

China

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CMS China

Sources of corporate governance rules and practices

1 Primary sources of law, regulation and practice

What are the primary sources of law, regulation and practice relating to corporate governance? Is it mandatory for listed companies to comply with listing rules or do they apply on a 'comply or explain' basis?

The PRC Company Law is the principal legislation regulating corporate governance in China. It applies to both limited liability companies and companies limited by shares, and regulates all aspects of companies, including shareholders' rights, responsibilities and duties of the board of directors, supervisors and other senior management.

Listed companies in China are subject not only to the PRC Company Law but also the following more stringent corporate governance rules: the PRC Securities Law, the Governance Rules on Listed Companies and other pertinent regulations.

The most common vehicles for foreign investment in China are: Sino-foreign equity joint venture enterprise, Sino-foreign cooperative joint venture enterprise and wholly foreign-owned enterprise (collectively FIEs). For FIEs, apart from the PRC Company Law the following special legislations shall apply:

- PRC Law on Sino-Foreign Equity Joint Venture Enterprises;
- PRC Law on Sino-Foreign Cooperative Joint Venture Enterprises; and
- PRC Law on Wholly Foreign-Owned Enterprises (collectively the FIE Laws).

In case of any discrepancy between the PRC Company Law and the FIE Laws, the latter shall prevail. The FIE Laws are also respectively supplemented by their Implementation Rules.

It is mandatory for the listed companies in China to comply with the listing rules promulgated by Shanghai Stock Exchange or by Shenzhen Stock Exchange, depending on their venues of listing.

2 Responsible entities

What are the primary government agencies or other entities responsible for making such rules and enforcing them? Are there any well-known shareholder groups or proxy advisory firms whose views are often considered?

The PRC Company Law, the PRC Securities Law and the FIE Laws were primarily formulated by the Standing Committee of the National People's Congress. The Governance Rules on Listed Companies were promulgated by the China Securities Regulatory Commission (CSRC).

The State Administration for Industry and Commerce (SAIC) and its local counterparts are primarily responsible for supervising the daily activities of the company and imposing penalties on the companies for non-compliant acts. The CSRC and the stock exchanges in Shanghai and Shenzhen also keep a close eye on the corporate governance of listed companies.

In China, there are no well-known shareholder activist groups or proxy advisory firms.

The rights and equitable treatment of shareholders

3 Shareholder powers

What powers do shareholders have to appoint or remove directors or require the board to pursue a particular course of action? What shareholder vote is required to elect or remove directors?

The shareholders' meeting has the right to appoint and remove directors. Normally, unless otherwise stipulated under the articles of association, the election or removal of directors requires a simple majority of votes cast by shareholders present at the meeting. For a company limited by shares, a cumulative voting system may be implemented for the election of directors (ie, the voting rights carried by each share shall correspond to the number of directors to be elected and the shareholders may use their voting rights collectively for the election of directors).

Except for Sino-foreign joint venture companies, the board of directors shall be accountable to the shareholders' meeting and execute the resolutions passed by the shareholders' meeting. For a Sino-foreign joint venture company, the board of directors is the highest authority of the company and the shareholders cannot request the board of directors to pursue a particular course of action, but the shareholders may replace a director on the board of directors.

4 Shareholder decisions

What decisions must be reserved to the shareholders? What matters are required to be subject to a non-binding shareholder vote?

The shareholders' meeting is the highest authority of a company. The following matters require the resolution of the shareholders' meeting:

- decision on the business plan and investment plan of the company;
- election and replacement of directors and supervisors and decision on the remuneration of directors and supervisors;
- examining and approval of the reports of the board of directors;
- examining and approval of reports of the supervisors or the supervisory board;
- examining and approval of the annual financial budget and final account plan of the company;
- examining and approval of the profit distribution plan and loss recovery plan of the company;
- increase or reduction of the registered capital of the company;
- issue of corporate bonds;
- merger, division, dissolution, liquidation or change of company form of the company;
- provision of security for its shareholder or actual controller; and
- amendment to the articles of association of the company.

