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Consulting Group

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New Regulation on QFII Program

Recently, a new regulation on Implementation of Measures on Administration of Domestic Securities Investments of Qualified Foreign Institutional Investors ("QFII") was issued by the China Securities Regulatory Commission ("CSRC"), which deals with foreign investment in PRC listed securities.

The New QFII regulation represents a step towards the relaxation of China's strict controls on inbound equity portfolio investments, significantly lowering the requirements on QFII license applications thereby allowing smaller foreign investors, private equity funds, and other institutions to enter the market for the first time. The main changes to the requirements are:

- The time requirement for operational history has been reduced to two years for fund managers and insurers and to five years for securities firms
- The minimum asset requirement is reduced to USD 500 million for fund managers and insurers and to USD 5 billion for securities firms
- The need for commercial banks to be in the top 100 ranking before they are allowed to have operation in China is replaced with requirements for an operational history of 10 years. Capital of at least USD 300 million and securities assets of at least USD 5 billion.

The New QFII regulation is a very positive development. The expansion of the asset classes in which QFIIs may invest should also increase the appeal of the program.

New applicants for QFII licenses do, however, need to be aware of certain longstanding uncertainties with the PRC tax treatment of QFII arrangements. It is hoped that these matters will be resolved by a specific QFII taxation circular, which is currently expected to be issued by the State Administration of Taxation ("SAT") later this year. This said, the development should enhance foreign institutional investor's participation in making investment in PRC listed securities.

Reform for Foreign Exchange Control on Trade on Goods

"Announcements No.1 and No. 2" governing Reform of Foreign Exchange Control on Trade on Goods were jointly released by State Administration of Foreign Exchange ("SAFE") , General Administration of Customs("GAC") and State Administration of Taxation("SAT") . Following up on the above, SAFE issued a circular, Huifa [2012] No. 38, to specify the Implementation Rules on Foreign Exchange Control.

The key changes are summarized as follows:

- Cancel "Verification Form of Remittance Inward by Export" and the procedure for verification of remittance inward;
- Manage enterprises by ABC classification;
- Simplify procedures for Export Tax Refund;

These new regulations mentioned above have the following impacts on the enterprises doing export-import business in China:

- Simplify and improve procedures for remittance inward & outward on trade on goods;
- Improve working procedures of Foreign Exchange Control;
- Lower administration expenditure of enterprises, financial institutes and government departments;
- Enhance risk control on remittance inward & outward on goods trade;

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New Regulation on Social Security Contributions of Expatriates in Shenzhen

As per our previous China Business Advisory issues, the Ministry of Human Resources and Social Security ("MHRSS") issued the "Provisional Measures for Foreigners to Participate in the PRC Social Security System" ("the Measures") in September 2011 which requires expatriates working in China to participate in local Social Security Contribution System. In accordance with the Measure, a few first-tier cities issued implementation details for expatriates to participate in the respective local social secuirt schemes. Following these cities, Shenzhen Management Bureau of Social Insurance Fund ("SZMBSIF") formally issued their implementation details on 21August 2012 which dwell on the key points below:

- All the employing entities in Shenzhen hiring foreign individuals should register the foreign individuals for the local social security scheme with the SZMBSIF branch in-charge ;
- Entities that do not comply with the relevant regulations would be required by SZMBSIF to rectify and participate in the local social security scheme within a prescribed timeline;
- A penalty (imprisonment in serious cases) will be imposed on those entities who refuse to comply with the new regulations;
- The Notice also stipulates in detail how expatriates contribute to the Social Insurance funds in Shenzhen including the insurance types, contribution bases, contribution rates and the relevant benefits and so on;
- Up to now, only Expatriates from Germany and the Republic of Korea could be exempted from participating in the prescribed security scheme. However, many supporting documents will be required for the exemption;

From the Notice issued by SZMBSIF, we can find there are still some issues that need to be clarified. For example, whether or not residents from Hong Kong, Macao and Taiwan are covered in this practice is not clearly defined in this Notice. It is strongly recommended that the employer should very closely monitor the situation to ensure due compliance with local regulations.

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Two Important Festivals in China

30 September 2012, or the fifteenth day of the eighth month of the Chinese calendar, is our Mid-Autumn Festival, which happens to be followed by China National Day Festival this year. Mid-Autumn Festival is a traditional festival for family reunion when most, if not all, family members gather together to enjoy each other's company while sampling different kinds of moon cake. It is also considered a good time of the year since it is the harvest season for fruits, vegetables and grain etc.

The long Holiday is celebrated from 30 September 2012 to 7 October 2012 this year. Most people will get back to work on 8 October. We remind you that those who work during 30 September to 3 October 2012 and 4 to 7 October 2012 will have to be paid at least 3 and 2 times their daily salary respectively.

Service Highlight

Compliance in the regulatory environment in China is a dynamic matter. This makes our work to help our clients to manage their business in China ever more demanding but rewarding when we, without exception, see them through their issues every time. If you have something to add to our challenges, please feel free to call our Marketing Executive, Ms Mary Li, on +852 3579 8745 or email her at maryli@sinobridge-consulting.com.

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