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## Tightening of Restrictions on Foreign Representative Offices in China

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Foreign companies investing in China, particularly those new to the country, often first establish a presence in the form of a representative office. A seasoning period as representative office is even required for foreign companies in the financial services industries before they can qualify to establish a joint venture or wholly foreign-owned enterprise. With the exception of law firm foreign representative offices, representative offices are restricted to liaison and market research activities and are prohibited from engaging in actual business.

The State Administration for Industry & Commerce (SAIC), whose functions include corporate registry, and the Ministry of Public Security on January 4 issued the [Notice Concerning Further Strengthening Administration of the Registration of Foreign Enterprise Permanent Representative Entities](#) ("the Notice").

The Notice calls for more stringent review of applications to establish or to change the name of foreign representative offices and a limitation on the term of new and renewed representative office licenses. While there is no sign that licenses cannot be renewed, the new term of one year at a time compared to the usual three years creates additional uncertainty and cost.

The Notice moreover calls for a general cap of four foreign representatives, including the chief representative, in a representative office. It is unclear why a cap has been imposed or why it was set at four. While four may not be burdensome for many representative offices, it could be a problem in the financial services industry in particular where a great deal of regulatory and government relations work must be conducted.

Inspections and enforcement will also be tightened, with SAIC's resources to be augmented by the Ministry of Public Security even though such work has historically not been regarded as police work.

The Notice has seemingly been issued to restrict and discourage the establishment and maintenance of foreign representative offices. It remains to be seen whether the Notice will discourage foreign investment.

Regardless, the Notice should alert foreign investors of the need to ensure that any existing or future representative offices confine their activities within the scope allowed for representative offices and to be ready with a strong justification if they need more than four foreign representatives.

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