For listed companies, more matters require the resolution of the shareholders' meeting, for example, the acquisition or selling of major assets or provision of a guarantee in an amount (within one year) exceeding 30 per cent or more of its assets.

However, for a Sino-foreign joint venture company, its highest authority is the board of directors. The above matters require the resolution of the board of directors and only the appointment and removal of the directors and supervisors are reserved to the shareholders.

Chinese law does not have the concept of non-binding shareholder vote.

5 Disproportionate voting rights

To what extent are disproportionate voting rights or limits on the exercise of voting rights allowed?

For a limited liability company, the voting rights exercisable by shareholders at a shareholders' meeting shall be based on the ratio of their capital contributions, unless otherwise provided in the articles of association of the company. For a company limited by shares, shareholders attending a shareholders' general meeting shall exercise one vote per share (ie, no disproportionate voting rights are allowed).

In addition, the shareholder of a company shall withdraw from voting on provision of security for such shareholder.

For a listed company, if its shareholder or the related party of such shareholder has an interest in the significant asset restructuring plan of the listed company, the relevant shareholder shall withdraw from voting on the restructuring plan. In addition, if the transaction counterpart and the controlling shareholder of a listed company have reached an agreement or consensus on transfer of the shares of the listed company or the nomination of directors to the listed company, which may lead to a change in the actual controlling right over the listed company, the listed company's controlling shareholder and its related party shall withdraw from voting.

In March 2014, China promulgated the Administrative Measures for the Pilot Programme for Preference Shares to introduce 'preference shares' to listed companies and unlisted public companies. For the shareholders holding preference shares, their voting rights are limited to the following matters:

- amendment of articles of association if such amendment is related to the preference shares;
- reduction of registered capital of the company by more than 10 per cent;
- merger, division, dissolution, liquidation or change of company form of the company;
- issuance of preference shares; and
- other matters stipulated under the articles of association.

6 Shareholders' meetings and voting

Are there any special requirements for shareholders to participate in general meetings of shareholders or to vote? Can shareholders act by written consent without a meeting? Are virtual meetings of shareholders permitted?

For a company limited by shares, holders of bearer shares attending a shareholders' meeting shall deposit their share certificates with the company from five days before the meeting until the conclusion of the meeting. Shareholders may appoint proxies to attend a shareholders' meeting. The proxies shall submit a power of attorney to the company and exercise the voting rights within the scope of authorisation.

For a limited liability company, subject to the unanimous consent of shareholders, a shareholders' resolution can be made in writing without meeting.

For a limited liability company, virtual meetings of shareholders are permitted provided that the virtual meetings have been agreed in the articles of association.

7 Shareholders and the board

Are shareholders able to require meetings of shareholders to be convened, resolutions and director nominations to be put to a shareholder vote against the wishes of the board, or the board to circulate statements by dissident shareholders?

For a limited liability company, meetings of the shareholders shall be classified into regular meetings and extraordinary meetings. Regular meetings shall be held on time as prescribed in the articles of association of the company. An extraordinary meeting shall be held where it is proposed by shareholders who individually or jointly hold more than 10 per cent of the voting rights of the company, by one-third or more of the directors or by the supervisors of the company. Shareholders are able to adopt resolutions and put director nominations to a shareholder vote against the wishes of the board.

For a company limited by shares, meetings of the shareholders shall be classified into general meetings and extraordinary meetings. A general

meeting shall be held annually. Under any of the following circumstances, an extraordinary meeting shall be held within two months:

- where the number of directors falls below two-thirds of the minimum number of directors as required by the PRC Company Law or as specified in the articles of association of the company;
- where the deficit not covered by the company reaches one-third of its total paid-in capital;
- where it is proposed by shareholders who individually or jointly hold more than 10 per cent of the voting rights of the company;
- where the board of directors deems it necessary;
- on the request of the board of supervisors; or
- any other circumstances specified in the articles of association of the company.

