

China Strengthens the Registration Management of Foreign Companies' Representative Offices

January 4, 2010

The Notice on Further Administration of Registration of Foreign Companies' Resident Representative Offices (the "Notice") was issued by China's State Administration for Industry and Commerce ("SAIC") and the Ministry of Public Security jointly on 4th January, 2010.

The Notice has stipulated new requirements to reinforce the registration management of foreign companies' representative offices in China as follows:

1. The Existence Period of the Foreign Parent Companies

In order to set up a new representative office or change the name of an existing representative office, the foreign parent company shall submit a certificate of incorporation which indicates that the parent company has been in existence for at least two years.

2. Notarized Credibility Certificate

A credibility certificate, issued by the financial institution which has the business relationship with the foreign parent company, shall be notarized by the relevant authority of the government which has the jurisdiction of the parent company's incorporation and then certified by the relevant Chinese embassy or consulate, and be submitted to the authorities for registration.

3. Limitations on the Number of Representatives

The number of the representatives appointed by the foreign parent companies (including the chief representative) shall be not more than four. In case an existing representative office has more than four representatives, the representative office is not allowed to appoint new representatives and can only reduce the number of representatives.

In conclusion, the Notice indicates that the threshold with respect to the establishment and changes of foreign companies' representative offices is heightened. However, these restrictions do not apply to the branches of foreign invested enterprises or the representative offices of professional-services firms such as law firms. It is expected that the SAIC will amend the existing Administration Measures on the representative offices (which were promulgated in 1983) later this year. More specific details and requirements included in the Notice will likely be added into the new regulation. Foreign companies shall keep an close eye on its issuance.