

# China Legal Briefing\* 259

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## 1. Interim Provisions for Trademark Online Application

The Interim Provisions for Trademark Online Application (hereinafter the “Interim Provision”) has come into force on 10 March, 2017. This revision of Interim Provision basically provides three changes:

- Chinese citizens and Chinese companies may apply for a trademark registration directly, without involving a trademark agency anymore. However, for applications made for foreigners or foreign enterprises, trademark agencies are the sole legal applicants.
- Applications shall be made through a specific trademark online service system, i.e. <http://sbsq.saic.gov.cn>.
- All the trademark fees shall be issued through the online payment.

## 2. Establishment of Regional Headquarters for International Enterprises in Shanghai

The Encouragement from Shanghai on Establishment of Regional Headquarters for International Enterprises in Shanghai (hereinafter the “Encouragement”) has been revised and has come into force on 1 February 2017. In general, there are three changes in the Encouragement.

First, the application scope of such encouragement is expanded. A new definition as “headquarter alike office of multinational company” is added in the Encouragement. Companies which are qualified as the “headquarter alike office of the multinational company” shall meet these requirements:

- Independent legal person as a wholly foreign owned enterprise or its branch office;
- The total of assets of the parent company shall be USD 200 million or more;
- At least two foreign investment companies as shareholders of which one (or more) is registered in Shanghai;
- The registered capital shall be no less than USD 2 million; operating capitals allocated by the head office to the branch office shall be no less than USD 2 million.

Second, the approval time for such application is reduced to from 10 working days to 8 working days.

Third, the respective district governments may formulate measures to encourage the development of regional headquarters and build up a favourable commercial environment.

### **3. Cyber Security Law of the People's Republic of China**

The Cyber Security Law of the People's Republic of China (hereinafter the "Cyber Security Law") will come into effect on 1 June 2017. The Cyber Security Law shall apply to the construction, operation, maintenance and use of IT-networks, as well as the supervision and administration of cyber security within the territory of the People's Republic of China.

A national cyber security monitoring, and pre-warning mechanism and information reporting mechanism are going to be established.

According to the Cyber Security Law, the operation security of the key information infrastructure is given extra protections. The key information infrastructure, including but not limited to public communications, information services, energy, transportation, water conservancy, finance, public service and e-government is considered to be essential to the national security and economy. There is an annual security examination and assessment of such networks, and operators of the infrastructure shall enter into an agreement with the supplier of product/service provider regarding the responsibilities of security and confidentiality.

The system for user information protection is going to be established and then improved. The network operator shall not collect any personnel information irrelevant with the services it provides. Besides, the network operator is not allowed to disclose, alter or destroy personnel information. The network operator shall take necessary technical and other measures to guarantee the security of personnel information.

Penalties of up to 1 million RMB shall be imposed for violations and, detentions may be ordered.

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