Shareholders are able to adopt resolutions and put director nominations to a shareholder vote against the wishes of the board provided that such matters have been stated in the proposals sent to the shareholders before the meeting of the shareholders.

8 Controlling shareholders' duties

Do controlling shareholders owe duties to the company or to non-controlling shareholders? If so, can an enforcement action be brought against controlling shareholders for breach of these duties?

The controlling shareholders shall not damage the interests of the company. Otherwise, either the company or the minority shareholder can initiate a litigation case against the controlling shareholder and claim for compensation suffered thereby.

9 Shareholder responsibility

Can shareholders ever be held responsible for the acts or omissions of the company?

Generally speaking, the answer is no. The liability of a shareholder of a limited liability company shall be limited to the amount of its capital contribution. The liability of a shareholder of a company limited by shares shall be limited to the number of its subscribed shares. However, if the shareholder of a company abuses the independent legal person status of the company and limited liability of shareholders to evade debts and causes damage to the interests of the creditors of the company, it shall bear joint liability for the company's debt.

Corporate control

10 Anti-takeover devices

Are anti-takeover devices permitted?

Chinese law does not explicitly prohibit anti-takeover devices. However, it is not common in China.

11 Issuance of new shares

May the board be permitted to issue new shares without shareholder approval? Do shareholders have pre-emptive rights to acquire newly issued shares?

The issuance of new shares or capital increase shall be subject to the approval of the shareholders. However, in the case of a Sino-foreign joint venture, the capital increase is decided by the board of the directors.

For newly issued shares or increased registered capital, the shareholders shall have the pre-emptive right in accordance with the ratios of their capital contributions.

12 Restrictions on the transfer of fully paid shares

Are restrictions on the transfer of fully paid shares permitted and, if so, what restrictions are commonly adopted?

For a limited liability company, the share transfer restrictions are as follows:

- A shareholder who intends to transfer its equity interests to a party other than existing shareholders shall obtain the consent of more than half of the other shareholders. The shareholder shall inform the other

shareholders of the proposed equity transfer in writing and seek their consent. Failure to reply within 30 days from receipt of the written notice shall be deemed as consent to the proposed transfer. Where more than half of the other shareholders do not consent to the proposed transfer, the non-consenting shareholders shall acquire such equity interests, failing which they shall be deemed to have consented to the proposed transfer. Where the shareholders consent to the proposed transfer, they shall still have pre-emptive right to acquire such equity interests on same terms. Where two or more shareholders intend to exercise their pre-emptive rights, they shall negotiate and determine the acquisition ratio. Where the negotiation fails, the shareholders shall exercise their pre-emptive rights based on the ratios of their capital contributions at the time of the proposed transfer. If the articles of association of the company stipulate otherwise regarding the share transfer, such stipulations shall prevail.

- Where a people's court handles transfer of equity interests of a shareholder in accordance with the enforcement procedures stipulated by law, it shall inform the company and all of its shareholders. The other shareholders shall have pre-emptive rights to acquire such equity interests on the same terms. Failure to exercise pre-emptive rights within 20 days from receipt of the notice of the people's court shall be deemed as a forfeiture of pre-emptive rights by the relevant shareholder.

For a company limited by shares, the share transfer restrictions of fully paid shares are as follows:

- Shares held by promoters shall not be transferred within one year from the date of incorporation of the company. Shares issued by the company before the public offering shall not be transferred within one year from the date on which the shares of the company are listed on a stock exchange. Shanghai Stock Exchange and Shenzhen Stock Exchange require a longer lock-up period for the controlling shareholders (three years after the listing).
- Directors, supervisors and senior management personnel of a company shall not transfer more than 25 per cent of their shareholding in the company during their term of appointment or transfer their shares within one year from the date on which the shares of the company are listed on a stock exchange. The aforesaid persons shall not transfer their shares in the company within half a year after leaving their post. The articles of association of the company may specify other restrictions on transfers of shares held by directors, supervisors and senior officers.

