

Introduction to the new PRC
Foreign Invested Commercial
Enterprises Regulation
MOFCOM Notice[2004]-No. 8

Administration Measure for Foreign Investment in Commercial Sector (MOFCOM Notice[2004]-No. 8)

- Issued by Ministry of commerce on April 14, 2004
- Remove major hurdles for expansion in China's distribution sector
- HK & Foreign companies of all size can enter the China consumer market under new regulation

Business Scope of “ Commercial Enterprises ”

- FICE refer to enterprises that are engaged in any one or all of the following activities:
- Wholesaling
- Retailing
- Franchising
- Commission agent services

Milestones in China's opening of the trading & distribution sectors

- June 29, 2003 – conclusion CEPA
- Dec 11, 2003 – China enter WTO
- Jan 1, 2004 – CEPA effective
- April 16, 2004 – Promulgation MOFCOM Notice [2004] – No. 8
- June 1, 2004 – Effective date of MOFCOM Notice [2004] – No. 8 (HKSS can enter China under new regulation)
- Dec 11, 2004 – MOFCOM Notice [2004] – No.8 became effective (Total market liberalisation to other foreign investor)

Major feature of New regulation

- Lowering entry thresholds
- Expansion of business scope
- Delegation of approved authority
- Removal of import restriction
- Removal of geographical restriction

Lowering entry thresholds

	WTO	CEPA	MOFCOM
Min. reg. Capital for set up wholesale and retail	W : RMB 80M R : RMB50M	W : RMB 50M R : RMB 10M	W : RMB 500K R : RMB 300K
Investor average annual sales in preceding 3 years	W : USD25B R : USD2B	W : USD 30M R : USD 100M	N/A
Investor assets in the preceding year	W : USD300M R : USD200M	W : USD 10M R : USD 10M	N/A

Expansion of business scope

- Wholesale : Wholesale of merchandise, commission agent, import and export of merchandise and other auxiliary services
- Retail : retail of merchandise, importation of merchandise on its own account, procurement of domestic merchandise for export and other auxiliary services
- Franchise : grant franchise to their parties to open shop

Delegation of approved authorities

- Under certain circumstances, the MOFCOM delegate authority to Provincial authority

Removal Import Restriction

- 30% cap on annual import overseas merchandise is removal
- FICE full import/export rights

Removal of geographical restriction

- June 1 , 2004 : No geographical restriction for wholesaling
- Dec 11, 2004 : No geographical restriction for retailing

Criteria for open shop

- Proposed shop must confirm to urban development plan and commercial development plan of the city where it is located

Approval for MOFCOM at Provincial level

- Any single shop area < 3000 square meters.
Total shops within one province < 3 , total shop within the whole country < 30
- Any single shop area < 300 square meters.
Total shops within one province < 30 , total shop within the whole country < 300

Procedure for setting up FICE in China

Procedure	Government authority
Name pre-registration	Local Administration for Industry and Commerce –AIC
Application for approval on setting up FICE – 1 st tier review	Provincial level of MOFCOM
Application for approval on setting up FICE – 2 nd tier review	MOFCOM
Application for business license	Local AIC

Medium to Small companies

- June 1 , 2004 – HKSS apply to open CEPA companies in China
- Dec 11, 2004 , for all other companies
- Existing HKSS certificate holders apply CEPA will be assessed
- HKSS – Hong Kong Services Provider

Key Significant of the new regulation to HK investor

- New regulation promises easier access to lucrative China market
- HK companies of all size can join the game
- Minimal start-up cost with immediate market entry over other competitors

Advantages of CEPA in new regulation

- Time benefits
- Support for PRC government
- Recognised channels to enter China
- Status recognition – HK government examine documents
- New regulation will enable most of SMEs to enjoy CEPA benefits in this sector

Action Plan

- Review existing China business strategy & model critically
- Map out CEPA/WTO business model/strategy without delay
- Compile application materials PRC setting up procedure as soon as possible
- Seek professional advice when necessary