
PRC REGULATORY FRAMEWORK

PRC LAWS ON CORPORATE BUSINESS REGULATION

Communication Engineering

Pursuant to the Regulations on Administration of Construction Enterprises Qualification (建築企業資質管理規定) promulgated by the Ministry of Construction of the PRC (中華人民共和國建設部) on 26 June 2007 and became effective on 1 September 2007, construction enterprises which have obtained the relevant qualification shall engage in the construction activities limited to the scope set out in their qualifications.

The Classification of Qualification of Construction Enterprises (建築業企業資質等級標準) issued by the Ministry of Construction on 20 April 2001 and became effective on 1 July 2001, set out the standard of classification to evaluate construction enterprises. Professional construction enterprises for intelligent building with qualification of Grade III (建築智能化工程專業承包三級) shall satisfy requirements such as (i) having conducted the construction of two qualified intelligent buildings or integrated wiring projects with contract value of over RMB2.0 million in the past five years; (ii) employing manager and technology and finance personnel with the required title and experience for more than five years and corresponding professional staffs; (iii) having a registered capital of more than RMB2.0 million and net assets of more than RMB2.4 million; (iv) attaining the highest annual settled project income of over RMB3.0 million in the past three years; and (v) having construction machines and quality testing equipments compatible with the corresponding scope of construction projects. The enterprises with qualification of Grade III shall undertake the projects of intelligent building with contract value less than RMB6.0 million.

Professional construction enterprises for telecommunication with qualification of Grade III (電信工程專業承包三級) shall also satisfy requirements such as (i) having conducted more than two of the required and qualified projects; (ii) employing manager and technology and finance personnel with the required title and experience for more than five years and corresponding professional staffs; (iii) having a registered capital of more than RMB5.0 million and net assets of more than RMB8 million; (iv) attaining the highest annual settled project income of over RMB50.0 million in the past three years; and (v) having construction machines and quality testing equipments be compatible with the corresponding scope of construction projects. The enterprises with qualification of Grade III shall undertake the projects of telecommunication with contract value less than RMB5.0 million.

Production Safety

The Production Safety Law of the PRC (中華人民共和國安全生產法) promulgated by the Standing Committee of the National People’s Congress on 29 June 2002 and became effective on 1 November 2002, is the principal law governing the supervision and administration of production safety and labour protection. The law requires the construction enterprises to set up organisations or be manned by full-time personnel for safety production control. Safety facilities of new construction, re-construction or expansion projects shall be designed, constructed, produced and used at the main construction area of the projects.

Pursuant to the Regulations on Administration of Construction Safety (建設工程安全生產管理條例) promulgated by the State Council and passed on 12 November 2003 and became effective on 1 February 2004, construction enterprises engaged in such activities as building, expansion, renovation,

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or demolition shall meet the requirements prescribed by the State Council such as the registered capital, professional technicians, technological equipment and work safety condition and the construction enterprises shall obtain a corresponding qualification certificate in accordance with law. Qualified enterprises shall undertake projects limited to the scope set out in their qualification.

Pursuant to the Regulations on Safety Production Licences (安全生產許可證條例), promulgated by the State Council on 13 January 2004, the State Council adopts a licensing system for construction enterprises in safety production. Enterprise that has not obtained a safety production licence shall not conduct construction activities. The Administrative Department of Construction under the State Council is responsible for the issuance and administration of safety production licences of construction enterprises that are administered by the PRC Government. The Administrative Department of Construction under the people’s government of the provinces, autonomous regions or municipalities directly under the PRC Government are responsible for the issuance and administration of safety production licences of construction enterprises that are not specified in the preceding paragraph, and are subject to the guidance and supervision of the Administrative Department of Construction under the State Council. The validity of a safety production licence is three years. If an extension to the validity period is required upon expiration of a safety production licence, the enterprise shall, three months prior to the expiration, go through the extension procedures with the department that issues and administers such safety production licence.

