Provisions on the Administration of Foreign-Invested Travel Agencies of the PRC

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Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Conditions for Establishment 2

Chapter III — Approval Procedures 2

Chapter IV — Business Rules 3

Chapter V — Supervision and Inspection 3

Chapter VI — Legal Liability 4

Chapter VII — Supplementary Provisions 4

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Conditions for Establishment
- Chapter III — Approval Procedures
- Chapter IV — Business Rules
- Chapter V — Supervision and Inspection
- Chapter VI — Legal Liability
- Chapter VII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Tourism Law of the People's Republic of China, the Regulations on Travel Agencies, the relevant laws and regulations on foreign investment, and the international treaties and agreements to which the People's Republic of China is a party, for the purpose of further opening up the tourism market, regulating the examination, approval, and administration of foreign-invested travel agencies, and promoting the sound development of the tourism industry.

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Article 2 — For the purpose of these Provisions, a "foreign-invested travel agency" refers to a travel agency established within the territory of China by a foreign investor either independently or jointly with a Chinese investor, including sino-foreign equity joint venture travel agencies, sino-foreign cooperative joint venture travel agencies, and wholly foreign-owned travel agencies.

Article 3 — The establishment of a foreign-invested travel agency shall be subject to the examination and approval of the tourism administrative department under the State Council (the National Tourism Administration) and shall go through the formalities for foreign investment enterprise registration in accordance with the law.

Article 4 — The tourism administrative departments of the people's governments at all levels shall supervise and administer foreign-invested travel agencies in accordance with the law. The departments responsible for commerce shall cooperate in the administration of foreign-invested travel agencies within the scope of their respective duties.

Chapter II — Conditions for Establishment

Article 5 — The foreign investor applying for the establishment of a foreign-invested travel agency shall meet the following conditions:

(1) It is a travel agency or an enterprise mainly engaged in tourism business lawfully established outside the mainland territory of China;

(2) It has been in good business standing and has not been subject to any major penalty by the tourism administrative department or other relevant authorities within the past three years;

(3) The amount of its investment in the travel agency and the business premises and facilities of the travel agency shall meet the requirements prescribed by the tourism administrative department under the State Council;

(4) The travel agency shall have a full-time manager and tour guides who hold the qualifications certificates prescribed by the tourism administrative department under the State Council;

(5) Other conditions prescribed by laws and regulations.

Article 6 — The Chinese investor establishing a sino-foreign joint venture travel agency shall be a travel agency lawfully established within the territory of China or an enterprise mainly engaged in tourism business.

Article 7 — The registered capital of a foreign-invested travel agency shall meet the minimum registered capital requirement for travel agencies prescribed by the tourism administrative department under the State Council, and shall be paid-in capital.

Article 8 — The tourism business deposit of a foreign-invested travel agency shall be deposited in accordance with the provisions of the Regulations on Travel Agencies and the relevant rules on tourism business deposits.

Chapter III — Approval Procedures

Article 9 — To establish a foreign-invested travel agency, the applicant shall submit an application and the following documents to the tourism administrative department under the State Council:

(1) An application form for the establishment of a foreign-invested travel agency;

(2) The articles of association of the enterprise;

(3) The capital verification report issued by a lawfully established capital verification institution;

(4) The identity documents and resumes of the business manager and tour guides;

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(5) Proof of the lawful establishment of the foreign investor and its business license or registration certificate;

(6) The creditworthiness certificate of the foreign investor;

(7) The feasibility study report and the project proposal for the foreign-invested travel agency;

(8) Other documents as required by the tourism administrative department under the State Council.

Article 10 — The tourism administrative department under the State Council shall examine the application within 30 working days from the date of receipt of the application and make a decision on whether to approve or reject the application. If the application is approved, the Measure of Approval for a Foreign-Invested Travel Agency shall be issued. If the application is rejected, the applicant shall be notified in writing and the reasons therefor shall be given.