13 Compulsory repurchase rules

Are compulsory share repurchases allowed? Can they be made mandatory in certain circumstances?

Yes, compulsory share repurchases are allowed.

For a limited liability company, under any of the following circumstances, a shareholder who casts an opposing vote to a resolution passed by the shareholders' meeting may request the company to acquire its equity interests based on a reasonable price:

- the company has not made a profit distribution to the shareholders for five consecutive years although the company has been profitable for those five consecutive years and satisfies the statutory profit distribution requirements;
- upon the merger, division and transfer of main assets of the company; or
- the expiry of the term of business operations stipulated in the articles of association of the company or the occurrence of an event triggering dissolution stipulated in the articles of association, or the passing of a resolution by a shareholders' meeting to amend the articles of association for extension of the term of the company.

For a company limited by shares, compulsory share repurchases are limited to the situation when a shareholder casts an opposing vote to a resolution passed by the shareholders' meeting on merger and division.

14 Dissenters' rights

Do shareholders have appraisal rights?

Yes. See question 13.

The responsibilities of the board (supervisory)

15 Board structure

Is the predominant board structure for listed companies best categorised as one-tier or two-tier?

In China, the predominant board structure for listed companies is a single board of directors (one-tier structure). However, the listed company will also establish a board of supervisors to observe the behaviour of the board of directors and better protect the interests of the shareholders.

16 Board's legal responsibilities

What are the board's primary legal responsibilities?

The board of directors shall comply with the provisions of laws and administrative regulations and the articles of association of the company and bear fiduciary duties and duties of care and prudence towards the company. They shall not abuse their duties and rights to receive bribes or other illegal income and shall not embezzle company assets.

17 Board obligees

Whom does the board represent and to whom does it owe legal duties?

The board of directors represents the company and acts in the best interest of the company. The board of directors shall be accountable to the shareholder's meeting and also protect the common interests of all shareholders.

18 Enforcement action against directors

Can an enforcement action against directors be brought by, or on behalf of, those to whom duties are owed?

A director who violates the provisions of laws and administrative regulations or the articles of association of the company in the performance of his or her duties and powers, and causes the company to suffer damage, shall bear liability for compensation. In such case, for a limited liability company, any shareholder may submit a request in writing to the supervisor to file a lawsuit with a people's court against the concerned director. For a company limited by shares, the shareholders individually or jointly holding 1 per cent or more of shares in the company for 180 days consecutively may submit such request.

Where the supervisor refuses to file a lawsuit pursuant to the written request of the shareholders or fails to file a lawsuit within 30 days from receipt of the request, or where the circumstances are urgent and the company will suffer irrecoverable losses if a lawsuit is not filed forthwith, the aforesaid shareholders shall have the right to file a lawsuit with a people's court directly in their own name to protect the interests of the company.

19 Care and prudence

Do the board's duties include a care or prudence element?

Yes, the board's duties include a care and prudence element.

20 Board member duties

To what extent do the duties of individual members of the board differ?

All directors are subject to the same duties and obligations.

21 Delegation of board responsibilities

To what extent can the board delegate responsibilities to management, a board committee or board members, or other persons?

Other than the matters requiring the resolution of the board of directors under statutory law, the board of directors can delegate their responsibilities to the management.

22 Non-executive and independent directors

Is there a minimum number of ‘non-executive’ or ‘independent’ directors required by law, regulation or listing requirement? If so, what is the definition of ‘non-executive’ and ‘independent’ directors and how do their responsibilities differ from executive directors?

Under Chinese law, only a listed company shall have ‘independent’ directors. According to the Guiding Opinions on the Establishment of Independent Director Systems by Listed Companies (Guiding Opinions), each listed company shall have at least one-third independent directors in its board of directors. Among the independent directors, at least one of them should be a professional accountant. If a listed company establishes a remuneration committee, audit committee, nomination committee or other committees under the board of directors, independent directors should account for more than half of the members thereof.

