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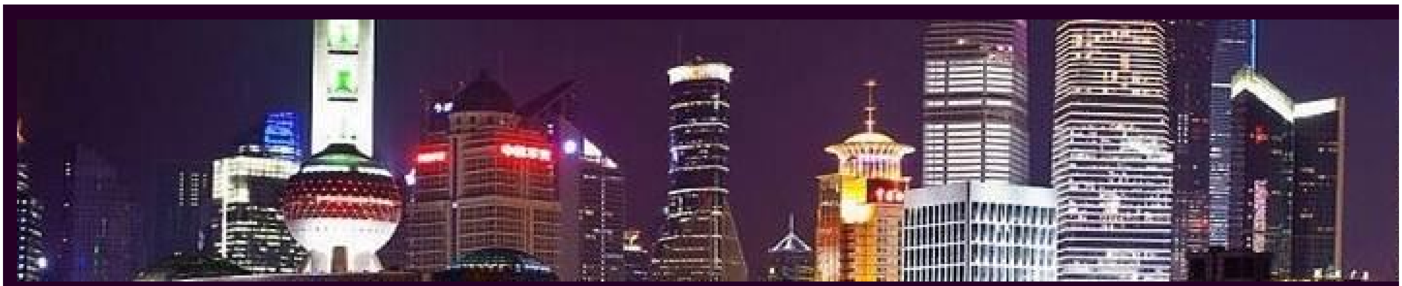
GRANDWAY LAW OFFICES



# Newsletter

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July 31, 2024

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## Update

### GAC Issues Document to Regulate Customs Risk Management

On July 30, 2024, the General Administration of Customs (GAC) released the *Measures of the People's Republic of China for Customs Risk Management* (the "Measures"), which will take effect on December 1, 2024.

The Measures are applicable to risk management activities such as collection of risk information, risk assessment and risk handling as conducted by customs to prevent risks related to the restriction and control measures on the entry and exit of means of transport, transport equipment, personnel, goods and articles, as well as public health safety at ports of entry, national border biological safety, food safety, goods quality safety, tax safety, intellectual property infringement and so on. According to the Measures, based on a risk assessment conclusion, customs may take one or more measures that are adaptive to the risk level according to law, including adjusting the items and implementation frequencies of the supervision and administration measures., adjust the conformity assessment procedures, quarantine measures and guarantee standards, and approve, suspend or cancel the relevant qualifications for importing and exporting specific goods into the Chinese mainland.

## **PBC and SAFE Optimize QFII/RQFII Cross-Border Fund Management**

On July 26, 2024, the People's Bank of China (PBC) and the State Administration of Foreign Exchange (SAFE) released the revised *Provisions on the Management of Securities and Futures Investment Funds of Overseas Institutional Investors in China* (the "Provisions"), which will come into effect on August 26, 2024.

The newly revised Provisions make the following revisions: 1. further simplifying the procedures for business registration. The revised Provisions specify that QFII/RQFII business registration shall be handled through principal reporters (custodians) on SAFE's digital foreign exchange management platform, while clarifying the matters of change registration and cancellation registration; 2. further optimizing account management. It is stipulated that RMB special deposit accounts used for securities trading or derivative trading may be merged to reduce the number of accounts required for operating entities to make different types of investments; 3. further improving exchange management. The revised Provisions optimize QFII/RQFII cross-border fund flow management and improve the principles of currency management for incoming and outgoing funds; and 4. unifying the foreign exchange risk management models of QFII/RQFII and the China Interbank Bond Market (CIBM Direct). It is specified that QFII/RQFII may handle spot foreign exchange settlement and sales, as well as foreign exchange derivative transactions through more channels other than custodians, such as domestic financial institutions and interbank foreign exchange markets which are qualified to conduct foreign exchange settlement and sales businesses.

## **China Supports High-quality Enterprises in Borrowing Foreign Debt**

On July 23, 2024, the National Development and Reform Commission (NDRC) released the *Circular of the National Development and Reform Commission on Supporting High-quality Enterprises in Borrowing Medium and Long-term Foreign Debt to Promote High-quality Development of the Real Economy* (the "Circular"), which will come into effect on July 29, 2024.

The Circular said China supports high-quality enterprises that have significant industrial status, have good credit, and play a leading role in promoting high-quality development of the real economy in borrowing foreign debt, with priorities giving to those that meet five preset conditions. These conditions include that over the recent three years an enterprise (1) has not defaulted on a debt at home or abroad and is not in the condition of delaying the repayment of principal and interest continuously; (2) has no major violations and has not been blacklisted; (3) has not received an adverse opinion or a disclaimer of opinion from certified public accountants for financial statements, or has eliminated the impact involved in the qualified opinion if receiving one from certified public accountants. The Circular also noted that the NDRC will implement special reviews on the existing management basis for high-quality enterprises applying for foreign debt registration. The process will involve appropriate simplification of related requirements and acceleration of approval procedures.

