

Decision of the State Council on Temporarily Adjusting Special Management Measures
Relating to Administrative Approval and Admittance against Service Providers of Hongkong
and Macao in Mainland China

GF [2016] No. 32

People's governments of all provinces, autonomous regions and municipalities directly under the Central Government, the ministries and commissions and directly affiliated institutions under the State Council:

In order to guarantee the implementation of the *Service and Trade Agreement of Closer Economic Partnership Arrangement* (hereinafter jointly referred to as the *Agreement*) separately between Mainland China with Hongkong and Macao, decisions are hereby made as following:

I. As for Hongkong and Macao service providers that invest in the service trade field in Mainland China as open in the Agreement, the approval for the contract and regulations establishing and changing the company changes to be the record management, it is required to temporarily stop referring to regulations relating to approval for the contract and regulations establishing and changing the company. However, restrictive measures and the establishment and change of companies and financing institutions in the telecom and cultural field and other forms of commercial presences excludng companies as reserved by the *Agreement* shall be excluded.

II. In Mainland China, the service industry open to Hongkong and Macao will be further widened, following legislative special admittance management measures are temporarily adjusted, including administrative approval and qualification requirements, proportion restriction and business scope restriction:

(I) *Provisions on the Administration of Foreign-funded Telecommunications Enterprises*, Article 2, Article 6 Clause 2, Article 11, Article 12, Article 14, Article 15, Article 16;

(II) *Regulations of the People's Republic of China on International Ocean Shipping*, Article 28 Clause 1, Clause 2, Clause 3;

(III) *Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools*, Article 62;

(IV) *Regulations Governing Performances for Business*, Article 11 Clause 1;

(V) *Decision of the State Council on Setting Administrative Licensing for Administrative Approval Items Assuredly Needing to be Reserved*, Item 179;

(VI) *Notice of General Office of the State Council on Strengthening Management on Holding Foreign Economic and Technological Exhibitions in China*, (GBF [1997] No. 25), Article 2, Article 3 Item 2;

(VII) *Foreign Investment in Civil Aviation Provisions*, Article 6 Clause 4.

In addition, the service industry in Guangdong Province will open wider to Hongkong and Macao, the special management measure as stated in Article 6 of Regulations on Management of Entertainment Venues will be adjusted temporarily.

III. The State Council departments concerned and people's governments of all provinces, autonomous regions and municipalities shall correspondingly adjust regulations

and normative documents formulated by them without delay and establish a management system matching with the *Agreement* in accordance with administrative laws and regulations, documents of the State Council and provisions of department rules approved by the State Council.

IV. The State Council will timely adjust contents in the Decision based on the opening situation of Mainland China to Hongkong and Macao.

The Decision shall come into effect on the date of June 01, 2016. Abolish the *Decision of the State Council on Temporarily Adjusting Special Management Measures Relating to Administrative Approval and Admittance against Service Providers of Hongkong and Macao in Guangdong Province* (GF [2015] No. 12) published by the State Council simultaneously on March 3, 2015.

Appendix: Catalogue of special management measures relating to administrative approval and admittance about the State Council deciding to temporarily adjusting relevant administrative laws and regulations, documents of the State Council and provisions of department rules approved by the State Council against service providers of Hongkong and Macao in Mainland China

The State Council

31.05.16

Administrative approval and admittance about the State Council deciding to temporarily adjusting relevant administrative laws and regulations, documents of the State Council and provisions of department rules approved by the State Council against service providers of Hongkong and Macao in Mainland China