The Guiding Opinion further stipulates that ‘independent director’ means a director who does not hold any position in the company other than director and who has no relationship with the listed company or its principal shareholders that could hinder him or her making independent and objective judgements. In addition, an independent director must not own more than 1 per cent of the shares in the company.

The independent director shall undertake the following specific obligations:

- approving the major related party transactions (with a total value of more than 3 million renminbi or more than 5 per cent of the listed company’s most recently audited net asset value) before such transactions are submitted to the board of directors for deliberation;
- proposing to the board of directors the engagement or dismissal of an accounting firm;
- proposing to the board of directors the convening of an extraordinary shareholders’ meeting;
- proposing the convening of a board meeting;
- independently engaging external auditing institutions and consultancies; and
- openly soliciting shareholders’ voting rights before convening a shareholders’ meeting.

In addition, an independent director should express his or her independent opinion to the board of directors or the shareholders’ meeting regarding the following matters:

- the nomination, appointment and removal of directors;
- the engagement or dismissal of senior management;
- the remuneration of the company’s directors and senior management personnel;
- any loans or funds transfer with an aggregated amount of more than 3 million renminbi or more than 5 per cent of the listed company’s most recently audited net asset value between the listed company and its shareholders, persons in actual control or the affiliates thereof, and whether the company has taken effective measures to recover the funds; and
- other matters that may, in an independent director’s opinion, prejudice the rights and interests of small and medium-sized shareholders.

23 Board size and composition

How is the size of the board determined? Are there minimum and maximum numbers of seats on the board? Who is authorised to make appointments to fill vacancies on the board or newly created directorships? Are there criteria that individual directors or the board as a whole must fulfil? Are there any disclosure requirements relating to board composition?

The following persons shall not take the position of a director:

- a person who has no civil capacity or who has limited civil capacity;
- a person who has been convicted for corruption, bribery, embezzlement of property or disruption of the order of the socialist market economy and a five-year period has not lapsed since expiry of the execution period or a person who has been stripped of political rights for being convicted of a crime and a five-year period has not lapsed since expiry of the execution period;

- a person who acted as a director, factory manager, manager in a company that has been declared bankrupt or liquidated and who is personally accountable for the bankruptcy or liquidation of the company, and a three-year period has not lapsed since the completion of bankruptcy or liquidation of such company;
- a person who has acted as a legal representative of a company which has its business licence revoked or being ordered to close down for a breach of law and who is personally accountable for this, and a three-year period has not lapsed since the revocation of the business licence of such company; and
- a person who is unable to repay a relatively large amount of personal debts.

For an independent director, more criteria apply.

According to the PRC Company Law, the size of the board of directors shall be determined by the shareholders’ meeting. Further, the members of the board of directors are appointed by the shareholders with the maximum term of office being three years. For a limited liability company, a board of directors must have three to 13 members. Companies with relatively few shareholders or of a relatively small scale may appoint one executive director instead of establishing a board of directors. For a company limited by shares, the members of the board of directors must have five to 19 members. In the case of a listed company, it shall disclose its board composition in its annual report. The shareholders’ meeting has the right to make appointments to fill vacancies on the board or newly created directorships.

24 Board leadership

Is there any law, regulation, listing requirement or practice that requires the separation of the functions of board chairman and CEO? If flexibility on board leadership is allowed, what is generally recognised as best practice and what is the common practice?

Chinese law does not require separation of the functions of board chairman and CEO. The board chairman may concurrently serve as the CEO. There is no flexibility on board leadership. The board of directors has one chairman who presides over the board meeting and is usually the legal representative of the company. The change of the chairman of the board of directors shall be registered with the competent company registration authority.

The best practice is to separate the board members and the CEO, but it is very common that the CEO is a board member.

25 Board committees

What board committees are mandatory? What board committees are allowed? Are there mandatory requirements for committee composition?