Pursuant to the Provisions on the Administration of the Safety Production Licences for Construction Enterprises (建築施工企業安全生產許可證管理規定) promulgated by the Ministry of Construction and became effective on 5 July 2004, the Opinions on Implementation of Provisions on the Administration of the Safety Production Licences for Construction Enterprises (建築施工企業安全生產許可證管理規定實施意見) promulgated by the Ministry of Construction and became effective on 27 August 2004 and the Supplemental Provisions on Strict Implementation of the Safety Production Licences for Construction Enterprises (關於嚴格實施建築施工企業安全生產許可證制度的若干補充規定) promulgated by the Ministry of Construction and became effective on 25 January 2006, construction enterprises shall meet certain safety production requirements such as establishing the responsibility system for safety in production and setting up organisations for the control of work safety and apply for safety production licences from the Administrative Department of Construction at provincial level or above before conducting construction activities.

Security and Prevention Product

Pursuant to the Standard for Qualification of Security and Prevention Project Enterprises (關於安防工程企業資質評定標準) issued by the China Security and Protection Industry Association (中國安防行業協會) on July 2007, the qualification of security and protection project enterprises is divided into three grades and Grade I is the highest level. Enterprises of Grade I shall meet requirements such as (i) having a registered capital of more than RMB5.0 million; (ii) obtaining the qualification of Grade II for more than two years; (iii) having conducted more than five design and construction of security and protection projects of Grade I which is qualified after testing, acceptance or assessment in the past two years; (iv) having the total contract value of completed security and protection projects of more than RMB16.0 million with one of them which has the contract value of more than RMB3.0 million; (v) having sufficient qualified professional technicians and cost engineer; (vi) having signed and committed to be the Integrity Convention of Security and Protection Enterprises; (vii) having passed the Quality System Management Verification GB/T 19001; (viii) no serious liability or accident occurred in the past two years during the contracted projects; and (ix) having established and maintained a safe production management system.

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Pursuant to the Measures on Administration of Security and Protection Products (安全技術防範產品管理辦法) promulgated jointly by the General Administration of Quality Supervision, Inspection and Quarantine of the PRC (國家質量監督檢驗疫總局) and the Ministry of Public Security of the PRC (中華人民共和國公安部) on 16 June 2000 with effect from 1 September 2000, the administration of security and protection product is subject to production licensing system of industrial products or security authentication system, while other security and protection products are subject to production registration system.

Communication and Information Network System Integration

Pursuant to the Measures on Administration of Communication and Information Network System Integration Enterprises (Trial) (通信信息網絡系統集成企業資質管理辦法(試行)) promulgated by the Ministry of Information Industry on 16 August 2001, enterprises engaged in the communication and information network system integration business shall not conduct such construction activities until the Communication and Information Network System Integration Enterprises Qualification (通信信息網絡系統集成資質證書) is obtained. Enterprises shall meet a series of requirements to obtain the qualification of Grade II, including but not limited to (i) having the responsible persons with more than three years of communication construction or enterprise management experience and intermediate title or above; (ii) with the number of project technology or economic management staff of different degrees or titles not being less than the quorum; (iii) the registered capital of not less than RMB8.0 million; and (iv) having completed communication and information network system integration projects with contract value greater than RMB80.0 million in the past three years. The requirements for the qualification of Grade III include (i) having a responsible person with more than two years of communication construction or enterprise management experience; (ii) the registered capital of not less than RMB5.0 million; and (iii) having completed communication and information network system integration projects with contract value greater than RMB40.0 million in the past three years. Enterprises with qualification shall conduct business within the scope stipulated in the approved grade. Enterprises with qualification of Grade II shall undertake communication network and telecommunications support network projects of less than RMB20.0 million and telecommunication basic network projects of less than RMB10.0 million. Enterprises with qualification of Grade III shall undertake communication network and telecommunications support network projects of less than RMB10.0 million and telecommunication basic network projects of less than RMB5.0 million. Communication and information network system integration qualifications are subject to annual review system. The telecommunication and information administrations of provinces, autonomous regions and municipalities directly under the PRC Government are responsible for the examination and approval for enterprises which are not owned by the PRC Government with qualifications of Grade II/III and report to the Ministry of Information Industry for record.