**Four Authorities to Strengthen Business-Finance Synergy and Boost Cross-Border Trade and Investment**

On July 7, 2024, the Ministry of Commerce ("MOFCOM"), the People's Bank of China ("PBOC"), the National Financial Regulatory Administration ("NFRA") and State Administration of Foreign Exchange ("SAFE") jointly issued the *Opinions on Strengthening Business-Finance Synergy and Making Greater Efforts to Support the High-quality Development of Cross-border Trade and Investment* (the "Opinions"), which will come into effect on July 7, 2024.

The Opinions put forward 11 policy measures in 5 aspects: 1. optimize comprehensive financial services for foreign trade; continue to improve and upgrade goods trade, diversifying and improving credit, credit insurance, policy financing, property insurance and other services; accelerate the cultivation of new driving forces for foreign trade, and provide high-quality services for international cooperation in foreign trade supply chains, cross-border e-commerce exports, green trade, etc.; develop service trade and digital trade, and intensify support for service trade funds, intangible asset pledge financing, and data element underwriting; 2. strengthen foreign financial service safeguard; 3. deepen economic and trade cooperation and foreign investment cooperation along the Belt and Road, and improve diversified investment and financing services; 4. optimize payment and settlement environments; and 5. prevent and manage cross-border trade, investment and financial risks.

**Shanghai Unveils Measures to Accelerate the Development of the "Grand Neobay" Innovation-driven Function Area**

On July 2, 2024, Shanghai Municipal People's Government released the *Measures for Accelerating the Development of the "Grand Neobay" Innovation-driven Function Area* (the "Measures"), which outline 20 measures in five aspects. The Measures will come into effect on July 11, 2024.

The Measures propose to support enterprises in increasing investment in research and development (R&D), encouraging industry leaders to set up large companies' open innovation centers with a maximum of 30 million yuan subsidy, or up to 30 percent of their total investment in R&D. They are also supported in conducting R&D of key generic technologies with a maximum of 30 million yuan start-up funds, or up to 30 percent of their total R&D investment.

**China Issues Regulations to Promote Implementation of the Registered Capital Management System of Company Law**

On July 1, 2024, the Chinese government released the *Regulations of the State Council on Implementing the Registered Capital Management System of the Company Law of the People's Republic of China* (the "Regulations"), which will come into effect on July 7, 2024.

Consisting of 13 articles, the Regulations clarify arrangements during the transitional period of adjusting the time limit for shareholders to pay in their subscribed capital at existing companies, stipulate on the handling of abnormal activities in a company's capital contributions, and refine regulatory measures.

According to the Regulations, if there are abnormal activities in a company's capital contributions and registered capital, company registration authorities shall require the company to make timely adjustment according to law after conducting thorough investigations on the enterprise and its shareholders. Where a company adjusts the amount of capital contribution subscribed and paid by its shareholders, the method and data of capital contribution, or the number of shares subscribed by its promoters, it shall make a public announcement. Company registration authorities conduct supervision and inspection on companies' announced subscribed and paid-in capitals and implement classified regulation based on companies' credit exposures.

## China to Pilot New Preferential Tax Policies for Import and Export in the Shanghai FTZ

On July 2, 2024, the Ministry of Finance (MOF), along with other four Chinese authorities, issued the *Circular on Tax Policies Related to Temporary Entry of Goods for Repair in the China (Shanghai) Pilot Free Trade Zone* (the "Circular"), which took effect on June 27, 2024.

The Circular states that within the customs special supervision areas of the China (Shanghai) Pilot Free Trade Zone (including the Lingang Special Area), goods temporarily allowed to enter the pilot areas for repair by enterprises from overseas from the date of implementation of the Circular will be bonded, and those re-transported out of the country will be exempt from tariffs, import value-added tax, and consumption tax; If the goods are not transported out of the country and converted to domestic sales, import procedures shall be handled according to requirements, and import tariffs, import value-added tax, and consumption tax shall be levied in accordance with regulations based on the actual inspection status of the repaired goods. The Circular stresses that the policies are only applicable to Yangshan Special Comprehensive Bonded Zone, Shanghai Pudong Airport Comprehensive Bonded Zone, Shanghai Waigaoqiao Port Comprehensive Bonded Zone, Shanghai Waigaoqiao Bonded Zone, and other special customs supervision areas approved by the State Council in the Shanghai FTZ.

## China Identifies 20 Cities to Test "Vehicle-Road-Cloud" Integration System on ICVs

The Ministry of Industry and Information Technology (MIIT) issued on July 3, 2024 the *Circular on Releasing the List of Cities to Test the "Vehicle-Road-Cloud" Integration System on Intelligent Connected Vehicles (ICVs)* (the "Circular"), which will come into effect on July 1, 2024, selecting 20 cities (consortia) for the program.

