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Upcoming LB Events

The General Office of the Ministry of Commerce (MOFCOM) released the Circular on Issues Concerning Examination and Approval of Foreign-invested Projects of Selling Goods via Internet and Automat

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There are various positive influences of carrying out sales through both internet and automat (vending machines) by enterprises, such as cost savings, improving circulation of goods and stimulating public consumption. As such, *Circular Guofa [2010] No.9* was issued to simplify and lower the requirements for approval process and the Ministry of Commerce of the People's Republic of China issued *Circular Shangzizi [2010] No.272* on 26th August 2010, which stipulates the examination and approval process for foreign-invested projects carrying out sales via internet and automat. The details are illustrated below:

I. Internet sales

Internet sales are basically an extension of the traditional method of sales of goods and services. In the past registered foreign-invested manufacturers and commercial enterprises were not allowed to conduct online sales directly, but under the new regulations Foreign Invested Enterprises ("FIE") that are specifically set up to conduct internet sales business can apply for approval from the provincial authorities. Provincial authorities shall process the applications in accordance with *<Administrative measures on foreign investment in commercial field>* and relevant laws and regulations.

If FIE enterprises make use of their own network platform to provide services to other trading parties, they shall apply for a value-added telecommunications business license from the Ministry of Industry and Information Technology. If foreign-invested enterprises make use of their network platform directly for their own purpose, such act should be reported to the telecommunications administration bureau.

When an FIE engages in internet sales or other relevant services, its business license should be placed in an obvious section of its webpage or related webpage, specifying its business scope and products such as oil, crude oil, books and newspapers, medicine etc. In addition, information of its certificate of approval for business, photos of its certificates and related hyperlinked websites should also be disclosed.

FIEs engaged in internet sales shall establish a reasonable sales and refund policy, maintain a complete sales record, strictly protect consumers' privacy and business confidentiality.

FIEs engaged in internet sales shall comply with the *<Law of the People's Republic of China on Protection of Consumers' Rights and Interests>*, the *<Law of the People's Republic of China on Product Quality>* and other relevant laws and regulations. Additionally, any banned products or services by laws and regulations are strictly prohibited to trade on the internet, and

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where certain products and services require special approval due to their nature, FIEs are required to apply before they start online trading.

II. Automat (vending machines) sales

Applications for establishing FIEs engaged in sales of goods via automat, or an enterprise that promote sales of goods via automat shall be submitted to provincial authorities for approval. The provincial foreign investment authorities shall seek consideration from provincial domestic trade authorities during the application process in accordance with *<Administrative measures on foreign investment in commercial field>*, as well as on hygiene, food and drug and other relevant laws and regulations.

Foreign-invested enterprises engaged in automat sales shall disclose the enterprises' full name, detailed address, telephone number and method of lodging complaints on an obvious area of their vending machines, and they should establish a clear operation mode, effective product quality management and dispute resolution mechanism. They should also establish a mechanism for sales data storage and ensure the vending machines automatically save their previous sales records.

Foreign-invested enterprises engaged in automat sales shall comply with *<Law of the People's Republic of China on Protection of Consumers' Rights and Interests>*, the *<Law of the People's Republic of China on Product Quality>* and other relevant laws and regulations.

(Sources: *Circular on Issues Concerning Examination and Approval of Foreign-invested Projects of Selling Goods via Internet and Automat* from website of Ministry of Commerce of People's Republic of China Department of Foreign Investment Administration released on 26th August 2010)

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