

China Insight



Shanghai Amended Regional Headquarter Regulations

Dear Sir or Madam,

Please find below our update on the latest developments relating to Regional Headquarters in Shanghai.

Kind regards,
CMS, China

On January 27, 2017, the Shanghai Municipal Government published the amended *Provisions on Encouraging Transactional Companies to Establish Regional Headquarters* (the "**2017 RHQ Provisions**"). The *2017 RHQ Provisions* have a validity period of 5 years, effective from February 1, 2017, and replaced the old RHQ provisions of 2012 and their supplementary provisions of 2014 (collectively the "**Old RHQ Provisions**").

The *2017 RHQ Provisions* cover both RHQs under the old RHQ provisions of 2012, i.e. holding companies and management companies with a registered capital of at least USD 2 million and so-called "functional RHQs" under the supplementary provisions of 2014, i.e. all companies and branches with management functions regardless of their registered capital amount. The requirements on establishment of both types of RHQs are eased.

Eligible Companies

Under the *Old RHQ Provisions*, only foreign invested holding companies and foreign invested management companies with a minimum registered capital of USD 2 million could apply for the RHQ status. The *2017 RHQ Provisions* allow all types of foreign invested enterprises ("FIEs") in Shanghai with a minimum registered capital of USD 2 million for such application. In addition, if a company is engaged in the service industry, the total assets amount of the parent company is only required to be USD 300 million instead of USD 400 million in the past.

In terms of the criteria for functional RHQs, such requirements under the *Old RHQ Provisions* as size of the office, number of employees, etc are waived in the *2017 RHQ Provisions*. Further, the number of FIEs held by the parent company in China in order for an FIE to qualify as functional RHQ has now been reduced from three to two.

Cross-border Cash Pooling

Under the *2017 RHQ Provisions*, both RHQs and functional RHQs can participate in cross-border foreign exchange cash pooling in accordance with the *Administrative Provisions on Centralised Operation and Management of Foreign Exchange Funds by Multinational Corporations* issued by the State Administration of Foreign Exchange on August 5, 2015. In addition, they are also eligible for cross-border RMB cash pooling which is governed by the *Circular on Further Facilitating Cross-border Bilateral Renminbi Capital Pooling by Transnational Group Company* issued by the People's Bank of China on September 5, 2015.

Outlook

The *2017 RHQ Provisions* correspond with the aim of Shanghai to become a global center for economy, finance, trading

and shipping by year 2020. It is noteworthy that other than the now abolished *Old RHQ Provisions*, the *2017 RHQ Provisions* do not list fiscal subsidies and incentives for RHQs and functional RHQs. It is expected that the Shanghai Municipal People's Government will promulgate an update on fiscal subsidies and incentives separately in the near future. In addition, under the *2017 RHQ Provisions* the local district level governments are now also allowed to issue their own policies to support to development of RHQs and functional RHQs in their districts. This was in practice already common in the past, but, legally speaking, somewhat in a grey area.

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