Board committees are not mandatory for companies. A listed company may establish a remuneration committee, audit committee, nomination committee or other committees under the board of directors. Independent directors should account for more than half of the members thereof. In addition, within an audit committee, at least one of the independent directors shall be a professional accountant.

26 Board meetings

Is a minimum or set number of board meetings per year required by law, regulation or listing requirement?

There is no minimum number of board meetings for a limited liability company (except for a Sino-foreign joint venture company at least once a year) under statutory law. Normally a limited liability company has one board meeting every year.

For a company limited by shares, the board of directors shall convene at least two meetings every year.

27 Board practices

Is disclosure of board practices required by law, regulation or listing requirement?

Chinese law only requires listed companies to disclose information on their board practice.

28 Remuneration of directors

How is remuneration of directors determined? Is there any law, regulation, listing requirement or practice that affects the remuneration of directors, the length of directors' service contracts, loans to directors or other transactions between the company and any director?

According to the PRC Company Law, the remuneration of directors is determined by the shareholders' meeting. The service term of a director is three years and is renewable upon reappointment.

A director shall not conclude contracts or enter into any transactions with the company without the consent of the shareholders' meeting or in violation of the articles of association. In case of a listed company, the remuneration of the directors shall be disclosed in the annual report and the independent director has the right to give opinion on the remuneration of the directors.

29 Remuneration of senior management

How is the remuneration of the most senior management determined? Is there any law, regulation, listing requirement or practice that affects the remuneration of senior managers, loans to senior managers or other transactions between the company and senior managers?

According to the PRC Company Law, the remuneration of the most senior management is determined by the board of directors.

A member of senior management (eg, a general manager, deputy general manager, financial controller, board secretary of a listed company, or other personnel as stipulated in the articles of association of the company) shall not conclude contracts or enter into any transactions with the company without the consent of the shareholders' meeting or in violation of the articles of association.

In case of a listed company, the remuneration of the senior management shall be disclosed in the annual report and the independent director has the right to express opinion on the remuneration of the senior management.

30 D&O liability insurance

Is directors' and officers' liability insurance permitted or common practice? Can the company pay the premiums?

Directors' and officers' liability insurance is permitted but still is not common practice in China. Chinese law does not prohibit a company from paying the premiums, but only the Governance Rules of Listed Companies explicitly stipulates that subject to the approval of the shareholders' meeting, a listed company may purchase liability insurances for its directors.

31 Indemnification of directors and officers

Are there any constraints on the company indemnifying directors and officers in respect of liabilities incurred in their professional capacity? If not, are such indemnities common?

According to the PRC Company Law and the Governance Rules of Listed Companies, a company shall not indemnify the directors and the officers in respect of liabilities owing to his or her violation of governing laws and articles of association of the company. In turn, the directors and the officers shall compensate the losses suffered by the company thereby.

32 Exculpation of directors and officers

To what extent may companies or shareholders preclude or limit the liability of directors and officers?

The directors of a company limited by shares shall be liable for resolutions of the board of directors. Where a resolution of the board of directors violates the provisions of laws and administrative regulations or the articles

of association of the company or a resolution of the shareholders' general meeting and causes the company to suffer serious damages, directors who adopted the resolution shall bear compensation liability towards the company. Where a director who can prove that he or she objected to the resolution and such objection is recorded in the meeting minutes, the liability of that director may be waived.

Chinese law does not clearly stipulate that a company or shareholder can preclude or limit the liability of directors and officers. However, in practice it is not uncommon that a company's articles of association include a clause stating that if a director in performing his or her duties on behalf of the company incurs liability towards third parties or the company, he or she shall be indemnified by the company, except for intentional or gross negligence or serious dereliction of his or her duties.

33 Employees

What role do employees play in corporate governance?

For a limited liability company or a company limited by shares, its board members may include an employees' representative, but this is not mandatory. However, for a wholly state-owned company and a limited liability company established by more than two state-owned entities, one of its board members must be an employees' representative.