Computer Information System Integration Certification

Pursuant to the Measures on Administration of Computer Information System Integration Certification (Trial) (計算機信息系統集成資質管理辦法(試行)) promulgated on 12 December 1999 by the Ministry of Information Industry, any units which would like to engage in computer information system integration business shall pass the certification authentication and obtain the computer information system integration certification (計算機信息系統集成資質證書). The Ministry of Information Industry is responsible for the administration of computer information system integration

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certification authentication, including appointment and administration of certificate authentication institutions, issuance of administrative measures and standards, approval and promulgation of authentication results. The validity of the certificate is four years. The Certificate Authentication Working Office (資質認證工作辦公室) shall conduct biennial review on the qualified units.

According to the Notice of Ministry of Information Industry on Adjusting Validity Term of Computer Information System Integration Certification and Renewing the Certificate with New Version (信息產業部關於調整計算機信息系統集成資質證書有效期及換發新版資質證書的通知) issued by the Ministry of Information Industry on 10 January 2007, the validity term of the Certificates is changed to three years and the biennial review is cancelled from 1 July 2007.

The Requirements for Grade Estimation of Computer Information System Integration Certification (Revised) (計算機信息系統集成資質等級評定條件(修訂版)) promulgated on 13 October 2003 by the Ministry of Information Industry set out the specific requirements for enterprises to obtain the certificates of each grade. Enterprises applying for certificate of Grade III shall meet the requirements in performance, technology and management capacity and staff aspects, including but not limited to the enterprise, with the registered capital of more than RMB2.0 million, must have engaged in the system integration for more than two years and have completed at least one project of which the contract value is greater than RMB5.0 million in the past three years. The responsible person shall have more than three years of enterprise management experience in the electronic information technology domain. Furthermore, the number of relevant staff should not be less than 50 and at least 80.0% of them should have a bachelor degree or above.

Commerce & Finance confirmed that each of our Group’s subsidiaries in the PRC has obtained all the necessary governmental authorisations, approvals and relevant certificates required by the PRC laws and regulations to conduct their respective business within the scope of its business licences. As at the Latest Practicable Date, such authorisations, approvals and relevant certificates have not been revoked.

Advanced Technology Enterprises

The Administrative Measures for the Determination of Advanced Technology Enterprises (高新技術企業認定管理辦法) promulgated on 14 April 2008 jointly by the Ministry of Science and Technology of the PRC (中華人民共和國科學技術部), the Ministry of Finance of the PRC (中華人民共和國財政部) and the SAT and took effect on 1 January 2008, sets out the requirements and procedures to determine the advanced technology enterprises. In order to be recognised as an advanced technology enterprise, an enterprise must satisfy the requirements including but not limited to (i) having been registered within China and possesses independent intellectual property rights of the core technologies of its major products (services) by way of independent research and development, transfer, donation or acquisition in the past three years or through exclusive licensing for a minimum period of five years; (ii) the products (services) of the enterprise falling within the scope as prescribed in the High and New Technology Sector with Key State Support (國家重點支持的高新技術領域); (iii) having the scientific and technological personnel with the level of tertiary education or above in its employment, that account for at least 30.0% of the total number of employees in the year, and the number of personnel engaged in research and development constituting at least 10.0% of the total number of employees in the year; and (iv) having been engaged in continuous research and development activities for purposes of making pioneering discoveries in science or technology (excluding humanities and social sciences), making creative use of new scientific and technological knowledge, or substantially improving technologies or products (services). The proportion of its total

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research and development expenditure and its total sales revenue in the latest three accounting years shall also meet the stipulated requirements, such as having revenue from high and new technology products (services) that accounts for at least 60.0% of the total revenue of the enterprise in the year. The enterprise’s level of organisation and management of research and development, capacity of transformation of scientific and technological achievements, amount of independent intellectual property rights, growth in sales and total assets as well as other indicators shall conform with the requirements of the Guidelines on the Administration of Determination of Advanced Technology Enterprises (高新技術企業認定管理工作指引), which was promulgated jointly by the Ministry of Science and Technology of the PRC (中華人民共和國科學技術部), the Ministry of Finance of the PRC (中華人民共和國財政部) and the SAT and effective on 8 July 2008 and makes detailed rules on the issues concerning the determination of advanced technology enterprises. Qualified enterprises are issued with the Advanced Technology Enterprise Certificate with a validity period of three years. Where there are major changes in the business operation, production and technical activity (such as merger, restructuring, change in business activity, etc.) of a advanced technology enterprise, the enterprise shall report such changes to the relevant administrative authority within 15 days.