Catalogue of Special Management Measures

S/N	Administrative laws and regulations, documents of the State Council and provisions of department rules approved by the State Council	Implementation of Adjustment
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<p><i>Provisions on the Administration of Foreign-funded Telecommunications Enterprises</i></p> <p>Article II: Foreign-funded telecommunications enterprises refer to the enterprise engaging in telecommunication services which is jointly invested and established by foreign and Chinese investors by law in the form of Chinese-foreign joint venture in the territory of the People's Republic of China.</p> <p>Article VI Clause 2: The foreign investor of a foreign-funded telecommunications enterprises engaging in value-added telecommunication services (including the wireless paging business of basic telecommunication services) shall own at last 50% ratio of investments in the company at last.</p> <p>Article 11 As for the foreign-funded telecommunications enterprises that establishing and engaging in basic telecommunication services or value-added telecommunication services across the province, autonomous and directed-controlled municipality, the Chinese investors shall apply to the Ministry of Industry and Information Technology of the State Council and submit following files:</p> <p>(I) Project Application Report;</p> <p>(II) The qualification certificate or relevant confirmation files of parties to a joint venture as stated in Article 8, 9 and 10 of the Provisions;</p> <p>(III) The certificate and confirmation file of other conditions necessary for engaging in basic telecommunication services or value-added telecommunication services.</p> <p>The Ministry of Industry and Information Technology of the State Council shall review relevant files as stated in the preceding paragraph from the day when receiving the application. Provided that the application belongs to basic telecommunication services, the review shall be completed within 180 days, and the decision of approval or disapproval shall be given; provided that the application value-added telecommunication services, the review shall be completed within 90 days, and the decision of approval or disapproval shall be given; provided that the application value-added telecommunication services. If the approval is determined, the Examination and Approval of Foreign-funded Telecommunication Enterprise Project will be given; if the disapproval is determined, a written notice and reason shall be given to the applicant.</p> <p>Article 12: The foreign-funded telecommunications enterprises engaging in value-added telecommunication services within the province, autonomous region and municipality, the main Chinese investor shall apply to the local telecommunication management organization and submit following files:</p> <p>(I) The qualification certificate or relevant confirmation files as stated in Article 10 of the Provisions ; (II) The certificate and confirmation file of other conditions necessary for engaging in value-added telecommunication</p>	<p>Relevant administrative approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in telecommunication services as stated in the <i>Agreement</i> in Mainland China; and the specific management methods are formulated by the Ministry of Industry and Information Technology Department under the State Council.</p>
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Article 14: The foreign-funded telecommunications enterprise, in accordance with relevant national provisions, the investment projects shall be examined and approved by the development and reform department of State Council, the Ministry of Industry and Information Technology of the State Council shall transfer the application materials to the development and reform department of State Council before issuing the *Examination and Approval of Foreign-funded Telecommunication Enterprise Project*, if the materials are transferred, the approval duration as stated in Article 11 and Article 12 of the Provisions may be extended to 30 days.

Article 15: As for the foreign-funded telecommunications enterprise belonging to engaging in basic telecommunication services or value-added telecommunication services across the province, autonomous region and municipality, the main Chinese investor shall submit the contract and regulations of the foreign-funded telecommunications enterprise to be established to the commerce department under the State Council based on the *Examination and Approval of Foreign-funded Telecommunication Enterprise Project*; as for the foreign-funded telecommunications enterprise belonging to engaging in value-added telecommunication services within the province, autonomous region and municipality, the main Chinese investor shall submit the contract and regulations of the foreign-funded telecommunications enterprise to be established to the commerce department under people's governments of all provinces, autonomous regions and municipalities based on the *Examination and Approval of Foreign-funded Telecommunication Enterprise Project*.

The commerce department under the State Council and the commerce department under people's governments of all provinces, autonomous regions and municipalities shall examine the contract and regulations of the foreign-funded telecommunications enterprise to be established within 90 days after the receipt, and give a decision of approval or disapproval. If an approval is given, the Approval Certificate for Foreign-Invested Enterprise will be given; if not, a written notice and reason shall be given to the applicant.

Article 16: After the main Chinese investor of the foreign-funded telecommunications enterprise applies to the industry and commerce administration authorities based on the Approval Certificate for Foreign-Invested Enterprise, the investor shall apply to the Ministry of Industry and Information Technology of the State Council for the telecommunication business licence based on the Approval Certificate for Foreign-Invested Enterprise and the business license.