In addition, a company shall have a supervisory board that shall comprise no less than three members (the supervisory board of a wholly state-owned company shall comprise no less than five members), among which at least one-third of the members shall be employees' representatives. However, a limited liability company with relatively few shareholders or of a relatively small scale may have one to two supervisors instead of establishing a supervisory board. In such case, the concerned supervisors do not have to be the representatives of the employees.

34 Board and director evaluations

Is there any law, regulation, listing requirement or practice that requires evaluation of the board, its committees or directors?

How regularly are such evaluations conducted and by whom?

What do companies disclose in relation to such evaluations?

Chinese law does not require evaluation of the board, its committees or directors. It is also uncommon in China to conduct such evaluation.

Disclosure and transparency

35 Corporate charter and by-laws

Are the corporate charter and by-laws of companies publicly available? If so, where?

For a listed company, its articles of association are publicly available through the official website designated by the CSRC.

For other companies, their articles of association are not publicly available. However, they may be obtained from the archives of the company registration authority by involving a lawyer or upon presenting an official case acceptance document issued by the court.

36 Company information

What information must companies publicly disclose? How often must disclosure be made?

For a listed company, it undertakes extensive information disclosure liabilities, which mainly include the prospectus, ad hoc announcements, regular reports, etc. Regular reports to be published by a listed company shall include annual reports, semi-annual reports and quarterly reports. Among these, the annual reports are the most extensive and shall include the following information:

- basic information of the company;
- key accounting data and financial figures;
- information on shares and bonds issued by the company and the changes thereto, the total number of shares and bonds and shareholders at the end of the reporting period, and information on the shareholding held by the 10 largest shareholders of the company;
- information on shareholders holding 5 per cent or more of the shares, controlling shareholders and actual controlling parties;
- information on the appointment of directors, supervisors and senior management, their changes in shareholdings and their annual remunerations;

Update and trends

On 19 January 2015, the Ministry of Commerce published the draft version of the PRC Foreign Investment Law for public comments. If adopted, foreign investment vehicles in the form of wholly foreign-owned enterprises, Sino-foreign equity joint ventures and Sino-foreign cooperative joint ventures will cease to exist. Accordingly, the corporate governance of such vehicles will be changed. For example, for a Sino-foreign equity joint venture, its highest authority will be changed from its board of directors to the shareholders' meeting so as to be consistent with the relevant provisions under the PRC Company Law.

- the report of the board of directors;
- the discussions and analysis of the management;
- significant events that occurred during the reporting period and their effect on the company;
- the financial accounting report and audit report in full text; and
- any other matter stipulated by the CSRC.

For all companies, the competent company registration authority has an online database. The scope of such electronic information may slightly vary depending on locality. However, normally it includes the basic information of the company, such as the company name, business scope, registered address, etc. Such information is publicly available.

A company must also submit, during the period from 1 January to 30 June of each calendar year, its annual report for the preceding year through the Enterprise Credit Information System to the competent company

registration authority. This requirement has been in place since 1 March 2014. The latter will disclose a part of the content of such annual report online. The company may choose not to disclose certain information of its annual report to the public (eg, asset conditions). Detailed stipulations are expected to be issued by the SAIC in the near future.

Hot topics

37 Say-on-pay

Do shareholders have an advisory or other vote regarding executive remuneration? How frequently may they vote?

The remuneration of the directors is determined by the shareholders and normally the remuneration will be reviewed every three years. The remuneration of the other executive members is determined by the board of directors and normally reviewed on a yearly basis.

38 Shareholder-nominated directors

Do shareholders have the ability to nominate directors and have them included in shareholder meeting materials that are prepared and distributed at the company's expense?

Shareholders are entitled to nominate directors. It is not mandatory for a private company to have the nomination of directors included in its shareholder meeting materials. A listed company shall establish a standardised and transparent procedure for electing directors in its articles of association, and shall disclose detailed information regarding the candidates for directorship prior to the convening of the shareholders' meeting.

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