PRC LAWS ON TAX REGULATIONS

The PRC taxes that are levied on our subsidiary in the PRC mainly include EIT, VAT and business tax. Under PRC law, our PRC subsidiary is also required to withhold taxes on dividends payable to us.

PRC EIT Tax

Prior to 1 January 2008, the foreign-invested enterprises shall pay EIT pursuant to the Foreign-Invested Enterprise and Foreign Enterprise Income Tax Law of the PRC (中華人民共和國外商投資企業和外國企業所得稅法) promulgated by the National People’s Congress Standing Committee in 1991 (“**Prior EIT Law**”) and related implementation regulations. Pursuant to the Prior EIT Law, except for the preferential tax rates, a foreign-invested enterprise was subject to EIT at a statutory rate of 33.0%. In addition, certain foreign-invested enterprises were exempted from EIT for two years starting from the first profit-making year and followed by a fifty percent reduction of the EIT in the next three consecutive years.

On 16 March 2007, the National People’s Congress passed the EIT Law which became effective 1 January 2008. The EIT Law adopted a uniform tax rate of 25.0% for all enterprises (including foreign-invested enterprises) and revoked the current tax exemption, reduction and preferential treatments applicable to foreign-invested enterprises. However, according to the Notice to the EIT Law, there is a transition period for enterprises, whether foreign-invested or domestic, that received preferential tax treatments granted by relevant tax authorities prior to the effectiveness of the EIT Law. Enterprises that were subject to an enterprise income tax rate lower than 25% before the effectiveness of the EIT Law may continue to enjoy the lower rate and gradually transit to the new tax rate within five years after the effective date of the EIT Law. Enterprises that were granted preferential EIT treatments before the effectiveness of the EIT Law may continue to enjoy the preferential EIT treatments until their expiration.

Under the EIT Law, enterprises are classified as either “resident enterprises” or “non-resident enterprises.” Pursuant to the EIT Law and its implementation rules, besides enterprises established within the PRC, enterprises established outside China whose “de facto management bodies” are located in China are considered “resident enterprises” and subject to the uniform 25.0% EIT rate for

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their global income. According to the implementation rules of the EIT Law, “de facto management body” refers to a managing body that exercises, in substance, overall management and control over the manufacture and business, personnel, accounting and assets of an enterprise. In our circumstance, our substantial management is currently based in China and is expected to remain in China in the future. It is not clear whether we would be deemed as “resident enterprises” or not. In addition, although the EIT Law provides that dividend income between “qualified resident enterprises” is exempted income, and the implementation rules refer to “qualified resident enterprises” as enterprises with “direct equity interests”, it is not clear whether dividends we receive from our subsidiary are eligible for such exemption if we are deemed to be a PRC “resident enterprise”. If we are considered a PRC “resident enterprise” and thus required to withhold income tax for any dividends we pay to our non-PRC resident enterprise investors, the amount of dividends we can pay to our Shareholders could be materially reduced. In addition, any gain realised on the transfer of ordinary shares by our non-PRC resident investors is also subject to 10.0% PRC income tax if such gain is regarded as income derived from sources within the PRC.

Furthermore, the EIT Law provides that a non-resident enterprise refers to an entity established under foreign law whose “de facto management bodies” are not within China but which have an establishment or place of business in the PRC, or which do not have an establishment or place of business in the PRC but have income source within the PRC. The implementation rules of the EIT Law provide that after 1 January 2008, an income tax rate of 10.0% will normally be applicable to dividends declared to non-PRC resident investors which do not have an establishment or place of business in the PRC, or which have such establishment or place of business but the relevant income is not effectively connected to the establishment or place of business, to the extent such dividends are derived from sources within the PRC. The income tax on the dividends may be reduced pursuant to a tax treaty between China and the jurisdictions in which our non-PRC Shareholders reside.

