penalties of Article 93-1 of the " *Act Governing Relations Between the Peoples of the Taiwan Area and the Mainland Area*."

The Company hereby certifies that, as a result of its inspection to the extent possible, and, to the best of its knowledge and belief, Mainland Area individuals, juristic persons, organizations and other institutions do not directly or indirectly hold (or contribute) in aggregate , more than 30% of the Company’s total shares (or capital amount), nor have control power over the Company.

1. The Company hereby certifies that, an inspection concerning the **calculation** of direct or indirect shareholding (or capital contribution) **percentage** of— and the **tier-by-tier** control power by— **Mainland Area individuals, juristic persons, organizations and other institutions**, has been carried out according to the “Interpretation of the Standard for Determining Whether a Third-Area Company Is an Investor of the Mainland Area” as the attachment suggests.
2. The Company hereby undertakes that, should the Investment Commission of MOEA conducts a necessary inspection after the approval of the investment application, The Company shall provide the following: a list of directors and shareholders **with their nationalities** (revealed towards ultimate beneficiaries to the extent possible), **the substantial beneficiaries of this investment application**, the non-domestic shareholding structure, **the agreements related to this investment application and its investment structure**, and, upon the request of the Investment Commission of MOEA, a special-purpose auditing report based on agree-upon procedures issued by an independent, non-interested, third party ROC Certified Public Accountant (CPA) confirming that the Company is not a Mainland Area Investor.

The Company certifies that this Declaration concerning the inspection of Foreign Investor Qualification and all of its attached documents are true and correct to the best of its knowledge and belief,, and shall assume all legal responsibilities under the laws and regulations of the ROC for any falsehood.

1. The Appointed Agent hereby declares that:
2. The Appointed Agent hereby confirms that the Company clearly understood the current legal provisions concerning the definition of Mainland Area investors, the shareholding (or capital contribution) calculation method of Mainland Area investors, the control power inspection method of Mainland Area investors, as well as all relevant penalties of violation. The Appointed Agent understands the provisions concerning penalties for Appointed Agents under Article 93-1 of the "*Act Governing Relations between the Peoples of the Taiwan Area and the Mainland Area*."
3. Should the Investment Commission of MOEA conducts a necessary inspection after the approval of the investment application, the Appointed Agent shall be obliged to urge the Company to provide the following: the list of directors and shareholders **with their nationalities** (revealed towards ultimate beneficiaries to the extent possible), the non-domestic shareholding structure, **the substantial beneficiaries of this investment application**, and **the agreements related to this investment application and its investment structure**.

This Declaration hereby given to

Investment Commission, Ministry of Economic Affairs

 **Name of the Company:**

 (Required: nationality and the juridical person’s name):

 **Name of the authorized signatory:**

 **Title of the authorized signatory:**

 (Required)

 **Name of the Agent:**

 (Signature or seal)

[Note:]

The following shall be completed by investors tendering applications without appointed agents (i.e. investors having a branch office registration in accordance with Article 371 of the *Company Act*):

1. **Name of the authorized signatory:** signature by **the designated responsible person in the ROC** as recorded on the Foreign Corporate (Amendment) Registration Form
2. **Title of the authorized signatory:** designated responsible person in the ROC
3. Name of the Agent: please left blank
4. Please provide the original copy of the signed Declaration

**Date** (required)**:**

**The Interpretation of the Standard for Determining Whether a Third-Area Company Is an Investor of the Mainland Area:**

(Attachment to the Declaration of Foreign Investor Qualification)

* 1. **Calculation of Shareholding:**
1. The calculation shall be based on the third-area company’s total capital contribution (or its total issued and outstanding common and special shares) at present, excluding stock options, or share call options, or bonds, or any other instruments convertible to common shares.
2. Calculation of the direct or indirect shareholding (or capital contribution) percentage shall be based on the “Tiered Recognition Calculation Method”:

(Letter Ref. No.: Jing-Shen-Zi-10904606730, issued by this ministry, dated December 30, 2020)

The calculation method of thirty (30) percent prescribed by the Article 3, Paragraph 2, Section 1 of the *Measures Governing Investment Permit to the People of Mainland Area* shall be the following:

1. Third-area company investor (i.e. the investment applicant) shall calculate its Mainland Area shareholding percentage in the following method:

Direct Mainland Area shareholder of the investment applicant shall account all of its shareholding to the investment applicant as the investment applicant’s Mainland Area equity.

1. Direct third-area company shareholder of the investment applicant (hereinafter referred to as the “second-tier shareholder”), if having more than thirty (30) percent of shares held by (or being controlled by) Mainland Area individual, legal person, organization or any other institution, shall be deemed to be a Mainland Area investor, and shall account all of its shareholding to the first-tier shareholder as the first-tier shareholder’s Mainland Area equity.
2. Direct third-area company shareholder of the second-tier shareholder (hereinafter referred to as the “third-tier shareholder”), if having more than thirty (30) percent of shares held by (or being controlled by) Mainland Area individual, legal person, organization or any other institution, shall be deemed to be a Mainland Area investor, and shall account all of its shareholding to the second-tier shareholder as the second-tier shareholder’s Mainland Area equity.

Accordingly, the second-tier shareholder, if having more than thirty (30) percent of shares held by (or being controlled by) Mainland Area individual, legal person, organization or any other institution in aggregate, shall be deemed to be a Mainland Area investor, and shall account all of its shareholding to the first-tier shareholder as the first-tier shareholder’s Mainland Area equity, etc.

