

## CHINA'S FOREIGN NGO (FNGO) LAW

The People's Republic of China's "Law on the Management of the Activities of Overseas NGOs (Non-Government Organizations) within Mainland China," or China's Foreign NGO (FNGO) Law, was passed on April 28, 2016, and will become effective Jan. 1, 2017. The law is expected to allow the government to have more active oversight and supervision of the foreign agencies that are operating in China. Whereas the supervision of nonprofits previously lay with the Ministry of Civil Affairs, under the new law, it will now reside with the Ministry of Public Security.

### OVERVIEW

This law centralizes the registration, management and reporting of FNGOs with the Ministry of Public Security.

- **Registration:** Any foreign organization that wishes to have operations or office in China must identify an approved Chinese partner organization, or "Professional Supervisory Unit" (PSU), as its sponsor before registering with the Ministry of Public Security. Foreign organizations wishing to be active in China without establishing an office or staff must file for "temporary activities," also with the support of a Chinese partner organization.
- **Management:** FNGOs' supervisory unit will share dual management and legal responsibility of the FNGO and its operations.
- **Reporting:** The law mandates regular reporting of activities with the Ministry of Public Security. A report on prior year's work is due annually by Jan. 31 and a work plan for the year ahead is due annually by Dec. 31.

The law further provides guidelines around FNGO activities that are permitted and those that are prohibited.

- **Permitted fields:** Economy, education, science and technology, culture, health, sports, environmental protection, poverty alleviation and disaster relief. A full list of permitted programming fields with possible additions will be later released by the Ministry of Public Security.
- **Prohibited activities:** Any activity that threatens China's security or national or ethnic unity; harms national interests, public interests, legal rights of citizens; funding of for-profit, political or religious activities.

An English translation of the law is available from [China Development Brief](#).

### AFFECTED ENTITIES

Approximately 7,000 not-for-profit, non-governmental social organizations such as foundations, social groups or think tanks, that are lawfully established outside mainland China are affected by the law.

- Includes foreign intermediary or granting organizations that send funds to Chinese NGOs.
- Foreign schools, hospitals, science and engineering technology research establishments or academic organizations engaging in exchange or "cooperation activities" with institutions or organizations within China will follow relevant state regulations but must not pursue any activities that violate the FNGO law.

## IMPACT ON CORPORATE PHILANTHROPY AND CSR PROGRAMS

- Some organizations with nonprofit status elsewhere are currently registered and operating in China as a corporation or social enterprise. At this time, it is not clear how the law will impact such organizations.
- Corporate funders may consider aligning their CSR programmatic strategy for China with the permitted fields (see page 1) or UN Sustainable Development Goals (SDGs), which China has pledged to support.
- Both FNGOs and local NGOs (whose activities are covered under separate law and regulations) may be hesitant to receive foreign funding, particularly for projects in 2017, until the governing regulations around this policy are clearly outlined. Corporate funders should have early and open conversations with FNGO or local NGO partners and look to them on guidance for how to approach the new law.
- FNGOs may not fundraise in China. While there is some ambiguity around the fundraising regulations, it is possible that office fundraising for FNGOs will not be permitted and funding by a local corporate office for volunteering with an FNGO may also be impacted.
- The police will have broad powers, such as search and seizure and detention of representatives without warrant.
- FNGOs may be intimidated by the new restrictions of the law and some may decide to ultimately end their presence in China to avoid the regulatory requirements.

## FUTURE OF THE POLICY

- The governing regulations around this law will be available before Jan. 1, 2017. Additional information guiding the implementation and enforcement of the law may be released in the summer or fall of 2016.
- A list of Chinese government agencies, universities and other organizations that are permitted to serve as a sponsor or PSU for FNGOs will be issued in the coming months. It is not clear how extensive this list will be. PSUs will not receive funding from the government or be able to charge a fee for their administrative support. This lack of incentive for organizations to act as a PSU may make it more challenging for FNGOs to register.
- The law does not provide details on tax implications of these provisions, but more information is expected in the next few months.

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