In spite of the uniform tax rate adopted under the EIT Law, according to Article 35 of the PRC Tax Administrative Law (中華人民共和國稅收徵收管理法), and Articles 3 and 4 of the Measures on Authorised Methods of EIT Collection (Trial) (企業所得稅核定徵收辦法(試行)) (hereinafter referred as “**Authorised Methods Measures**”), the local tax authorities shall have the right to adopt the authorised methods to charge EIT in the event that any of the following six circumstances arises:

1. such taxpayer is not required to maintain any accounting books under applicable laws and regulations;
2. such taxpayer is required to maintain accounting books under applicable laws and regulations but he failed to do so;
3. such taxpayer destroyed its accounting books or refused to provide information for tax computation;
4. the accounting books of such taxpayer is not in proper order or its available accounting information is not sufficient for review;
5. such taxpayer failed to submit any tax return to the tax authority on time or upon repeated requests; or
6. the amount of taxable income submitted by such taxpayer was relatively low without justifiable reasons.

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Pursuant to Article 6 of Authorised Methods Measures, with regard to the taxpayers using the method featuring authorised taxable income ratio-based collection, the following formula shall be used to calculate their income tax payable: (i) Income tax payables equals to taxable income times applicable tax rate; or (ii) taxable income equals to total income times taxable income ratio.

PRC VAT

Pursuant to the Interim Regulation on the Value Added Tax of the PRC (中華人民共和國增值稅暫行條例) promulgated by the State Council on 13 December 1993 and amended on 10 November 2008, and its implementation rules, any entity or individual engaged in the sales of goods, the provision of processing, repairing and replacement services or the importation of goods in China is generally required to pay VAT on the added value derived during the process of manufacture, sale or service provided. Unless stated otherwise, for VAT payers who are selling or importing goods, and providing processing, repairs and replacement services in the PRC, the tax rate shall be 17.0%.

Business Tax

Pursuant to the Provisional Regulations on Business Tax of the PRC (中華人民共和國營業稅暫行條例) issued by the State Council on 13 December 1993 and amended on 10 November 2008 with effect on 1 January 2009, all units and individuals engaged in the provision of services as prescribed in these regulations and the transfer of intangible assets or the sale of immovable properties within the territory of the PRC shall pay the business tax in accordance with these Regulations. Tax payers who engage in construction and transfer of intangible assets are subject to the tax rate of 3.0% and 5.0% respectively.

REGULATION OF FOREIGN CURRENCY EXCHANGE AND DIVIDEND DISTRIBUTION

Foreign Currency Exchange

Pursuant to the Foreign Currency Administration Rules of the PRC (中華人民共和國外匯管理條例) promulgated by the State Council on 29 January 1996 and amended on 1 August 2008 and various regulations issued by the SAFE and other PRC regulatory bodies, Renminbi is freely convertible only to the extent of current account items, including the distribution of dividends, interest payments, trade and service-related foreign exchange transactions. Capital account items, such as direct equity investment, loans and repatriation of investment, require the prior approval from or registration with the SAFE or its local branch for the conversion of Renminbi into a foreign currency, and remittance of the foreign currency outside the PRC.

Dividend Distribution

The principal regulations governing distribution of dividends of foreign holding companies include the Company Law of the PRC (中華人民共和國公司法) promulgated by the Standing Committee of the National People’s Congress in 1993 and amended in 1999, 2004 and 2005, the Foreign Investment Enterprise Law of the PRC (中華人民共和國外資企業法) promulgated by the National People’s Congress Standing Committee in 1986 and amended in 2000, and the Administrative Rules under the Foreign Investment Enterprise Law (外資企業法實施細則) promulgated by the State Council in 1990 and amended in 2001.

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Under these laws and regulations, foreign investment enterprises in China may pay dividends only out of their accumulated profits, if any, determined in accordance with the PRC accounting standards and regulations. In addition, wholly-foreign-owned enterprises in China, like our PRC subsidiary, are required to allocate at least 10.0% of their respective accumulated profits after tax each year, if any, to fund certain reserve funds unless these accumulated reserves have reached 50.0% of the registered capital of the enterprises. These reserves are not distributable as cash dividends.

Circular 75

On 21 October 2005, the SAFE issued Circular 75, which became effective as of 1 November 2005. According to Circular 75, (a) a PRC citizen must register with the local SAFE branch before he or she establishes or controls a SPV for the purpose of conducting overseas equity financing; (b) when a PRC citizen contributes assets or equity interests to an overseas SPV, or engages in overseas financing after contributing assets or equity interests in a domestic enterprise to an overseas SPV, such PRC citizen must register his or her interest in the overseas SPV or any change to his or her interest in the overseas SPV with the local SAFE branch; and (c) when the overseas SPV undergoes a material change in capital outside the PRC, such as a change in share capital or merger and acquisition, the PRC citizen must, within 30 days after the occurrence of such event, register such change with the local SAFE branch. Moreover, Circular 75 applies retroactively.