The MIIT specifies that the pilot cities should follow the guidance of five government departments and combine it with relevant expert opinions to further optimize and improve their "vehicle-road-cloud" construction plans, and define the interrelationships between the various components of "vehicle, road, cloud, network, map, and safety"; adopt a unified architecture and technical standards to achieve interconnectivity between cloud control infrastructure platform, urban traffic safety comprehensive service management platform, traffic information management public service platform, urban information model platform, and other platforms, break down data islands between different domains and regions, realize interoperability and sharing of basic common data, as well as cross-domain sharing of infrastructure, services, and platforms. The pilot scheme is expected to build low-latency and high-reliability connected cloud control infrastructure, boost the large-scale application of multi-scenario autonomous driving, explore and form a new business model of "vehicle-road-cloud" integration investment, construction and operations, and establish a unified system of standards, testing and evaluation.

# Article(s)

**Essentials of Company Registered Capital Under the New Company Law and Regulations**
*by Esther Lin*

On July 1, 2024, the new *PRC Company Law* came into effect. Based on the new *Company Law* and the *Administrative Regulations for the Registration of Registered Capital* (the "Regulations") and other relevant regulations, this article comprehends the period and requirements for the payment of registered capital for newly established companies and companies established before the new law, the reduction of capital during the transitional period, the period for the payment of registered capital for the increase of registered capital by the company, and other matters related to the registered capital of a company.

## I. Period and Requirements for the Payment of Registered Capital

### 1. Newly Established Companies

Pursuant to Articles 47, 98 and 101 of the New Company Law, the deadlines and requirements for the payment of registered capital for newly established companies are as follows:

<table>
<tr><th>Company Type</th><th>obligor</th><th>Period</th><th>Remarks</th></tr>
<tr><td>limited liability company</td><td>All shareholders</td><td>Within 5 years from the date of incorporation</td><td rowspan="2">No need to submit a capital verification certificate.</td></tr>
<tr><td rowspan="2">limited company by shares</td><td>Founding Member</td><td>Payment in full of the shares subscribed by each member before the incorporation of the company</td></tr>
<tr><td>Shareholders through public offerings</td><td>Before the company registration</td><td>The capital verification certificate is required.</td></tr>
</table>

### 2. Companies Established Before the New Law

According to Article 2 of the Regulations, for the existed companies established before the implementation of the New Company Law (i.e., companies registered and established before and including June 30, 2024), in the case of a limited company by shares, the founding members shall have paid up the full amount of the subscribed shares by June 30, 2027 at the latest; in the case of a limited liability company, the shareholders shall have completed the contribution of all the subscribed registered capital by June 30, 2032 at the latest. The transition period for adjusting the capital contribution period for both limited liability companies and limited companies by shares is three years, from July 1, 2024 to June 30, 2027, specifically.

It should be noted that although the latest capital contribution period for shareholders of a limited liability company is June 30, 2032 (inclusive), the limited liability company is required to adjust the capital contribution period of shareholders to meet the requirements of Article 2 of the Regulations by amending the Articles of Association prior to June 30, 2027 (inclusive). Otherwise, in accordance with Article 6 of the Regulations, the company registration authority shall order the company registration authority to make corrections, and in case of failure to make corrections after the expiry of the deadline, the company registration authority shall make a special notation in the National Enterprise Credit Information Publicity System (the "NECIPS") and make it known to the society.

## II. Capital Reduction and Capital Increase

### 1. Process and Requirements of Capital Reduction During the Transition Period

First, the company's shareholders' meeting needs to make a resolution to reduce the registered capital; second, it must notify creditors within 10 days from the date on which the shareholders' meeting makes the resolution to reduce the registered capital, and announce it in a newspaper or on the NECIPS within 30 days.

According to Article 224 of the new Company Law, creditors shall have the right to demand the company to liquidate its debts or provide corresponding guarantees within 30 days from the date of notification, or within 45 days from the date of announcement if no notification has been received. Therefore, in practice, after the expiration of the aforementioned period, the company can register the change of registered capital.

### 2. Deadline for Payment of Increased Registered Capital of a Company

Pursuant to Article 228 of the New Company Law, the payment period for the increase of registered capital of the Company is as follows:

<table>
<tr><th>Company Type</th><th>obligor</th><th>Period</th></tr>
<tr><td>limited liability company</td><td rowspan="2">Contributing shareholders of additional registered capital</td><td>Within 5 years from the date of subscription of additional registered capital</td></tr>
<tr><td>limited company by shares</td><td>Before the company's registration filing of the capital change</td></tr>
</table>

## Contact Us

davidzou@grandwaylaw.com

www.grandwaylaw.com

23F, S2 Building, Bund Financial Center, 600 Zhongshan No. 2 Road (E), Shanghai, 200010, China