

China Implements New Charity Law

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In May, we wrote about China's new [Charity Law](#) (official Chinese version available [here](#); unofficial English translation available [here](#)) and its establishment of a comprehensive framework for revamping the government's management of the social sector. For decades, charities, social organizations, and civil society groups have operated in a quasi-legal environment where enforcement has been unpredictable and inconsistent. For some organizations, legal uncertainty has been a source of operational freedom, while for others, it has been perceived as a hammer waiting to drop. Social organizations working on noncontroversial or government-endorsed issues, such as poverty alleviation or healthcare, have enjoyed a wider berth than those involved with minority rights, religion, or other controversial issues. Observers of the new *Charity Law* are hopeful that it will facilitate an expansion of the social sector, but are aware that much depends on the details of implementation. (Note that the *Charity Law's* provisions affect not only domestic and foreign non-profits, but also a wide range of companies and corporate social responsibility initiatives and should be distinguished from the [Foreign NGO Law](#), which applies only to foreign NGOs).

Effective as of September 1, the *Charity Law* includes an expanded definition of "charitable activities," tax incentives for qualifying organizations, new registration procedures, and rules for donation and volunteer management. As is common in Chinese lawmaking, the *Charity Law* only provides a high-level blueprint for intended reforms, with greater detail to be provided later through measures designed to clarify the specifics of implementation and enforcement. As of late October, the *Charity Law* has been followed by seven accompanying regulations that clarify new rules regarding registration, public fundraising, establishing trusts, and more.

A few key highlights:

- **Registering as a Charitable Organization.** The Ministry of Civil Affairs ("MCA") has released the [Notice on Relevant Issues Concerning the Registration of Charitable Organizations](#), which allows for entities to register directly as charitable organizations, with specific application requirements for each type of entity (e.g., foundation, social group, or social service provider). The Ministry has also released the [Measures for the Recognition of Charitable Organizations](#), which specify the conditions an organization must satisfy in order to be officially recognized as a charitable entity (e.g., not seeking to profit from its activities). Organizations that have been subject to an administrative punishment within the last two years are disqualified.
- **Rules for Fundraising Platforms.** MCA and a number of other ministries jointly released the [Administrative Measures for Public Fundraising Platforms](#), which require operators of public fundraising platforms to verify the charitable status of organizations using their platform and report illicit behavior in a timely manner. On August 31, MCA released the [first batch of approved internet fundraising platforms](#), including those of Tencent, Taobao, Xinhua, and Baidu.
- **Rules for Fundraising Organizations.** MCA issued the Administrative Measures for Public Fundraising Conducted by Charitable Organizations, which specify conditions to be met in order to obtain public fundraising qualifications. For instance, organizations that are qualified to fundraise publicly must file a fundraising plan with their local MCA department 10 days prior to the start of the campaign.
- **Establishing Charitable Trusts.** MCA jointly released with the China Banking Regulatory Commission

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(“CBRC”) the [Notice for Effective Implementation of Rules Related to the Filing of Charitable Trusts](#), which provides instructions on record filing procedures for charitable trusts and clarifies how regulatory agencies such as MCA and CBRC will regulate them.

- **Law Enforcement.** MCA released [Rules for Regulators on Legal Enforcement by Means of Meeting with Social Organizations \(Trial\)](#), which instruct regulating agencies on law enforcement procedures. Upon noticing illegal behavior, regulators may arrange for a meeting with the organization’s representative and suggest ways of correcting this behavior in a timely manner. Furthermore, MCA’s [Measures for Handling Complaints and Reports on Social Organizations \(Trial\)](#) assign responsibility to certain agencies and offers a set of guidelines for handling complaints on social organizations.

All seven accompanying regulations are now in effect. New measures may be released in the future. As a result, all interested or affected parties should follow this issue closely.

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