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NEWSLETTER

LATEST NEWS FROM CHINA

Shanghai Issues New Establishment Policies to attract Multinational Companies



Introduction

Over the past decade, the Shanghai Municipal Government has issued and amended several policies on encouraging the establishment of Regional Headquarters (hereinafter referred to as “**Regional HQ**”) in Shanghai Municipality.

On January 27th, 2017, the Shanghai Municipal Government has revised again its policies and released the Circular of the Shanghai Municipal People's Government on Issuing the Revised Regulations to Encourage Multinational Companies to Establish Regional Headquarters in Shanghai Municipality (*Hufufa* [2017] No. 9) (hereinafter referred to as “**the new Rules**”).

The Primary goal of the Government with the mentioned new Regulations is to encourage multinational corporations to set up (or relocate) their regional headquarters to Shanghai.

In addition, the new Rules have introduced a new concept of “entity with Head Quarter functions”, enlarging the scope of enterprises entitled to preferential policies previously granted in Shanghai Municipality. In order to provide a complete picture and a comparative perspective, several key features and differences between the 2011 Rules and the new Rules are highlighted in the following paragraphs.

Qualifications

An enterprise applying for recognition as a Regional HQs shall meet the following conditions:

	Before	Now	
	Regional HQ	Regional HQ	Entity with HQ functions
Definition	The sole headquarters established by way of investment or authorization by a parent company registered overseas that fulfill functions of managing and providing services to enterprises in a region consisting of more than one country. A multinational company shall establish a Regional HQ in Shanghai Municipality as an independent legal person in the form of a wholly foreign owned investment company or management company, etc.	The sole headquarters established by way of investment or authorization by a parent company registered overseas that fulfill functions of managing and providing services to enterprises in a region consisting of more than one country. A multinational company shall establish a Regional HQ in Shanghai Municipality as an independent legal person in the form of a wholly foreign owned investment company or management company, etc.	A wholly foreign owned enterprise (including any branch thereof) that fails to meet standards for being the Regional HQ of the multinational company, but assumes several functions in the supporting services of the parent company registered overseas, such as management decision-making, capital management, procurement, sales, logistics, settlement, research and development and training in the region consisting of more than one country.
Type of Company	Any foreign-invested company with the status of independent legal entity	WFOE with the status of independent legal entity	WFOE or Branch with the status of independent legal entity
Value of the Assets of the parent company	No less than USD400 million	No less than USD400 million; if the WFOE is in the service industry, no less than USD300 million	No less than USD200 million

Features of the parent company	The total amount of registered capital for investment of the parent company in China is <u>no less</u> than USD 10 million and the Regional HQ is authorized to manage no less than 3 enterprises (in or outside China); or if the total amount of registered capital for investment of the parent company in China is less than USD10 million the Regional HQ is authorized to manage no less than 6 enterprises (in or outside China)	The total amount of registered capital for investment of the parent company in China is <u>no less</u> than USD10 million and the Regional HQ is authorized to manage no less than 3 enterprises (in or outside China); or if the total amount of registered capital for investment of the parent company in China is less than USD10 million the Regional HQ is authorized to manage no less than 6 enterprises (in or outside China)	The parent company has established no less than two foreign-owned investment enterprises in China, at least including one registered in Shanghai Municipality.
Registered Capital	No less than USD2 million	No less than USD2 million	No less than USD2 million; if the enterprise is established in the form of a branch, the enterprise has operation funds of no less than USD2 million

Application Documents & Timing

An enterprise applying for recognition as a Regional HQ shall submit the following documents:

Documents	Before		Now	
	Regional HQ	Regional HQ	Regional HQ	Entity with HQ functions
Application letter signed by the legal representative of the Company	Yes	Yes	Yes	Yes
An authorization document detailing the basic functions of the Regional HQ and signed by the authorized representative of the parent company	Yes	Yes	Yes	Yes

