

Provisions on M&A of a Domestic Enterprise by Foreign Investors

June 22nd, 2009

No.6 Decree of the Ministry of Commerce PRC on Promulgation of the Provisions on M&A of a Domestic Enterprise by Foreign Investors

"Provisions"

In order to ensure "Provisions" coincide with the Anti-monopoly Law and the Provisions of the State Council on Thresholds for Declaration of Concentrations of Undertakings, revisions have been made and new "Provisions" were announced on June 22nd, 2009.

According to the Anti-monopoly Law, if a concentration reaches the threshold of declaration, a declaration must be lodged in advance with the Anti-monopoly Authority under the State Council. M&A is regarded as one method of reaching the concentration and should be certainly regulated. The new "Provisions" add one article to regulate the same standard and requirement as the Anti-monopoly Law in order to keep the consistency between different laws and regulations. Meanwhile, some little changes of words and expressions have been made in order to avoid the controversy and misunderstanding. For example, the "ultimate controller" has been revised to the "actual controller". The modification in the new "Provisions" ultimately ensures the general terms' accurate use in different laws and regulations.