瑞士文斐律师事务所
WENFEI ATTORNEYS-AT-LAW LTD.

CHINA LEGAL BRIEFING* 191

SEPTEMBER 19 - 25, 2008

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Provisions on Administration of Foreign-Invested Telecommunications Enterprises (2008 Revision)

外商投资电信企业管理规定（2008年修订）

Issued By	**State Council**
Subject	**Telecommunications**
Promulgated on	**September 10th 2008**
Effective from	**September 10th 2008**
Source	**http://www.chinalaw.gov.cn**

The State Council released the amendment of Provisions on Administration of Foreign-Invested Telecommunications Enterprises (hereinafter: the "Provisions") on September 10th, 2008. The major changes in this amendment concern the minimum registered capital requirements of a foreign-invested telecommunications enterprise. These requirements have been reduced to a half of the original ones, which means the threshold for foreign investors to invest in China's telecommunications has been diminished.

Following is a list of changes stipulated by this amendment:

1. "The information industry department of the State Council" has been amended as "the industry and information technology department of the State Council"(Article 4, Article 6, Article 8, Article 11, Article 13, Article 15 and Article 17 to 21 of the Provisions)
2. The minimum registered capital of a foreign-invested telecommunications enterprise providing basic telecommunications services throughout the country or across different provinces, autonomous regions and municipalities directly under the Central Government, shall be RMB 1 billion, or shall be RMB10 million for providing value-added telecommunications services;

   While the minimum registered capital shall be RMB 100 million for providing basic telecommunications services within a province, an autonomous region or a municipality directly under the Central Government, or shall be RMB 1 million for providing value-added telecommunications services (Article 5 of the Provisions).
3. "The project proposal" shown in Article 11 and Article 14 of the Provisions shall be amended as "the project application report", and the expression of "the feasibility study report" which is shown in Article 11 and Article 13 shall be deleted (Provisions).
4. "The examination and approval by the planning department or the comprehensive economy administration department of the State Council" shown in Article 15 of the Provisions shall be amended as "approval by the development and reform department of the State Council".

5. “The foreign trade and economic cooperation department”, which shown in Article 16, Article 19, Article 20 and Article 21 of the Provisions have been amended as ”the competent commerce department”.
6. Original Article 12, item 2 in Article 14, Article 23 of the Provisions have been deleted.

Notice of the Ministry of Commerce on the Decentralization of the Power to Approve Foreign-funded Commercial Enterprises

商务部关于下放外商投资商业企业审批事项的通知

Issued By	**Ministry of Commerce**
Subject	**Foreign-funded Enterprises**
Promulgated on	**September 12th 2008**
Effective from	**September 12th 2008**
Source	**http://www.gov.cn**

On 12th September, The Ministry of Commerce (MOFCOM) issued a new rule that entitle provincial commerce authorities to examine and to approve the establishment of foreign-invested commerce enterprises (FICEs).

The new Notice of the Ministry of Commerce on the Decentralization of the Power to Approve Foreign-funded Commercial Enterprises (hereinafter: “Notice”) indicates MOFCOM’s attempt to lower the barrier of approval procedures for FICEs.

The new Notice stipulates that the competent provincial department of commerce shall be responsible for its examination and approval of the establishment and alteration of a foreign-funded commercial enterprise, (except the issues involving store-less enterprises which sell their goods through television, telephone, mail, internet, and automats, and the enterprises engaging in the wholesale of audio and video products, books, newspapers, and journals). The authority for such Approval was previously retained by MOFCOM, and any FICEs involved in distribution of industrial raw materials such as fuel oil, cotton, or iron ore were subject to approval from the MOFCOM.

The competent provincial departments of commerce shall strictly follow the relevant legal provisions and industrial policies of the state in the examination and approval of foreign-funded commercial enterprises, and timely file with the Ministry of Commerce for archival purpose.

It has been said that this Notice represents the State Council’s recent efforts to further reform and streamline the administrative approval and licensing systems in China.

The Implementation Regulations for the Labor Contract Law of the People's Republic of China

中华人民共和国劳动合同法实施条例

Issued By	**State Council**
Subject	**Labor Contract**
Promulgated on	**September 18th 2008**
Effective from	**September 18th 2008**
Source	**http://www.gov.cn**

As part of the tradition of the China's legislation, many details of newly enacted laws are left for resolution in implementing regulations. On September 18 2008, the Implementation Regulations for the Labor Contract Law of the People's Republic of China (hereafter: "IRLCL") were issued to further clarify and specify the Labor Contract Law of the People's Republic of China (hereafter: "LCL") which entered into force on January 1, 2008.

This IRLCL consists of five chapters. They are as follows:
GENERAL PROVISIONS,
CONCLUSION OF EMPLOYMENT CONTRACTS,
PERFORMANCE AND AMENDMENT OF EMPLOYMENT CONTRACTS,
SPECIAL PROVISIONS ON PLACEMENT,
LEGAL LIABILITY

The main features of the IRLCL are as follows:

1. The Scope of Application of LCL has been further clarified.
   In the LCL, "Employers" are defined as "organizations such as enterprises, individual economic organizations and private non-enterprise units in the People's Republic of China ". The IRLCL extend the scope of "Employers" to Partnerships (such as accounting firms and law firms) and Foundations. (Article 3)
2. Employers' branches can conclude employment contracts with employees as employers, as long as they obtain business licenses or registration certifications. (Article 4)
3. Article 14.2 of LCL stipulates that If "an Employee has been working for the Employer for a consecutive period of not less than 10 years, and he or she proposes or agrees to renew his employment contract or to conclude an employment contract, an open-ended employment contract shall be concluded, unless the Employee requests the conclusion of a fixed-term employment contract."
   IRLCL stipulates that the so-called "consecutive period of not less than 10 years" shall include the working years before the effectiveness of LCL. (Article 9)

4. The parties to an employment contract shall not agree on other conditions to terminate the contracts except for those conditions stipulated in Article 44 of LCL. (Article 13)
5. If employers make capital contributions to establish staffing firms or establish partnerships of staffing firms, those employers shall not place Employees with themselves or their subordinate units. (Article 28)
6. Article 46, 47 48 of LCL are applicable to the liabilities and rights of staffing firms, which means employees of staffing firms are entitled to the financial compensation after the termination or ending of the employment contracts.