2	<p><i>Regulations of the People's Republic of China on International Ocean Shipping</i></p> <p>Article 28 Clause 1, Clause 2, Clause 3: Based on the approval of the traffic governing department under the State Council, in accordance with relevant laws, administrative laws and regulations and other relevant national provisions, the foreign-funded enterprises may invest and establish a Chinese-foreign joint venture or a Chinese-foreign co-operative enterprise, engaging in international shipping, international shipping agency, international shipping management, handling of international ocean shipping cargo, storage of international ocean shipping cargo, international marine container station and storage yard business; and may invest and establish a overseas-funded enterprise engaging in the storage of international ocean shipping cargo .</p> <p>The ratio of investment of the foreign enterprise in a Chinese-foreign joint venture engaging in international shipping and nternational shipping agency shall not be more than 49%.</p> <p>The ratio of investment of the foreign enterprise in a Chinese-foreign co-operative enterprise engaging in nternational shipping and nternational shipping agency is applicable to provisions of preceding clause.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in transportation services as stated in the <i>Agreement</i> in Mainland China; and the specific management methods are formulated by the traffic administrative department under the State Council.</p>
3	<p><i>Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools</i></p> <p>Article 62: The foreign educational institution, other organizations or persons are not allowed to separately establish a school and other educational institutions mainly taking Chinese citizens as the enrollment target within Chinese territory.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in non-academic vocational skills training business in Mainland China; and the specific management methods are formulated by the human resources administrative department under the State Council.</p>
4	<p><i>Regulations Governing Performances for Business</i></p> <p>Article XI Clause 1: The investor of the Hong Kong Special Administrative Region and the Macao Special Administrative Region may invest and establish a performance brokerage institution and a business entity of performance place in the form of joint venture, cooperation and individual proprietorship in Mainland China; the performance brokerage institution of the Hong Kong Special Administrative Region and the Macao Special Administrative Region may establish a branch in Mainland China.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in investing and establishing a joint-ventured artist program group in the form of local holding in Mainland China; Chinese citizens among permanent residents in Hongkong and Macao may establish a individual business in Mainland China without needing to pass the admission of foreign capital in Mainland China, engaging in individual performance broker business; and the specific management methods are formulated by the culture department and relevant departments under the State Council</p>

5	<p><i>Regulations on Management of Entertainment Venues</i></p> <p>Article VI: The foreign investor may establish an entertainment venue in the form of Chinese-foreign joint venture and Chinese-foreign co-operative enterprise by law jointly with a Chinese investor, and a wholly foreign-owned entertainment venue is not allowed.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Guangdong Province, the providers are allowed to establish an entertainment venue in the form of sole proprietorship in Guangdong province; and the specific management methods are formulated by People's Government of Guangdong Province.</p>
6	<p>1. <i>Decision of the State Council on Setting Administrative Licensing for Administrative Approval Items Assuredly Needing to be Reserved</i> Item 179: Approval of a project holding a foreign economic and technical exhibition.</p> <p>2. <i>Notice of General Office of the State Council on Strengthening Management on Holding Foreign Economic and Technological Exhibitions in China</i>, (GBF [1997] No. 25)</p> <p>II. The sponsor and organizer of a foreign economic and technical exhibition should be with the qualification as a sponsor and organizer approved by the competent foreign trade and economics department; provided that an overseas agency holds an economic and technical exhibition in China, it must be performed uniting with or entrusting a Chinese unit with the qualification as a sponsor</p> <p>III. As for the foreign economic and technical exhibition with more than 1000 square meters of exhibition area, a graded examination and approval management is performed.</p> <p>(II) The foreign economic and technical exhibition hosted by an affiliated unit under the State Council and an overseas agency should be reported to the Ministry of Foreign Trade and Economic Cooperation for approval. As for the exhibition held in the place out of Beijing, the approval of the local competent foreign trade department shall be obtained by the sponsor in advance.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in convention and exhibition services as stated in the <i>Agreement</i> in Mainland China; and the specific management methods are formulated by the commerce department under the State Council</p>
7	<p><i>Foreign Investment in Civil Aviation Provisions</i></p> <p>Article VI Clause 4. The maintenance of a foreign-funded airplane (assuming the obligation of contracting for international maintenance market business) and aviation fuel project shall be controlled by the Chinese party; as for the freight storage, ground service, inflight meals, parks and other projects, the investment proportion of the foreign enterprise shall be decided by both parties through consultations.</p>	<p>Relevant special approval and admittance management measures for Hongkong and Macao service providers are temporarily adjusted and implemented in Mainland China, the providers are allowed to engage in air transportation support service as stated in the <i>Agreement</i> in Mainland China; and the specific management methods are formulated by the competent civil aviation authority under the State Council.</p>



