



A CHANGING LANDSCAPE

China Finalizes Interim Measures for the Participation in Social Insurance of Foreigners Employed in China

Foreign companies with operations in China should be aware of important new regulations that may impact their workforces.

On September 6, 2011, China’s Ministry of Human Resources and Social Security released final “Interim Measures for the Participation in Social Insurance of Foreigners Employed in China” (the Interim Measures). Draft measures had been issued for comment in June. The Interim Measures became effective as of October 15, 2011.

The Interim Measures for the first time require foreign employees legally working in China to participate in China’s social insurance system. Foreign employees in China fall into two categories under the Interim Measures:

- 1** Foreign employees employed by companies, enterprises, public institutions, law firms, accounting firms, and other employers registered in China including wholly foreign owned entities and foreign invested joint ventures.
- 2** Foreign employees working for their foreign parent company in a branch or representative office registered in China.

According to the Interim Measures, foreign employees in both categories are required to participate in China’s basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance, and maternity insurance programs. The employer is responsible for registering the foreign employees for the social insurance programs. The social insurance premiums are to be paid by the employer and the foreign employee on the same basis as current regulations provide for the employer and domestic employees.

The Interim Measures require the employer to register a foreign employee for social insurance within 30 days of issuance of his or her employment certificate. An employer is subject to penalties for failure to timely complete the social insurance registration or for failure to pay the required social insurance premiums.

The Interim Measures exempt foreigners who are nationals of countries that have entered into bilateral or multilateral

treaties with China relating to social insurance. The United States does not have a social insurance treaty with China. To our knowledge, only Germany and South Korea currently have social insurance treaties with China.

The Interim Measures address a number of issues relating to foreign employees participating in China’s social insurance programs including social security cards for employees, retaining individual pension accounts when leaving China before retirement age, cumulating payment periods for foreigners who leave and subsequently reenter employment in China, applying for payment of individual pension accounts in lump sums, treatment of pension balances upon death, requirements applicable to foreigners receiving social insurance benefits outside China, and dispute resolution provisions including mediation, arbitration, and litigation.

The Interim Measures are relatively short and leave many questions unanswered. Additional information may be available in the implementing regulations.

If you have questions or if we can provide assistance, please contact any member of our China Practice Team.

China Practice
Thomas G. Appleman 248.267.3241
Zhiguo Du 248.267.3226

Firm Adds Talent and Depth to its China Practice

★★ DR. ZHIGUO DU ★★



We are pleased to announce that Dr. Zhiguo Du has joined our China Practice Team in our Troy office. Zhiguo focuses his practice on international business transactions, corporate governance, tax planning, and our China practice. He has extensive experience representing Chinese enterprises doing business in the U.S. and U.S. companies with operations in China.