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China Passes Amendment to Company Law

On 28 December 2013, the Standing Committee of the National People's Congress of the People's Republic of China passed an amendment to the P.R.C. Company Law (the "Amendment"). The Amendment, which was adopted after three readings and will take effect on 1 March 2014, replaces the current system of paid-up capital by the system of subscribed capital registration.

The Amendment mainly focused on the following three areas:

- (1) The system of paid-up capital registration will be replaced by the system of subscribed capital registration to lower the cost of starting new companies. The promoters of new companies will agree among themselves on the amount of capital subscription and the form and time limit of capital contribution and will be responsible for the authenticity and legality of the payment of capital contribution.
- (2) Requirements for the registration of registered capital will be eased. Unless otherwise specified by laws and regulations, the minimum registered capital requirements of RMB30,000 for limited liability companies, RMB100,000 for one-person limited liability companies and Rmb5 million for joint-stock companies with limited liability will be scrapped. There will no longer be any restrictions on the ratio of initial capital contribution made by promoters at the establishment of the company or the time limit for capital contribution. Fully paid-up capital will no longer be a requirement for business registration.
- (3) The registration particulars and registration documents will be simplified. Once after the amended Company Law comes into force, the amount of subscribed capital and paid up capital of a limited liability company will no longer be registrable items. In addition, the company is not required to engage a public accounting firm to issue a capital verification regarding the contribution of capital by its shareholders.

The Amendment substantially lowers the entry requirements for registration of companies in China. It is expected that the Amendment will promote domestic investment and encourage the setting up of companies.

Enclosure: Original text of the Amendment

China Company Law Amendment 2013

1. The term “actually paid-in capital” in Subsection (2) of Article 7 should be deleted.
2. Subsection (2) of Article 23 should be amended as “having the amount of capital subscribed by all shareholders in compliance with the Articles of Association of the Company”.
3. Article 26 should be amended as: “the amount of registered of a limited liability company should be the amount of capital subscribed by all shareholders of the company.

Should any other laws, administrative regulations and decisions of the State Council imposes different requirements regarding the actually paid capital and minimum registered capital of limited liability company, those requirements should prevail.”

4. Subsection (3) of Article 27 should be deleted.
5. Article 29 should be deleted.
7. The term “and its contributed capital” in Subsection (3) of Article 33 should be deleted.
6. Article 30 should be changed to Article 29 and be amended as “After the shareholder subscribed to the total capital stated in the Articles of Association, a representative designated by all the shareholders or a proxy jointly entrusted by them shall submit the registration application documents and Articles of Association to the business registration authority in order to apply for registration of the company”.
8. Subsection (1) of Article 59 should be deleted.
9. Article 77 should be changed to Article 76. Subsection (2) of Article 76 should be amended as “having the total capital subscribed by all promoters or total paid-in capital raised in compliance with the Articles of Association”.

10. Article 81 should be changed to Article 80 and Subsection (1) of Article 81 should be amended as “When a joint stock limited company is incorporated by means of promotion, its registered capital shall be the total amount of the share capital subscribed for by all the promoters, as is registered with the company registration authority. Before existing shareholders fully contributed the capital subscribed by them, the company shall not offer its shares to others”.

Subsection (3) of Article 81 should be amended as “Should any other laws, administrative regulations and decisions of the State Council imposes different requirements regarding the actually paid capital and minimum registered capital of limited liability company, those requirements should prevail”.

11. Article 84 should be changed to Article 83 and Subsection (1) of Article 84 should be amended as “Where a joint stock company is incorporated by means of promotion, each of the promoters shall, in writing, subscribe for the full portion of the shares to be subscribed for by him as stipulated by the company's articles of association; Where a promoter contributes the capital by non-monetary properties, he shall go through the formalities for the transfer of his rights in those properties to the company according to law”.

12. Subsection (3) of Article 178 should be deleted.

The Amendment to the Company Law will take effect from 1 March 2014.