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I. **The State Administration for Market Regulation (SAMR) has officially issued the *Measures for the Implementation of the System of Compulsory Company Deregistration***

II. **Interpretation (II) of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Labor Dispute Cases**

I. The Measures for the Implementation of the System of Compulsory Company Deregistration

On September 5, 2025, the State Administration for Market Regulation ("**the SAMR**") issued *the Measures for the Implementation of the System of Compulsory Company Deregistration* ("**the Measures**"), which took effect on October 10, 2025.The Measures aim to standardize compulsory company deregistration and improve market exit mechanisms. In this publication, we will introduce key content of the Measures for you.

- **Scope of Application**

The Measures apply to companies that have had their business licenses revoked, have been ordered to close, or have been subject to administrative revocation for a period of 3 years without applying for deregistration. Companies that are required by laws, administrative regulations, or State Council decisions to obtain approval before deregistration are excluded from the application of the Measures.

- **Public Notice and Objection Process**

Prior to compulsory deregistration, the SAMR must issue a public announcement via the National Enterprise Credit Information Publicity System ("**the NECIPS**"), which should remain posted for a period of 90 days. The announcement will include the company's name, domicile, legal representative, unified social credit code or registration number, the legal grounds for the proposed deregistration, methods for raising objections, and the start and end dates of the announcement.

Relevant government departments, creditors, and other interested parties could raise objections during the announcement period through the NECIPS or in writing to the SAMR. Objections must be supported by

reasoning and relevant materials. The SAMR will conduct a formal review within 7 working days from receipt of the objection. Should an objection be upheld, the compulsory deregistration process will be terminated.

- **Deregistration Decision**

If no objection is raised or objections are not approved by the end of the announcement period, the SMAR should, within 10 working days, issue a compulsory deregistration decision. If the company cannot be contacted at its registered address, a public announcement via the NECIPS will be deemed effective after 30 days. Upon compulsory deregistration, the company's status is terminated. However, the compulsory deregistration only terminates the legal entity status of the company and does not extinguish its liabilities. The civil liabilities of the company's shareholders and liquidation obligors, including but not limited to supplementary compensation liability for unpaid capital contributions, joint liability arising from negligence or improper liquidation, and liability for damages resulting from abuse of corporate independence to harm creditors' interests, are not discharged due to the compulsory deregistration of the company.

- **Reinstatement**

Interested parties (the relevant authorities, creditors, and other interested parties) could apply for reinstatement within 3 years of deregistration under specific circumstances, such as ongoing investigations, litigation, liquidation or bankruptcy proceedings or administrative procedures. The SAMR will review the application for reinstatement within 7 working days. If the application is incomplete, the SAMR will notify the applicant of required supplements. If reinstatement is approved, a decision will be issued within 10 working

days. The company will be restored to its pre-deregistration status, and the reinstatement will be publicly announced.

- **Compliance and Penalties**

Submitting false materials or misusing the objection or reinstatement process could result in fines of up to RMB 100,000.

- **Conclusion**

The Measures introduce a structured process for compulsory deregistration. Foreign invested companies should ensure timely compliance with deregistration procedures and maintain accurate corporate records to avoid involuntary termination. Because it only terminates the company's legal entity status without eliminating its debts. At the same time, the company completely loses autonomy over the liquidation process, making it unable to dispose of assets or settle debts in an orderly manner. Moreover, the compulsory deregistration record will be publicly disclosed, damaging the reputation and increasing future compliance costs.

II. Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labor Dispute Cases (II)

On August 1, 2025, the Supreme People's Court of the People's Republic of China ("SPC") officially promulgated the Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labor Dispute Cases (II) ("Interpretation II"), which came into effect on September 1, 2025.

Interpretation II responds to a number of complex and frequently disputed issues that have arisen in recent years in the field of labor disputes, focusing on key topics such as non-compete obligations, and the legal consequences of agreements not to pay or retroactively contribute social insurance. The following provides an overview and analysis of several major provisions under Interpretation II.

- **Employers Are Not Required to Pay Compensation for Non-Compete Obligations During Employment**

Article 14 of Interpretation II expressly provides, for the first time at the level of judicial interpretation, that an employer may agree with employees—specifically senior management, senior technical staff, or other personnel with confidentiality obligations—to impose non-compete obligations during the period of employment, **without paying economic compensation.**

- **Employees Who Breach Non-Compete Agreements Must Return Compensation and Pay Liquidated Damages**

Article 15 of Interpretation II stipulates that where an employee breaches a valid non-compete agreement, the people's court shall uphold the employer's claim for the employee to return economic compensation already received and to pay liquidated damages as agreed.