1. Third-area company investor (i.e. the investment applicant), as well as any company within its shareholder structure, if being listed (or registered over-the-counter) on an overseas stock exchange, shall calculate its shareholding (or capital contribution) percentage based on the shareholder register at a special reference date. The special reference date shall be designated after the company’s latest book closure date.
	1. **Having control power:**

Control power prescribed by the Article 3, Paragraph 2, Section 2 of the *Measures Governing Investment Permit to the People of Mainland Area* shall be when Mainland Area individual, legal person, organization or any other institution having the following circumstances over a third-area company:

(Letter Ref. No.: Jing-Shen-Zi-10904606720, issued by this ministry, dated December 30, 2020)

1. Having control over the majority of the votes pursuant to an agreement with other investors;
2. Having control over the financial, operational, and/or human resources policies pursuant to the law or regulations or contractual commitments;
3. Having the right to appoint or discharge a majority of the directors on the board (or other organizations determining the company’s operational policies), which has control over the company’s operations;
4. Having control over the majority of the votes of the directors on the board (or other organizations determining the company’s operational policies), which has control over the company’s operations; or
5. Other circumstances evidencing having control power in accordance with the International Financial Reporting Standards (IFRS) or ROC Statements of Auditing Standards
	1. **The Process for Determining Whether a Third-Area Company Is an Investor of the Mainland Area:**

**Example:**

**Explanation: Third-Area Company Investor (A) shall be a Mainland Area investor**

1. **(A) has more than 30% of direct or indirect capital contribution from Mainland Area investor:** **T** (15%) +**Y** (20%) = 35% (>30%)
	1. Direct Mainland Area Shareholder **T** shall account all of its shareholding (15%) to **(A)**’s Mainland Area equity
	2. Mainland Area Shareholder **U** holds **V** 20%, while **V** is not controlled by Mainland Area investor (determined from items 1 to 5 for “having control power”). Therefore, **V** shall not be a Mainland Area investor. All of its shareholding to **(A)** shall not be accounted as **(A)**’s Mainland Area equity.
	3. Mainland Area Shareholder **W** holds **X** 10%, while a sole director Mainland national X-1 has control over **X**. Therefore, **X** shall be a Mainland Area investor. All of its shareholding to **Y** shall be accounted as **Y**’s Mainland Area equity.
	4. Mainland Area Shareholder **Z** holds **Y** 10%, increasing **Y**’s Mainland Area equity to 40%. Therefore, **Y** shall be a Mainland Area investor. All of its 20% shareholding to **(A)** shall be accounted as **(A)**’s Mainland Area equity.
2. **(A) is not controlled by Mainland investor:** Third-area company **V** has control power over **(A)** while **V** is not a Mainland Area investor.
	1. **V** holds **(A)** more than 50%. Therefore, **V** has control power over **(A)**.
	2. Mainland Area investorholds **V** 20%, while **V** is not controlled by Mainland Area investor. Therefore, **V** shall not be a Mainland Area investor.

**Negative**

**Affirmative**

**Affirmative**

10%

shareholding

Third-Area Company **Y**

Third-Area Company **V**

Invested ROC enterprises (branch & subsidiary)

Third-Area

Company

Investor

**(A)**

20%

shareholding

15%

shareholding

20%

shareholding

30%

shareholding

10%

shareholding

Mainland Area Shareholder **Z**

Mainland Area Shareholder **W**

65%

shareholding

Third-Area Company **X**

(Sole director: Mainland national X-1)

Mainland Area Shareholder **U**

**Taiwan Area**

**Mainland Area**

Mainland Area Shareholder **T**

**Offshore: Third-Area**

**Note 1:** Calculation of the direct or indirect capital contribution percentage by Mainland Area individuals, juridical persons, organizations, or any other institutions (i.e. the “Mainland Area investors”) shall be based on the “Tiered Recognition Calculation Method.” Direct Mainland Area shareholder of the investment applicant shall account all of its shareholding to the investment applicant as the investment applicant’s Mainland Area equity (see **section I** on page 1).

**Note 2:** Third-Area Company Investor (A) shall verify whether or not Mainland Area investor or other third-area company (including companies outside the shareholder structure) has control power over it according to the Letter Ref. by this ministry (see items 1 to 5 of **section II** on page 2):

1. If Mainland Area investor has control power over Company (A), then it shall be a Mainland Area investor
2. If a third-area company “Company (B)” has control power over Company (A), then Company (B) shall verify whether or not it has direct or indirect capital contribution > 30% from (or being controlled by) Mainland Area investor or a third-area company:
	1. If Mainland Area investor has direct or indirect capital contribution > 30% (or has control power over) Company (B), then Company (B) shall be a Mainland Area investor. Since Company (B) has control power over Company (A), Company (A) shall be a Mainland Area investor.
	2. If a third-area company “Company (C)” has control power over Company (B), then Company (C) shall verify through the process listed above in (2), etc.

**Foreign Investor**

**Mainland Area Investor**

**Mainland Area Investor**

**Note 1:**

Mainland Area investor’s capital contribution > 30% (Direct or indirect)

**Note 2:**

Mainland Area investor having control power (Tier-by-tier)

**Negative**

**Third-Area Company Investor (A)**