



## ● Top News

### **China SAIC Released Further Policies to Encourage Foreign Investment**

## ● Inside the News

To implement the provisions of the *Several Opinions of the State Council on Further Utilizing Foreign Capital (Guo Fa [2010] No. 9)* issued by the State Council this April, one month later, i.e., on May 7, 2010, the State Administration for Industry and Commerce (SAIC) promulgated the *Several Opinions on Giving Full Play to the Management Role of AICs and Further Improving the Work of Servicing the Development of Foreign-invested Enterprises (Gong Shang Wai Qi Zi [2010] No. 94)* (the “**Opinions**”). The Opinions provide, *inter alia*, that certain FIEs in modern service and high-tech industries with a registered capital of not less than RMB30 million may use the wording “(China)” in their company names. Set forth below is a brief summary of the main content of the Opinions.

### **Further Encourage Foreign Investors to Increase Investment**

The Opinions put forward the following measures for encouraging foreign investors to increase investment: 1) encouraging foreign-invested investment companies to incorporate enterprise groups; 2) actively supporting investors of foreign-invested enterprises (FIEs) to use their creditors’ rights in the FIEs as capital contribution to increase the registered capital of the FIEs, subject to registration with and approval by local departments of foreign exchange administration; 3) encouraging foreign companies or individuals owning advanced technology and rich managerial experience to establish partnership enterprises within China; 4) local AICs will allow FIEs encountered with temporary financial difficulties to extend their capital contribution schedule and assist the same in registering the extended schedule on a timely manner, provided that such extended schedule obtains prior approval from the approval authorities (usually local bureau of commerce).

## **Optimize Foreign Investment Utilization Structure**

The Opinions specify that wholly foreign owned enterprises and FIEs controlled by foreign investors which are engaged in modern service industries and high-tech industries and use the names of their parent companies incorporated in a foreign country (region) may use the word "(China)" in their company names, if their registered capital is not less than RMB30 million. Before this, enterprises which are allowed to use the word "(China)" in their company names shall have a registered capital of not less than RMB50 million.

In addition, for the purpose of supporting the establishment of R&D centers, settlement centers and any other functional organizations by multinational corporations and the foreign-invested outsourcing industry in China, the Opinions specify that FIEs can use wordings reflecting their functional characteristics in their company names and business scope; for the purpose of promoting the construction of border economic cooperation zones (the “**Zones**”), the Opinions point out that the investors shall be encouraged to establish various kinds of FIEs in the Zones and domestic and foreign natural persons shall be actively guided to establish foreign-invested partnership enterprises in the Zones as well; and for the purpose of encouraging diversification in foreign capital utilization forms, the Opinions urge local AICs to actively take part in the joint inspection on M&A by foreign investor, support foreign capital to take part in the reorganization and transformation of domestic companies by means of equity participation, M&A, etc., and provide premium services in the registration process.

## **Improve FIE Management Efficiency**

The Opinions set forth that the local AICs shall simplify the approval procedures and improve the registration mode of “authorized registration + remote approval + on-line application” so as to improve the efficiency of foreign capital registration. Besides, the Opinions stipulate that foreign-invested projects under the “restricted” category shall be strictly examined and the relevant permits must be obtained prior to getting the business license. Registration for foreign-invested projects under the “prohibited” category is prohibited. The relevant departments shall correct the foreign investment in the restricted category without approval according to laws and regulations and shut down any FIEs engaging in business of the “prohibited” category. The Opinions also calls for the establishment of a system to remind FIEs or investors to pay up registered capital on a timely manner per their capital contribution schedule and requires local AIC to simplify the annual inspection procedures of FIEs with sound operating records.

## **Create a Healthy Market Environment**

For the purpose of creating a healthy market environment for the development of FIEs, the Opinions stipulate a series of new measures in respect of unfair competition, trademark

protection, administrative permission, including: 1) to clamp down upon unfair competition activities of using famous brand names without authorization; 2) to hear in advance trademark appraisal cases which are good for promoting the development of technology innovation and industry upgrade, where necessary; 3) to delegate the approval power of foreign-invested advertising enterprises to the AICs at provincial level; 4) to urge the relevant departments to cooperate with each other to enhance the relevant examination work of foreign-invested automobile sales companies and support the development of foreign-invested automobile sales companies.

Finally, the Opinions call in to further delegate the registration and administration powers of FIEs to lower-level AICs. In particular, the Opinions support to delegate approval powers of FIEs to the AICs located in the central and western regions and the AICs located in national economic and technological development zones and high and new technology industrial development zones where FIEs are relatively concentrated.

If you have any questions regarding the foregoing, please feel free to contact us. Thank you!

## **Important Announcement**

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