Fair Labor ISSUE BRIEF

NOVEMBER 19, 2026

China's mandated employer contributions for social insurance and the Housing Provident Fund

THE ISSUE

Article 72 of the People's Republic of China (PRC) Labor Law and the Social Insurance Law require employers to register employees in government social insurance programs and pay contributions. However, employers in China's manufacturing supply chains are increasingly reducing their contributions through several methods, including implementing worker waivers and cash-in-lieu arrangements, only partially enrolling workers in benefits programs, and under-declaring wages.

Employers' failure to provide legally-mandated benefits violates workers' rights and the Fair Labor Association's (FLA) Fair Labor Code. Employers that do not pay legally-mandated contributions can face contribution arrears, late-payment charges, administrative penalties, and worker severance claims (if relevant legal conditions are met). Enrollment and contribution disputes can also disrupt operations.

FLA members and affiliates, as well as third-party auditors, must ensure that both owned factories and suppliers in China are making contribution payments in accordance with the law, and address any gaps in coverage and contributions for workers.

BACKGROUND

China's statutory employment benefits include two mandatory programs that are often reviewed together in social compliance audits but have separate legal and administrative rules. Together, these programs can represent a substantial cost for employers, but the combined amount depends on the applicable rates and wage bases.

1. Social insurance

China's Social Insurance Law provides for pension, medical, unemployment, work-related injury, and maternity insurance for workers. Maternity and employee medical insurance are administered together.

The standard employer contribution rate for enterprise employee pension insurance is 16% under the national pooling policy. Other rates vary by program and locality, so there is no single nationwide combined employer rate. In general, employers must provide contributions using the legally applicable wage base, including overtime and bonuses where required. Employee pension

bases are generally subject to a floor of 60% and a ceiling of 300% of the relevant provincial average wage.

2. The Housing Provident Fund (HPF)

HPF is a compulsory savings program designed to assist workers in purchasing a home, governed by the Regulations on Management of Housing Provident Fund. Employers and employees each contribute between 5%–12%, depending on local rules and practice.

HPF follows its own set of regulations regarding contributions. Employers' minimum contribution base can be tied to the local minimum wage. However, employers should note that using the minimum floor when a higher wage base applies results in underpayment.

KEY REQUIREMENTS REGARDING EMPLOYERS' OBLIGATIONS

China's Supreme People's Court (SPC) clarified employers' obligations to pay statutory social insurance contributions through Judicial Interpretation II on Labor Disputes (SPC Interpretation No. 12 [2025]), effective September 1, 2025.

Key requirements from this interpretation include the following:

- A worker's preference for cash, a signed waiver, or an informal assurance of local non-enforcement does not excuse an employer's non-compliance. Any agreements, such as those between employers and employees, to waive social insurance contributions are invalid.
- If an employer fails to make legally-required social insurance contributions, workers have grounds to terminate their employment and claim statutory economic compensation, such as severance, subject to applicable legal conditions. Courts should support employees' eligible claims.
- After making required back payments, an employer may seek recovery of social insurance compensation or cash allowances previously paid to the worker in lieu of contributions. This is distinct from the worker's statutory economic compensation entitlement.

GAPS IN ENROLLMENT AND CONTRIBUTIONS

FLA assessments from 2016-2021 have identified persistent gaps in employers registering their employees in these programs. According to the most recent FLA data available from 2021 factory assessments regarding HPF enrollment:

- Only 25% of assessed factories had registered all workers;
- 10% had registered only some workers; and
- 65% had not registered any workers.

Among factories that registered only some workers, the average declared contribution base was approximately 46% below workers' actual average earnings.[1]

The China Enterprise Social Security White Paper 2024 provides further evidence of contribution gaps, with reports that only 28% of surveyed enterprises used fully compliant wage bases when completing their contribution payments. Other respondents reported using the minimum contribution floor or fixed salaries, excluding bonuses.[2]

Several persistent factors help explain these gaps. Some workers earning low wages, including migrant workers, prioritize immediate take-home pay over longer-term benefits and may request to opt out of these contributory programs. Employers face cost pressures, choosing to reduce spending on employee benefits where possible. Historically, uneven local enforcement of funding these contributions has allowed gaps to persist.

