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1. **FIEs Enjoy Same Benefits under the PRC Company Registration Regime**
2. **Reform in Registration of Registered Capital of Companies**

1. FIEs Enjoy Same Benefits under the PRC Company Registration Regime

The new revised PRC Company Law, which entered into force on 1 March 2014, has brought key changes to the current company registration system. The most essential reform is that the paid-up capital system has been replaced by a so-called “Subscribed Capital Regime”.

However, in addition to the Company Law, FIEs are subject to special laws and regulations, including those applicable to Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures and wholly foreign-owned enterprises (the “FIE Laws”). To this end, on 19 February 2014, few days before new revised Company Law entered into effect, the State Council issued the “*Decision of the State Council on Repealing and Revising Certain Administrative Regulations*”, and on the following date, the State Administration for Industry and Commerce (SAIC) released the “*Decision of the State Administration for Industry and Commerce on Revising the Regulations on the Administration of Enterprise Legal Person Registration of the People’s Republic of China, the Administrative Regulations for the Registration of Foreign-invested Partnership Enterprises, the Administrative Measures for the Registration of Sole Proprietorship Enterprises, and the Administrative Measures for the Registration of Individual Businesses*”. These new rules are promulgated with the aim to keep the FIE regime in line with the new revised Company Law.

The most important highlights of the amendments affecting FIEs are:

1. The revised rules require the FIEs to specify the amount of the subscribed capital, the contribution method, capital subscription time frame in addition to the total investment and the registered capital in the Articles of Associations of the company.
2. No statutory requirements on the minimum amount of registered capital and capital contribution time frame.
3. WFOE’s registered capital is no longer required to comply with its business scale. However, the mandatory ratio between the total investment and registered capital remain unchanged.
4. Limitation of capital contribution in the form of industrial property rights or know-how not exceeding 20% of total registered capital has been lifted.
5. No capital verification requirements for WFOEs. In contrast, such requirements are still unchanged in CJV Rules and EJV Regulations and it is unclear whether such discrepancy is intentional. In practice, it is therefore advisable for foreign investors to check with local authorities in advance in order to clarify what the specific requirements are in a given case.

The following table summarizes the key changes as compared to the old regime:

Reform Key Point I: Revocation of Two Relevant JV Regulations	
Name of Law	Amendment
Certain Regulations on the Subscription of Capital by the Parties to Sino-foreign Joint Equity Enterprises	Removed as the requirements and restrictions set out in both regulations regarding the capital contribution in

Supplementary Provisions on Certain Regulations on the Subscription of Capital by the Parties to Sino-foreign Joint Equity Enterprises	EJV are not consistent with the revised Company Law.	
<p>Reform Key Point II: Slight Changes to FIE Implementation Regulations</p>		
Article	Original Provision	Amendment
<p>Article 13 (4) of Regulations for Implementation of the Law of the People's Republic of China on Sino-foreign Joint Ventures (EJV Regulation)</p>	<p>Articles of association shall include the following main items: (4) The total amount of capital contribution, registered capital of the joint venture, the amount and proportion of capital contribution of each party to the joint venture, stipulations concerning equity transfer, the proportions of profit distribution and losses to be borne by parties to the joint venture</p>	<p>Articles of association shall include the following main items: (4)The total amount of capital contribution, registered capital of the joint venture, the amount and proportion of capital contribution of each party to the joint venture, the form of contribution, the contribution payment period, stipulations concerning equity transfer, the proportions of profit distribution and losses to be borne by parties to the joint venture</p>
<p>Article 13 (4) of The Implementing Rules of the Law of People's Republic of China on Sino-Foreign Cooperative Joint Ventures (CJV Rules)</p>	<p>The articles of association of a contractual joint venture must contain provisions on the following: (4) the total amount of investment and registered capital of the contractual joint venture , method and time limit for making investment or providing cooperation conditions by each joint ventures party</p>	<p>The articles of association of a contractual joint venture must contain provisions on the following: (4) the total amount of investment and registered capital of the contractual joint venture, capital contribution subscribed, the method of and time limit for making investment or providing cooperation conditions by each joint ventures party</p>
<p>Article 15 (3)of Detailed Rules for Implementation of the Law of the People's Republic of China on Wholly Foreign-owned Enterprises (WFOE Rules)</p>	<p>The articles of association of a wholly foreign-owned enterprise shall include the following contents: (3) total amount of investment, registered capital and deadline for capital contribution</p>	<p>The articles of association of a wholly foreign-owned enterprise shall include the following contents: (3) total amount of investment, registered capital, capital contributions subscribed, the method and deadline for capital contribution;</p>

