

Shanghai Encourages Establishment of Regional Headquarters by Multinational Corporations

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Shanghai Municipal People's Government promulgated the "Notice on Encouraging Multinational Corporations (hereinafter "MNCs") to Establish Regional Headquarters (hereinafter "RHQ") in Shanghai" (Hufufa [2017] No.9, hereinafter the "New Notice")¹ on 27 January 2017. The New Notice took effect from 1 February 2017 and will be valid for five years. By introducing the concept of Functional Headquarters² (hereinafter "FQ"), the scope of enterprises eligible to enjoy the preferential policy offered by the Shanghai Government has been expanded.

BACKGROUND

Shanghai issued its first policy to attract MNCs to set up their RHQ in the city by offering financial support and incentives in 2002³. Since then, the municipal government amended the policy in 2008 and updated it as "Notice on Encouraging MNCs to Establish RHQ in Shanghai" (Hufufa [2011] No.98, hereinafter "Notice No.98")⁴ in 2011 to further attract foreign investment in order to facilitate the projects of establishing the "4 Centres"⁵ and "Shanghai Technology Innovation Centre".

Based on the Notice No.98, which has been expired since 19 December 2016, Shanghai issued the New Notice to attract more quality foreign investment so as to support the city to become an international metropolis.

HIGHLIGHTS

Relaxation of Restrictions for RHQ and Introduction of FQ

Compared to Notice No.98, the New Notice eased the application conditions of an RHQ and also introduced the concept of FQ.

The definitions and conditions for recognition of RHQ and FQ are summarized as follows.

¹ Shanghai Municipal People's Government (27 January 2017). Retrieved from:
<http://www.shanghai.gov.cn/nw2/nw2314/nw2319/nw12344/u26aw51294.html>

² Foreign-owned enterprises not meeting the standards of RHQ but performing the similar functions as the RHQ.

³ Shanghai Municipal People's Government (20 July 2002). Retrieved from:
<http://www.shanghai.gov.cn/nw2/nw2314/nw2319/nw2404/nw4947/nw4948/u26aw330.html>

⁴ Shanghai Municipal People's Government (19 December 2011). Retrieved from:
<http://www.shanghai.gov.cn/nw2/nw2314/nw2319/nw11494/nw12331/nw12343/nw25265/u26aw30323.html>

⁵ Shanghai aims to become the International Economic Centre, International Financial Centre, International Trading Centre and International Shipping Centre of the country.

RHQ		FQ	
Definition	<ul style="list-style-type: none"> The sole head office established by a parent company that is registered overseas, in the form of investment or authorization to perform management and service functions for enterprises that operate in a region covering more than one countries. 	<ul style="list-style-type: none"> A foreign-owned enterprise (or a branch) that does not satisfy the standard of RHQ, but undertakes multiple support functions in a region covering more than one countries for its parent company registered overseas. 	
Conditions for Recognition	<ul style="list-style-type: none"> Must be an independent legal entity wholly owned by a foreign enterprise. 	<ul style="list-style-type: none"> <u>Can be a branch</u> or an independent legal entity wholly owned by a foreign enterprise. 	
	Total assets of parent company	<ul style="list-style-type: none"> Not less than USD400 million. <u>Not less than USD300 million in the service industry.</u> 	<ul style="list-style-type: none"> Not less than USD200 million.
	Number of Managing Enterprises	<ul style="list-style-type: none"> Not less than 6 in or outside China. Not less than 3 in or outside China in case the accumulated registered capital invested in China by the parent company is not less than USD10 million. Those do not meet the above requirement but make prominent contributions to the local economic may be considered qualified as an RHQ. 	<ul style="list-style-type: none"> Not less than 2 in China, among which at least 1 should be registered in Shanghai.
	Registered capital	<ul style="list-style-type: none"> Not less than USD2 million. 	<ul style="list-style-type: none"> Not less than USD2 million. If it is established as a branch, the operational capital allocated by the parent company shall not be less than USD2 million.

Grants and Incentives

The Shanghai Government offers favourable policy in aspect of financial support, capital management, customs clearance, and employment permits to employees. The New Notice has, for the first time, encouraged authorities at the district level to formulate local preferential policy to create better business environment for RHQ and FQ.

Measures mentioned in the New Notice are summarized as below.

Grants (Exclusively applied to RHQ)	
Financial Support	<ul style="list-style-type: none"> Incorporation and rental subsidies may be awarded in accordance with relevant regulations. RHQ which undertakes comprehensive operational functions and has been making outstanding contribution to economic development may be rewarded. Establishment of headquarters managing Asia, Asia Pacific or wider region and meet relevant requirements may be subsidized.

Incentives (Applied to RHQ and FQ)		
Capital Management		<ul style="list-style-type: none"> Simplified filing procedures and facilitated taxation guidance will be adopted for non-trade settlement. Enterprises in the pilot free trade zones can perform cross-border transactions in both RMB and foreign currencies, or domestic transactions in RMB under free trade accounts.
Entry-Exit Procedures	Chinese	<ul style="list-style-type: none"> Eligible domestic personnel may apply for the APEC Business Travel Card.
	Foreigners	<ul style="list-style-type: none"> Personnel who need to travel to China time after time may apply for multiple-entry visa. Personnel who is long-term resident in Shanghai may apply for the foreign residence permission valid for 3 to 5 years. Legal representatives and other senior executives may enjoy the priority for the application of Foreigners' Permanent Residence Permit. Easier issuance of the health certificate for legal representatives and senior executives.
Talent Acquisition		<ul style="list-style-type: none"> Eligible domestic talents introduced by enterprises may apply for Shanghai registered residence. Eligible talents from overseas, Hong Kong, Macao or Taiwan may apply for Shanghai Residence Permit (B) according to the relevant regulations. Their spouse and children under 18 years of age or studying in senior high schools may apply for dependent permits.
Customs Clearance		<ul style="list-style-type: none"> Customs clearance facilitated. Facilitated quarantine and inspection procedure carried out by relevant authorities.
District Governmental Support		<ul style="list-style-type: none"> District level authorities may provide favourable regional policy in light of conditions of the district.

COMMENTS

For the past 20 years, Shanghai has generated positive results by implementing favourable policy of attracting MNCs to establish or move RHQ to the city. By the end of 2016, 580 RHQ and/or FQ were established by MNCs in Shanghai, which made the city the largest base of foreign-invested firms in China. According to the latest statistics released by the Government, among the top 100 taxpayers in Shanghai's tertiary industry, 12 were RHQ. RHQ owned by MNCs has not only created various job opportunities but also made prominent economic contributions to the city.

Seeing the positive results derived by the preferential policy, it is expected that the upgraded version can help to optimize the investment environment in the city so as to attract more establishment of RHQ in the future.

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