FLA RECOMMENDATIONS

The SPC's interpretation provides employers with an opportunity to address longstanding compliance gaps and protect workers' access to benefits during illness, injury, unemployment, retirement, and other qualifying circumstances.

FLA encourages its members and affiliates sourcing from China to:

1. Reinforce legal requirements: Inform suppliers and internal teams that Judicial Interpretation II clarifies existing social insurance obligations. Explain that HPF has its own rules and that worker waivers, cash substitutes, and informal non-enforcement letters do not establish lawful exemptions.

2. Verify coverage and contribution bases: Require suppliers to review all legally eligible workers, the wages used to calculate contributions, and actual payments. Pay particular attention to omitted wage components and the use of minimum floors when higher bases apply.

3. Set time-bound corrective action plans: Agree on documented steps, deadlines, and evidence of completed processes to ensure appropriate contributions. Verify the legal basis for exclusions or approved relief, including the individual circumstances of re-employed retirees.

4. Assess historical liabilities: Require suppliers to evaluate arrears, applicable surcharges, administrative exposure, and potential employee claims. Plans should cover back payments and obtain appropriate legal guidance before seeking recovery of earlier cash in lieu of contributions.

---

1 These findings identify substantial gaps within FLA-assessed facilities; however, they should not be presented as representative of all Chinese factories.

2 These are survey findings, not official national compliance statistics.

5. Communicate with workers: Ensure workers understand their coverage, contributions, benefits, and any payroll changes arising from remediation. Provide a clear channel for questions and concerns.

In addition, FLA members, affiliates, and auditors should verify the following information with suppliers and owned factories as part of regular due diligence processes:

1. Examine waivers and informal arrangements: Treat waivers, cash subsidies, and informal non-enforcement letters as evidence requiring review, rather than proof of a lawful exemption. Verify the statutory basis and approval for any reduced payment or deferral.

2. Reconcile records: Compare worker rosters, employment contracts, payroll, relevant tax filings, social insurance records, HPF statements, and payment evidence. Registration alone does not demonstrate correct or timely contributions.

3. Assess each system independently: Verify coverage, contribution bases, rates, and remittance under the rules applicable to both social insurance and HPF. Compliance with one does not establish compliance with the other.

4. Check worker communication and remediation: Confirm that workers receive clear information about the contributions and that any exclusions are legally justified. Follow up on corrective action plans and verify that payments reach the appropriate accounts.

CODE ELEMENTS

THE GOVERNING ELEMENT OF THE FAIR LABOR CODE: EMPLOYMENT RELATIONSHIP & COMPENSATION

"Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at minimum, safeguard their rights under national and international labor and social security laws and regulations."

"Every worker has a right to compensation for a regular work week that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any benefits required by law or contract. Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does."

FLA EMPLOYMENT RELATIONSHIP & COMPENSATION BENCHMARKS: ER.1, ER.15, AND C12

ER1 Employment Management Systems / Human Resources

ER.1.1 Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring, and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.

ER15 Termination and Retrenchment / Termination Payouts

ER.15.3 Employers shall not demand that workers sign any declaration of good health, waivers ,or releases of other rights as a condition of receiving severance pay or other legal benefits* from the company, and shall not threaten to withhold benefits if workers do not sign.

C.12 Deposit of Legally Mandated Deductions

C.12.1 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
C.12.2 Employers shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g. monthly deposits, weekly pay).

ABOUT THE FAIR LABOR ASSOCIATION

The Fair Labor Association (FLA) promotes human rights at work. We are an international network of companies, universities, and labor and civil society organizations collaborating to ensure that millions of people working at the world's factories and farms are paid fairly and protected from risks to their health, safety, and well-being.