<p>Article 20 (2) of WFOE Rules</p>	<p>The amount of registered capital of a wholly foreign-owned enterprise shall suit its scale of operations and the ratio of registered capital and total investment shall be in compliance with relevant Chinese regulations.</p>	<p>The amount of registered capital of a wholly foreign-owned enterprise shall suit its scale of operations and The ratio of registered capital to total investment in a wholly foreign-owned enterprise shall be in compliance with relevant Chinese regulations.</p>
<p>Article 27 (2) of WFOE Rules</p>	<p>The principles used for capitalising the value of these industrial property rights or proprietary technology shall be the same as those used internationally and the capitalised value shall not be permitted to exceed 20% of the enterprise's registered capital.</p>	<p>Removed</p>
<p>Article 30 of WFOE Rules</p>	<p>The time limit for the payment of investment shall be stipulated in the wholly foreign-owned enterprise application form and the enterprise's articles of association. A foreign investor may pay its investment in installments, but the final payment must be settled within three years of the date of issue of the enterprise's business licence. The initial installment payment shall be no less than 15% of the amount of investment to be subscribed by the foreign investor and shall be paid within 90 days of the date of issue of the enterprise's business licence.</p> <p>If a foreign investor is unable to pay the initial installment within the period prescribed above, the wholly foreign-owned enterprise's document of approval shall automatically become invalid. The enterprise shall undertake procedures with the</p>	<p>The time limit for the payment of investment shall be stipulated in the wholly foreign-owned enterprise application form and the enterprise's articles of association. A foreign investor may pay its investment in instalments, but the final payment must be settled within three years of the date of issue of the enterprise's business licence. The initial instalment payment shall be no less than 15% of the amount of investment to be subscribed by the foreign investor and shall be paid within 90 days of the date of issue of the enterprise's business licence.</p> <p>If a foreign investor is unable to pay the initial instalment within the period prescribed above, the wholly foreign-owned enterprise's document of approval shall automatically become invalid. The enterprise shall undertake procedures with the administrative authority for industry and commerce to cancel its registration and shall hand in its business licence.</p> <p>Should an enterprise fail to undertake procedures to cancel its registration and to hand in its business licence, the administrative authority for industry and commerce shall revoke its business licence and make a public announcement to the effect.</p>

	<p>administrative authority for industry and commerce to cancel its registration and shall hand in its business licence.</p> <p>Should an enterprise fail to undertake procedures to cancel its registration and to hand in its business licence, the administrative authority for industry and commerce shall revoke its business licence and make a public announcement to the effect.</p>	
Article 31 of WFOE Rules	<p>After payment of the initial installment, a foreign investor shall pay the other installments on schedule. If payment is 30 days in arrears without a proper reason, the matter shall be handled in accordance with the provisions of paragraph 2 of Article 30 of these Detailed Rules.</p> <p>If a foreign investor has just cause for requesting an extension of the payment period, approval shall be obtained from the examining and approving authorities and details shall be filed with the administrative authority for industry and commerce.</p>	Removed.
Article 32 of WFOE Rules	<p>After the payment of each installment by the foreign investor, a wholly foreign-owned enterprise shall engage an accountant registered in China to examine the payments and issue a certificate of capital verification. Details shall be filed with the examining and approving authorities and the administrative authority for industry and</p>	Removed

	commerce.	
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**Reform Key Point III:
List of Industry Falling Outside the Subscribed Capital Regime**

The State Council released a *List of Industries Not Subject to the System for Registration of Subscribed Capital for the Time Being* containing certain sensitive industries for which specific capital registration rules continue to apply:

1. Joint stock limited company established by way of share offer
2. Commercial banks
3. Foreign-invested banks
4. Financial assets management companies
5. Trust companies
6. Finance companies
7. Financial leasing companies
8. Automobile finance companies
9. Consumer finance companies
10. Currency brokerage companies
11. Township banks
12. Loan companies
13. Rural credit cooperatives
14. Rural funding mutual cooperatives
15. Securities companies
16. Futures companies
17. Fund management companies
18. Insurance companies
19. Professional insurance agencies, insurance brokerages
20. Foreign-invested insurance companies
21. Direct sales enterprises
22. Foreign labor service cooperation enterprises
23. Financing guarantee companies
24. Labor dispatch companies
25. Pawnshops
26. Insurance assets management companies
27. Small-sum loan companies

2. Reform in Registration of Registered Capital of Companies

As a big step following the Notice on Reform Plans of Registration Policies of Registered Capital issued by the State Council (GuoFa [2014] No. 7), the State Administration for Industry and Commerce (SAIC) issued the new Administrative Regulations on Registration of Registered Capital of Companies to relax administrative requirements for market entry and optimize the business investment environment.

Highlights are outlined as follows:

1. “Paid-up capital system” changed into “Subscribed Capital Regime”

The new Regulation allows the shareholder to decide on its own the means of capital contribution, i.e. in cash, intellectual property, land, building or other intangibles, and the timeframe and amount of such capital contribution. Such information only needs to be indicated in the articles of association of the company, and the company and its shareholders remain ultimately responsible for the truthfulness and lawfulness of the information provided. Such information will also be made available to the public through the Enterprise Creditworthiness Information Announcement System.

2. No minimum registered capital requirements

In general, companies are no longer subject to minimum registered capital thresholds. However, special capital requirements shall be applicable to the companies in certain industry sectors (please refer to the above-mentioned List of Industries Not Subject to the System for Registration of Subscribed Capital for the Time Being).

3. Capital Contribution with equity or creditors’ rights

A shareholder or promoter may contribute subscribed capital using an equity holding in a company established in China; the contributed equity shall have clear ownership, completed powers and functions, and shall be transferrable.

A creditor may convert its creditor's rights in a company established in China into equity holding in the company. To this end, the company shall increase its registered capital.

4. Loosen Registration Requirements

For shareholders or promoters making capital contributions with non-cash assets, no ownership transfer registration confirmation has to be provided. No capital verification report should be provided unless it is a company limited by shares established by way of fundraising.

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