Under the relevant rules, failure to comply with the registration procedures set forth in Circular 75 may result in restrictions being imposed on the foreign exchange activities of the relevant onshore company, including the increase of its registered capital, the payment of dividends and other distributions to its offshore parent or affiliate and the capital inflow from the offshore entity, and may also subject relevant PRC residents to penalties under the PRC foreign exchange administration regulations.

Mr. Jiang and Mr. Li have completed the initial foreign exchange registration for their overseas investment and the registration for the change of their beneficial interest in their overseas investments.

OTHER RELEVANT LAWS AND REGULATIONS

Regulations on Patents

Under the revised Patent Law of the PRC (中華人民共和國專利法) promulgated by the Standing Committee of the National People’s Congress on 27 December 2008 and effective on 1 October 2009, there are three types of patents, including invention patents, design patents and utility model patents. Invention patents are valid for twenty years, while design patents and utility model patents are valid for ten years, in each case commencing on their respective application dates. Persons or entities who use patents without the consent of the patent owners, make counterfeits of patented products, or engage in activities that infringe upon patent rights, are held liable against the patent owner for compensation and may be subject to fines and even criminal punishment.

The patent prosecution system in China is different in many ways from that in other countries. The patent system in China uses the “first to file” principle, which means when more than one person files a patent application for the same invention, the patent will be granted to the person who files the

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application first. In addition, China requires absolute novelty for the sake of an invention to be patentable. Therefore, in general, a patent will be denied if it is publicly known in or outside of China. Furthermore, patents issued in China are not enforceable in Hong Kong, Taiwan or Macau, each of which has an independent patent system.

Although patent rights are national rights, the Patent Cooperation Treaty (“PCT”) to which China is a signatory, allows applicants in one country to seek patent protection for an invention that may simultaneously exist in a number of other member countries by filing a single international patent application. The fact that a patent application is pending is no guarantee that a patent will be granted, and even if granted, the scope of a patent may not be as broad as the subject of the initial application.

Labour Protection

The PRC Labour Contract Law (中華人民共和國勞動合同法) was promulgated by the Standing Committee of the National People’s Congress on 29 June 2007 and became effective on 1 January 2008 and the Implementing Regulations of the PRC Labour Contract Law (中華人民共和國勞動合同法實施條例) was promulgated by the State Council and became effective on 3 September 2008. This law and its implementation regulations govern the establishment of employment relationships between employers and employees, and the conclusion, performance, termination of, and the amendment to, labour contracts. To establish an employment relationship, a written labour contract shall be signed. In the event that no written labour contract was signed at the time of establishment of an employment relationship, a written labour contract shall be signed within one month after the date on which the employer first engages the employee.

Under applicable PRC laws, rules and regulations, including the Social Insurance Law (中華人民共和國社會保險法), promulgated by the Standing Committee of the National People’s Congress on 28 October 2010 which has taken effective on 1 July 2011, the Interim Regulations on the Collection and Payment of Social Security Funds (社會保險費徵繳暫行條例) promulgated by the State Council and became effective on 22 January 1999, Interim Measures concerning the Maternity Insurance (企業職工生育保險試行辦法) promulgated by the Ministry of Labour on 14 December 1994 which became effective on 1 January 1995, the Regulations on Occupational Injury Insurance (工傷保險條例) promulgated by the State Council on 27 April 2003 which became effective on 1 January 2004 and amended on 20 December 2010, and the Regulations on the Administration of Housing Accumulation Funds (住房公積金管理條例) promulgated by the State Council and become effective on 3 April 1999 which was amended on 24 March 2002, employers are required to contribute, on behalf of their employees, to a number of social security funds, including funds for basic pension insurance, unemployment insurance, basic medical insurance, occupational injury insurance, maternity leave insurance, and housing accumulation funds. These payments are made to local administrative authorities and any employer who fails to contribute may be fined and ordered to make good the deficit within a stipulated time limit.