

# Corporate Commercial Client Alert

## China Trade & Investment

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### The Ministry of Commerce releases third version of the Pilot Programme Plan for the Innovative Development of the Trade in Services

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On 12 August 2020, the Ministry of Commerce released via Circular the State Council approved *Master Plan for the Comprehensive Deepening of the Pilot Programme for the Innovative Development of the Trade in Services* together with a schedule of specific measures (**2020 Plan**). The 2020 Plan includes 8 pilot tasks and 122 specific measures to open, facilitate and support the innovative development of the Trade in Services.

The 2020 Plan promotes the Trade in Services in the context of China's National development strategy. It is intended to improve the quality and competitiveness of the Trade in Services, and to develop a better governmental regulatory and compliance mechanism, while opening the market and easing restrictive measures.

The 2020 Plan is far more comprehensive and specific in terms of reform, openness and innovation than prior plans, reflecting China's continued commitment and growing experience in opening and developing the service sector. The implementation of the 2020 Plan should be a welcome development for domestic and international investors alike.

The 2020 Plan is the third version of the pilot programme issued by the Ministry of Commerce, following the *Pilot Plan of the Innovative Development of the Trade in Services* released in 2016 and the *Overall Plan for the Deepening of the Pilot Programme on the Innovative Development of the Trade in Services* released in 2018 (**2018 Plan**).

Compared with the prior plans, the 2020 Plan has wider geographic scope, adding 11 new pilot areas, including areas in Western and Central China. The 2020 Plan's 28 pilot areas includes Beijing, Tianjin, Shanghai, Chongqing, Hainan, Dalian, Xiamen, Qingdao, Shenzhen, Shijiazhuang, Changchun, Harbin, Nanjing, Hangzhou, Hefei, Jinan, Wuhan, Guangzhou, Chengdu, Guiyang, Kunming, Xi'an, Urumqi, Suzhou, Weihai and Hebei Xiong'an New District, Guizhou Gui'an New District, and Shaanxi Xixian New District.

The 2020 Plan assigns specific governmental agencies with the responsibility for formulation of relevant policies, implementation of the measures and the development of implementing regulations. The 2020 Plan will be effective for a three year trial period, one year longer than the prior plans. Successful elements of the pilot programme may be rolled out to other parts of China.

The 2020 Plan has upgraded the eight "further" pilot tasks of the 2018 Plan into 8 "comprehensive" pilot tasks. These pilot tasks are intended to comprehensively improve the Trade in Services and include tasks such as improving the regulatory management system, further opening the sector to foreign participation, simplifying administrative procedures, promoting innovative development models, promoting the sector, optimising the policy system, improving supervision and improving the statistical system with respect to the Trade in Services. The eight "comprehensive" pilot tasks are extensively described and explained in the 2020 Plan. Each of the specific measures relates to a specific pilot task. The specific measures, however, are not universally applicable to all pilot areas. Some measures are only applicable to specific qualified pilot areas.

In terms of reform, some of the measures have been introduced to deepen the reform by "simplification of administrative procedures, delegation of powers, combining delegation and administration, and optimisation of services" and actively promote and facilitate the cross-border flow of capital, technology, personnel, and goods related to services sector, and examples include:

- Cancelling the pre-approval requirement for senior management officers of insurance company branches and substituting a recordal filing procedures with the province-level banking and insurance regulatory authority;
- Delegating downward the authority to approve schools for children of foreign personnel in qualified pilot areas;
- Simplifying the approval process of foreign travel agencies in pilot areas and shortening the processing time for the approval; and
- Selecting qualified pilot areas for foreign patent agencies to establish representative offices in China.

In terms of expanded market access for overseas investors, 26 measures have been proposed in the fields such as transportation, finance, medical care, education, legal services and professional services. Illustrative examples include the following:

- Supporting qualified Hong Kong and Macau banking and insurance companies in setting up branches in pilot areas;
- Supporting cooperation with overseas institutions in the development of cross-border commercial medical insurance products in eligible pilot areas;
- Expanding the eligibility for qualified domestic institutional investors (QDII) status to include investment management institutions established by domestic/overseas institutions in qualified pilot areas and allowing QDIIs in such pilot areas to conduct overseas direct investment, securities investment, derivatives investment and other overseas investment business;
- Supporting overseas-sponsored private equity funds to participate in the financing of innovative technology companies in eligible pilot areas;
- Allowing jointly operated law firms in the form of partnership between Hong Kong-Macau firms and the pilot area firms to hire lawyers from Hong Kong-Macau and the Mainland in the name of such law firm; and
- Allowing domestic law firms to hire foreign lawyers as foreign legal consultants in qualified pilot areas.

In terms of innovation, new models and forms of business (such as digital trade, big data transactions, mobile payments, etc.) are being promoted. Illustrative examples include:

- Permitting digital RMB pilot projects in the Beijing-Tianjin-Hebei region, the Yangtze River Delta region, Guangdong-Hong Kong-Macau Greater Bay Area and the qualified pilot areas in the Central and Western China;
- Supporting the development of cross-border big data related services, such as big data collection, storage, processing, analysis, and mining in pilot areas; and
- Promoting the use of mobile payments by foreign parties in pilot areas in China.

The progress in the implementation of the 2020 Plan should be of great interest to businesses operating in the services sector. The implementation of the 2020 Plan should create new opportunities for investors in the sector. The 2020 Plan and the opportunities it presents should be carefully considered by investors when planning new projects in China. The 2020 Plan is an important development in the evolution of China's services sector.

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