

## MOFCOM's Pilot Program for Reviewing and Approving Foreign Investment Projects

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The People's Republic of China Ministry of Commerce ("MOFCOM") recently implemented a pilot program to optimize the procedure for reviewing and approving foreign investment projects by central MOFCOM.

Effective May 28, 2014, all central MOFCOM approvals of the formation of foreign-invested entities, and subsequent changes in foreign invested entities, must follow the new procedures set forth in the pilot program. According to relevant laws, if a foreign investment project is in an "encouraged" or "permissible" category and with total investment amount of US\$300 million, or in a "restricted" category and with a total investment amount of US\$50 million, it is subject to approval by central MOFCOM.

The pilot program streamlines the central MOFCOM review and approval procedures and simplifies the documentation required to be submitted with the application. A list of the documentation required to accompany the application can be found on the MOFCOM website.

Under the pilot program, if the formation of a foreign invested entity is subject to approval of the central MOFCOM due to its investment category ("encouraged", "permissible" or "restricted") or total investment amount, the application is first submitted to the applicable provincial level MOFCOM for acceptance and preliminary review. Foreign investors are no longer required to first submit the application to a local MOFCOM. After foreign investors submit their application materials to provincial level MOFCOM, the provincial level MOFCOM will conduct a preliminary review and return the materials to the applicants with its opinion. It is the foreign investors' responsibility to submit the application materials and provincial level MOFCOM's opinion to central MOFCOM for its review. Central MOFCOM will review the materials and the provincial level MOFCOM's opinion and make final decision.

The application and required documentation must be submitted by foreign investors in person at central MOFCOM administration hall and to obtain a MOFCOM receipt for the submission. After the approval is granted by MOFCOM, the approval certificate can be picked up at the administration hall or returned to the applicant by express certified mail.

Additional guidance and detailed procedures can be found on the MOFCOM website.

This pilot program is scheduled to end on August 31, 2014.