

## **New Amendment of Company Law of PRC Simplifies the Establishment of A Company in China**

December 28, 2013.

On December 28, 2013, the Standing Committee of National People's Congress made a decision to amend the Company Law of PRC and the new amendment (the "Amendment") will take effect on March 1, 2014.

The Amendment abolishes several core requirements for the company establishment in China, including the paid-in capital, minimum of registered capital, installment of registered capital contribution, restriction on percentage of contribution by cash, capital verification, etc., which involves a paradigm change in Chinese corporate law and will significantly facilitate and simplify the procedure to incorporate companies in China.

The main changes are as follows:

### **1. Paid-in Capital**

Paid-in capital shall not be included in the business license of a Chinese company. It means that the injection of capital contribution by shareholders is not required for the establishment of a Chinese company, except as prescribed in specific laws and regulations.

Notwithstanding this, each shareholder shall take limited liability to any third party based on its subscribed capital contribution to the company.

### **2. Minimum Registered Capital**

The requirement of a minimum amount of registered capital is abolished. After the Amendment is effective, there will be no requirement on such a minimum registered capital.

Therefore, theoretically, a limited liability company can be established with its registered capital of RMB 1 and a joint stock limited company can be established with its registered capital of RMB 2 (at least 2 shareholders), as long as each shareholder subscribes its shares according to the articles of association of the company in general.

### **3. Installment of Registered Capital Contribution**

The requirement relating to the payment of installments of registered capital contribution (at least 20% for the first installment and balance within 2 years or 5 years for the investment company) is abolished.

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#### **4. Exception Regarding Paid-in Capital, Minimum of Registered Capital and Installment of Registered Capital Contribution**

The Amendment stipulates that if the paid-in capital, minimum amount of registered capital and installment of registered capital contribution are prescribed in other specific laws and regulations, such provisions shall be followed.

The exception mentioned above mainly refers to the corresponding requirements on security companies in Security Law, commercial banks in Commercial Bank Law, insurance companies in Insurance Law and international freight forwarding companies in Regulations on Management of International Freight Forwarding Business.

#### **5. Percentage of Cash Contribution to A Limited Liability Company**

The restriction on percentage of cash contribution to a limited liability company (at least 30%) is abolished.

Therefore, it will become feasible that one shareholder contributes up to 100% to a limited liability company in the form of intellectual property or real property.

#### **6. Capital Verification for a Limited Liability Company**

The capital verification for a limited liability company by a qualified institution is abolished.

Therefore, the capital verification report will not be required for the establishment of a limited liability company.

#### **7. Restriction on the Offering Shares to Third Parties by A Joint Stock Limited Company**

Each promoter of a joint stock limited company to be established by promotion means shall subscribe its shares and then pay its shares according to the articles of association. Even though the time limit of contribution/payment is not required, the Amendment stipulates that the promoters cannot offer shares to any third party before paying their subscribed shares.

#### **8. Decrease of Registered Capital**

The provision that the registered capital of a company shall not be less than the required minimum amount after the capital decrease is abolished.

#### **Comments**

The Amendment has made significant changes in the following three aspects:

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- a. Change the paid-in capital registration system to subscribed capital registration system;
- b. Reduce the threshold of registered capital for the company establishment;
- c. Simplify the registration procedure and application documents for the company establishment.

Therefore, these changes are expected to facilitate and promote investment and, therefore, encourage innovation and entrepreneurship.

Moreover, all aforementioned changes in the Amendment also apply to the foreign-invested companies (including equity joint venture, contractual joint venture and wholly foreign-invested companies), which will also encourage foreign investment in China.