Article 11 — After obtaining the Measure of Approval for a Foreign-Invested Travel Agency, the applicant shall, within 30 working days, complete the registration with the commerce department and go through the foreign investment enterprise registration formalities. After obtaining the business license, the applicant shall apply to the tourism administrative department under the State Council for the issuance of a Travel Agency Business Permit.

Chapter IV — Business Rules

Article 12 — A foreign-invested travel agency may engage in the following business activities:

(1) Domestic tourism business;

(2) Inbound tourism business;

(3) Outbound tourism business for Chinese citizens to destinations other than the Taiwan region of China, upon approval by the tourism administrative department under the State Council.

A wholly foreign-owned travel agency may engage in the business activities set forth in items (1) and (2) of the preceding paragraph, but shall not engage in the outbound tourism business set forth in item (3), unless otherwise provided for by the state.

Article 13 — A foreign-invested travel agency shall not establish branches without approval, nor shall it transfer, lease, or lend its Travel Agency Business Permit.

Article 14 — A foreign-invested travel agency shall enter into written contracts with tourists and with other travel agencies in accordance with the relevant provisions of the state, and shall purchase travel agency liability insurance.

Article 15 — A foreign-invested travel agency shall not engage in the following acts when organizing and receiving tourists:

(1) Providing false information or making false or misleading representations in tourism promotion;

(2) Arranging tourism activities that are prohibited by laws or regulations;

(3) Forcing tourists to participate in additional paid tourism activities or to make purchases at designated shopping venues;

(4) Failing to sign contracts with tourists as required, or failing to perform obligations under the contract;

(5) Other acts in violation of the provisions of the Tourism Law and the Regulations on Travel Agencies.

Chapter V — Supervision and Inspection

Article 16 — The tourism administrative departments of the people's governments at all levels shall conduct supervision and inspection of the business activities of foreign-invested travel agencies in accordance with

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the law. During the supervision and inspection, the foreign-invested travel agency shall truthfully provide the relevant documents and materials.

Article 17 — The tourism administrative department under the State Council shall organize annual inspection of foreign-invested travel agencies. Foreign-invested travel agencies shall submit annual business reports and financial reports as required.

Article 18 — The tourism administrative department under the State Council shall, together with the commerce department, establish an information-sharing and joint supervision mechanism to strengthen the supervision during and after the event of foreign-invested travel agencies.

Chapter VI — Legal Liability

Article 19 — Where a foreign-invested travel agency engages in travel agency business without obtaining the Travel Agency Business Permit in accordance with the law, the tourism administrative department or the market supervision and administration department shall order it to cease the illegal business activities and impose a fine. If the circumstances are serious, the administrative penalty provisions of the Tourism Law and the Regulations on Travel Agencies shall be applied.

Article 20 — Where a foreign-invested travel agency violates these Provisions by failing to deposit the tourism business deposit as required, failing to sign travel contracts as required, failing to purchase travel agency liability insurance, or engaging in other illegal acts, the tourism administrative department shall order it to make corrections and impose penalties in accordance with the Tourism Law and the Regulations on Travel Agencies. If the circumstances are serious, the Travel Agency Business Permit shall be revoked.

Article 21 — Where a foreign-invested travel agency violates the laws and regulations on foreign investment, the commerce department shall impose penalties in accordance with the law.

Chapter VII — Supplementary Provisions

Article 22 — These Provisions shall apply, mutatis mutandis, to the travel agencies established within the territory of China by investors from the Hong Kong Special Administrative Region and the Macao Special Administrative Region. The specific provisions on the establishment of travel agencies by investors from the Hong Kong Special Administrative Region and the Macao Special Administrative Region under the Closer Economic Partnership Arrangement (CEPA) shall be separately formulated.

Article 23 — The administration of the establishment of travel agencies within the territory of China by investors from the Taiwan region shall be handled in accordance with the relevant provisions.

Article 24 — These Provisions shall take effect on May 1, 2009. The Interim Provisions on the Administration of Foreign-Invested Travel Agencies previously promulgated shall be repealed simultaneously.

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