



CHINA | Mandatory Social Insurance Registration for Most Foreign Workers

On October 15, 2011, the People's Republic of China's (PRC) Standing Committee of the National People's Congress will announce a phased implementation of its Social Insurance System (SIS) that will require virtually all Chinese companies and overseas companies with branches and representative offices in China to enroll their expatriate workers in China's national social insurance system. While comprehensive SIS regulations and protocols are not yet finalized, companies with assignees in China should immediately review their potential compliance requirements regarding this new regulation.

Social Insurance Requirement

Earlier this year, the PRC Social Insurance Law was introduced to establish a national SIS for all PRC national employees. On September 6, 2011, the Ministry of Human Resources and Social Security issued the Interim Measures for Participation in Social Insurance System by Foreigners Employed in China (Interim Measures) scheduled for implementation on October 15, 2011.

Under the Interim Measures, Chinese and overseas employers will be required to enroll all PRC and expatriate employees into social insurance that is comprised of five insurance programs:

- Pension
- Medical
- Work-related injury
- Unemployment
- Maternity Leave

What's Changed?

The SIS's Interim Measures will require that all foreign workers be included in the national insurance program.

Prior to these measures, foreign workers were not required to participate in China's social insurance system and remained covered under the company's collective or the foreign worker's private insurance plans.

Pro-Link GLOBAL has been informed by China's State Bureau that October 15 is the date that the State Bureau will officially announce the SIS program, however, for different provinces this new program may not be carried out so quickly. Each province

will make its own announcement and details of implementation later. For example, at this time, there is no estimated date for social insurance registration in Shanghai.

Defining a Foreigner

The measures define a "foreigner" as a non-Chinese national legally employed to work in China in one of the following Work Permit categories:

- A Permanent Resident
- Foreign Expert Certificate
- Employment License
- Overseas Correspondent/Journalist
- Overseas Representative Office worker, inclusive of a Chief Representative Officer
- Hong Kong, Macau and Taiwan national workers

In addition to holding work authorization, a "foreigner" must also possess a valid Residence Permit.

What remains unclear in the Interim Measure's definition is whether foreign workers sponsored by a Wholly Foreign-Owned Enterprise (WFOE) or Joint Venture (JV) are also required to be registered for social insurance.

Labor Bureaus to Inform SIS of New Foreign Workers

The SIS will require that all municipal and provincial Labor Bureaus to notify their local social insurance agencies of new foreign worker applications submitted to the Labor Bureau.

In addition, the SIS may perform random checks of employers to ensure that all foreign workers required to register are appropriately registered.

For instance, nationals of Hong Kong, Macau and Taiwan working in the PRC without a work permit will be required to obtain a work permit and join the SIS.

ACTION ITEMS FOR EMPLOYERS

As stated above, while implementation at the municipal and provincial levels may take some time, companies with existing and new assignees in China should immediately review with their Global Mobility providers their potential compliance requirements with SIS regulations.

At this time, Pro-Link GLOBAL has been advised that this change will not impact the filing of any initial PRC work and residence permit applications. However, as the Labor Bureaus are to share existing and newly-filed work permit application information with the social insurance agencies, it is recommended that companies take a census of all existing and new assignees to determine local SIS enrollment requirements and notify assignees of potential changes to their overall compensation packages.

In addition, under the Interim Measures, foreign workers must be registered with their local social insurance agency within 30 days of commencing employment in China. Once registered, foreign workers will receive a social insurance number and an insurance card.

Companies are also urged to review with their international compensation and benefits administrators the issues regarding entitlements under Chinese social insurance, the impact on including social insurance payments in an expatriate's compensation package, and the overall potential cost to the company's expatriate program within

China.

Failure to comply with these new measures could result in civil penalties for the sponsoring employer.

This news alert was provided in coordination with our Pro-Link GLOBAL China office.

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