In addition to economic compensation and liquidated damages, employers may also incur enforcement-related costs when an employee violates a non-compete clause, including attorney's fees, notarization costs, and expert appraisal fees for evidence collection or fact verification. Although Interpretation II does not expressly address whether employers may recover such costs from breaching employees, given the potential harm caused by the breach and the difficulty of

evidence collection, courts may, in practice, support such claims where the employee's fault is clear.

Therefore, it is advisable for employers to expressly include provisions on enforcement costs in non-compete agreements, in addition to clauses regarding economic compensation and liquidated damages.

- **Employment of Foreign Nationals Is Conditional on Residence Status and Work Authorization**

Article 4 of Interpretation II clarifies the role of residence status and work authorization in determining the existence of a labor relationship involving foreign nationals. Specifically:

- A foreign national who has obtained permanent residence status may establish an employment relationship with a Chinese employer without obtaining a separate work permit.

- A foreign national who has obtained a work permit and is lawfully residing in China (for example, holding a Permit for Foreigners Engaged in Offshore Petroleum Operations in the PRC or a Foreign Expert Certificate), or who has completed other formalities as required by national regulations (even if not a formal work permit), may likewise seek judicial confirmation of the existence of a labor relationship with the employer.

Accordingly, employers hiring foreign nationals should assess, based on the employee's residence status and the employment scenario, whether a work permit is required and whether an employment relationship is legally established.

- **Legal standing of Foreign Enterprises and Their Resident Representative Offices**

Article 5 of Interpretation II provides that a lawfully established resident representative office of a foreign enterprise may be a party to a labor dispute case. Where a party applies to add the foreign enterprise as a defendant, the court shall grant such application in accordance with the law.

Under previous regulations, a resident representative office of a foreign enterprise does not possess legal personality and must entrust a local foreign-affairs service agency or a government-designated institution to handle employment-related matters. Some regions, such as Beijing and Shanghai, expressly prohibit representative offices from independently or privately hiring staff.

In reality, however, the representative office usually determines the employee's work assignments, salary, and benefits, while the foreign-affairs service agency exercises limited actual control over employment matters. Some employers engage service providers such as Fesco, experience shows that involving Fesco often adds unnecessary complexity to the employment relationship without providing meaningful value. For companies that have properly established HR teams capable of handling social insurance and other routine HR management internally, we generally do not recommend using Fesco. In fact, many foreign-invested enterprises and representative offices operate efficiently without relying on Fesco.

Interpretation II affirms this judicial practice, confirming that **resident representative offices of foreign enterprises may be treated as labor dispute parties even though they lack independent employer qualification.** Under such circumstances, the foreign headquarter will

very likely to be added in such a local labour dispute and be held jointly and severally responsible.

- **Agreements Waiving Social Insurance Contributions Are Invalid**

According to Article 19 of Interpretation II, any agreement or commitment between an employer and an employee stipulating that no social insurance contributions need to be made—whether initiated by the employer or voluntarily undertaken by the employee—**is invalid.** Given the public and pooled nature of China's social insurance system, such agreements are deemed to violate public interests and thus constitute void civil acts.

Employers are therefore advised to always make social insurance contributions for employees in accordance with the law. Even if some employees for any reason request or agree to replace social insurance contributions with a monetary allowance or reimbursement, such an agreement will not be recognized by the court to the benefit of an employer in good faith in the event such employees later change their mind and decide to hold the employer responsible in contrary to the previous agreement.

- **Conclusion**

Interpretation II highlights key labor law issues such as non-compete obligations during employment and the invalidity of agreements waiving social insurance contributions, reflecting the Supreme People's Court's evolving approach to balancing employer and employee rights. Nonetheless, foreign invested entities in China cannot expect to be in a favorable position when it comes to employment related disputes.

Enterprises are encouraged to take these developments into account when adjusting their internal human resource management policies,

aligning compliance practices with judicial trends, and addressing evidentiary challenges faced by employers in labor disputes. By standardizing documentation and procedural management of labor and personnel matters, companies can more effectively mitigate employment-related legal risks.