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## China's New Anti-Corruption Agency Tests Its Strength

Since taking office in 2013, Chinese President Xi Jinping has waged a high-profile campaign against corruption in Chinese government and business. For the first four years of his tenure, the primary vehicle for this campaign was the Central Commission for Discipline Inspection (“CCDI”) of the Chinese Communist Party (“CPC”), a long-standing anti-corruption body with powers limited to investigating members of the Party, the state, and state-owned enterprises. But early this year, officials rolled out a new agency with a broader mandate than the CCDI, which may become the centerpiece of China's anti-corruption enforcement, although its true impact remains to be seen.

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### I. The Structure and Powers of the National Supervisory Commission

Often called the “National Supervisory Commission” (“NSC”) in English-language press, the new agency has broad authority to conduct investigations, detain suspects, freeze assets, gather evidence, and hand down convictions entirely outside of China's system of courts and prosecutors. NSC investigators can even detain and question targets without an attorney present, a power previously reserved to the judicial organs and CCDI. For now, the NSC is limited to pilot programs in Beijing, Shanxi, and Zhejiang, but officials plan to expand it to all of China by March 2018. As envisioned by Party insiders, the NSC will have an independent national mandate from the National People's Congress, and at the provincial level, members of the local commissions will be accountable to the provincial legislature. Wang Qishan, the Party official who heads the CCDI and the person primarily responsible for carrying out President Xi's anti-corruption campaign, is slated to run the NSC when it goes nationwide, and the CCDI and NSC will share offices and resources.

This is not to say, however, that the NSC will be a mere appendage of the CCDI. Indeed, one of the primary aims of the NSC is to target corruption *within* the CCDI and the state judiciary. The independent legislative mandate for the NSC is meant to give the NSC a free hand to pursue corruption wherever it finds it, and Wang Qishan has already shown an appetite for public punishment of CCDI officials who themselves engage in corruption. For example, three former CCDI officials convicted of corruption offenses, including the former head of the Guangdong CCDI, who faces a suspended death sentence for bribery, were made to confess and apologize in a nationally televised documentary last year. As the CCDI itself has said, “trust cannot replace supervision” of the inspectors. The ultimate goal of the new NSC structure is to set up one consolidated anti-corruption agency with centralized and comprehensive supervisory power over public-sector personnel. This has led anti-corruption officials to compare themselves to the Imperial Chinese system of “investigating censors,”<sup>1</sup> who had broad authority to bring down otherwise very powerful civil servants.

### II. Enforcement Trends under the National Supervisory Commission

This new agency will change the landscape of anti-corruption enforcement in China, and multinationals operating there should pay close attention to this new agency's enforcement actions, especially those who have partnered or entered into joint ventures with state-owned enterprises. Already, the agency has begun to pursue its mandate on a large scale. The first detention by the NSC came in Zhejiang on March 17, 2017, less than 90 days after the local

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<sup>1</sup>监察御史

NSCs were established, and the pace has rapidly quickened. For instance, on April 13, 2017, the Shanxi NSC imposed a 90-day detention on the former head of a state-owned, Shanxi-based international coal trading company as part of an ongoing corruption investigation begun by the CCDI. By early June 2017, the Beijing and Shanxi NSCs had each imposed detention measures<sup>2</sup> in at least nine cases, and the Shanxi NSC had had “talks” with over 5,000 people, initiated 2,358 interrogations, and performed ten searches.

### III. Conclusion

While the NSC mandate is still limited to Chinese public-sector personnel,<sup>3</sup> NSC enforcement actions could lay the groundwork for additional criminal and civil prosecutions by other enforcement agencies. Already this year, an Australian casino operator has decided to scale back its operations in China after 18 of its staff—including three Australian citizens—were caught up in an anti-corruption investigation related to advertising gambling to Chinese citizens. Multinationals can take steps now to educate China-based staff on the broad powers of the new agency, audit Chinese operations, and pay special attention to the corruption enforcement risk of entanglements with Chinese public-sector personnel, including those at state-owned enterprises. Only time will tell how far President Xi’s anti-corruption push will go, but for now there is no reason to think that the Chinese government will back off on its aggressive anti-corruption campaign.

For more information, please feel free to contact a member of Ropes & Gray’s leading [anti-corruption / international risk](#) and [government enforcement](#) teams.

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<sup>2</sup>留置措施

<sup>3</sup>公职人员