The approval certificate, business license and (duplicates in all cases)	Yes	Yes	If the headquarter institution is a branch, the business license (duplicate) of the Shanghai branch and the certification on the operation funds appropriated by the headquarters shall be provided too.
Capital Verification Report for the company	Yes	No	No
The approval certificate and business license for any company invested in by its parent company in China (duplicates in both cases)	Yes	Yes (or record-filing receipt)	Yes (or record-filing receipt)
The authorization document for the proposed legal representative of the Regional HQ signed by the legal representative of the parent company and the resume and ID certificates of the proposed legal representative of the regional headquarters (duplicates for the ID certificates)	Yes	No	No
The auditors' report of the parent company in the recent year	No	Yes	Yes
Other documents required by laws and regulations	Yes	Yes	Yes

The Shanghai Municipal Commission of Commerce shall, within 8 working days after receiving materials, such as the application form, make a decision whether to recognize the Regional HQ or headquarter institution. A recognition certificate shall be issued for the Regional HQ or Headquarter Institution that is recognized. Previously, this process took 10 days.

Capital Management

Regional HQ and Headquarter Institutions are encouraged to conduct different cross-border Renminbi business, according to their own operation and management demands. Regional HQ and Headquarter Institutions may complete the centralized capital operation management of the groups thereof, and enhance their capital usage efficiency through channels such as the cross-border bidirectional Renminbi capital pool and the cross-border centralized receipts and payments in Renminbi under current accounts.

Processes of payments of foreign exchange under non-trade items shall be optimized, tax coaching and services for regional headquarters and headquarter institutions shall be intensified, and green channels

shall be provided contracts on payments for foreign exchange under the non-trade items and taxpaying judgment of Regional HQ and Headquarter Institutions.

Regional HQ and Headquarter Institutions established in pilot free trade zones may open a free trade account according to the provisions, and conduct cross-border receipts and payments of domestic and foreign currencies and domestic receipts and payments of Renminbi under the principle of convertibility.

The mentioned above activities were not stated in the previous regulation.

Simplification of Entry and Exit Formalities

The eligible Chinese staff of Regional HQ and Headquarter Institutions may apply for an APEC business travel card. The exit of any of the aforesaid Chinese staff, who needs to go to Hong Kong, Macao, Taiwan or any foreign country for business reasons, shall be facilitated by the relevant departments.



Foreign staff of Regional HQ and Headquarter Institutions needing temporary entry into China on multiple occasions may apply for a multiple entry visitor's visa valid for no less than 1 year and shall stay for no more than 180 days on each occasion.

The entry and exit inspection and quarantine departments shall provide green channels for the handling of health certificates of legal representatives and senior managers relating to functions of the headquarters of Regional HQ and Headquarter Institutions.

Features	Before	Now	
	Regional HQ	Regional HQ	Entity with HQ functions
APEC business travel card	No	Yes	Yes
Foreign staff of Regional HQ and Headquarter Institutions, who need temporary entry into China on multiple occasions, may apply for	A multiple entry visitor's visa valid for between 1 and 5 years and shall stay for no more than 1 year on each occasion	Entry visitor's visa valid for no less than 1 year and shall stay for no more than 180 days on each occasion	

Green channels for the handling of health certificates of legal representatives and senior managers	No	Yes	Yes
Foreign staff of Regional HQ who needs to reside in Shanghai on a long-term basis may apply for a foreigner's residence permit valid for between 3 and 5 years	Yes	Yes	Yes
Foreign senior managers and senior technicians may apply for foreign expert's certificates in accordance with relevant provisions	Yes	No	No

Introduction of Talents

Overseas students with foreign nationality and having an undergraduate (bachelor) education background (degree) or above or any special capability, overseas students and other professional talents with a Chinese passport and with the right of overseas permanent (long-term) residence but without domestic household registration, as well as professional talents from the Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan, as engaged by regional headquarters and headquarter institutions may apply for the Shanghai Residence Permit (Type B). The spouses and children under 18 years old or studying in senior high schools of the aforesaid persons may apply for a dependent permit.

Districts where Regional HQ and Headquarter Institutions are located shall provide conveniences for the talents introduced by them

in respect of children entering schools, medical guarantees, the application for apartments prepared for talent, etc.

The mentioned above issues were not stated in the previous regulations.

Supports of District Governments

All district governments may, in combination with local actual conditions, formulate policies and measures supporting the development of Regional HQ and Headquarter Institutions, and create a business environment favorable for the development of Regional HQ.

The mentioned above measures were not stated in the previous regulations.

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