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**NEWSLETTER**

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(Henry Zhuang & Partners)

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**PRC TORT LIABILITY LAW AND IMPLICATIONS FOR INVESTORS**

On 26 December 2009, the **Tort Liability Law of the People's Republic of China** was promulgated by the PRC legislative body, which will be implemented as from 1 July 2010. For investors with interests and activities in China, an understanding of the potential risks surrounding tort liabilities is essential so that the appropriate measures, such as the necessary insurance policies, can be taken out to prevent liabilities.

The new Tort Liability Law is composed of twelve chapters regulating various types of tort liabilities, such as products liabilities, vehicle accident liabilities, medical malpractice liabilities, environmental pollution liabilities, animal damage liabilities, etc. For investors in China, many stipulations contained in the Tort Liability Law are related. For example:

- If an investing company may release pollutant, the aggrieved party may claim damages even if the pollution is caused by a third party. Of course, according to the Tort Liability Law, the aggrieved party may also elect to claim against such third party directly. When a claim is made against a company, it shall have to pay compensation unless it may prove that the pollutant in question is not released by it or that it is not liable according to law (such burden of proof is not borne by the aggrieved party). After a company pays the compensation and the pollution is in fact caused due to a third party's fault, then the company will be entitled to claim such third party for indemnification.
- According to the Tort Liability Law, if a manufacturer and/or a vendor is/are claimed for product defect damages, no matter who is in fault in having caused such defect, the manufacturer and/or the vendor claimed shall have to pay the compensation first, thereafter, the manufacturer and/or the vendor may claim

against each other or against transporter/ warehouse for indemnification based on the fault in the occurrence of such defect.

- If an investor owns or operates a hotel or a shopping area, it should be noted that according to the Tort Liability Law, a public place may include a hotel, shopping mall, bank, railway station, etc., and if a public place keeper or a public activity organizer of a public place fails to perform its safeguard obligations and such failure results in damage to an aggrieved party, that keeper or organizer shall bear the tort liability for such damage.
  
- The new Tort Liability Law expressly stipulates that if an employee of a company, due to his job performance causes damages to a third party, the company as the employer shall bear the tort liability for such damages.

Upon request, we may provide you with a copy of the Tort Liability Law (in Chinese).

Yours faithfully,

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