

The Future of China Commercial Registration System: From the Perspective of the Legal Reform in Free Trade Zone and Free Trade Port

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Abstract

This study focuses on analyzing the reform of commercial registration system in Shanghai Pilot Free Trade Zone (FTZ) and Hainan Free Trade Port (FTP) of China, by adopting the evaluation indicator of Starting a business of the World Bank's Doing Business. By implementing the new policies of Negative List and relative supporting policies like the separation of two licenses and e-registration, the reforms as to the mode and guiding philosophy of regulations on commercial registration in the FTZ/FTP achieved a positive spillover effect. However, there remain several problems, such as the fragmentation of the normative documents related, the overlarge scope of substantive examination of commercial registration, the Chinese government needs to further perfect the commercial registration system by means of delimiting the scope of application of market access upon commitment, further optimizing the Doing Business, enhancing the regulations of financial information of enterprises, harmonizing the legal system of regulatory authorities and strengthening the legislation on applicant's accountability and disciplinary mechanisms.

Keywords: free trade zone, free trade port, commercial registration, negative list, doing business

1. Introduction

China has established 21 Free Trade Zones (FTZ) as of 31 December, 2020. The commercial registration system in different FTZ is not uniform, because they are respectively formulated by the authorities of each FTZ under the framework of the Company Law of the People's Republic of China, the Regulations on the Administration of the Registration of Company, the Regulations on the Administration of the Registration of Enterprises as Legal Person, and the Interim Regulations on Information Disclosure of Enterprises. In order to further improve the commercial registration system, optimize the Doing Business, promote economic development, solve the problems of scattered commercial registration regulations, the State Administration for Market Regulation has drafted the Regulations on the Administration of the Commercial Registration of the People's Republic of China (Draft) in 2020. On 13 April, 2018, Chinese State Council officially announced the establishment of Hainan Free Trade Port (FTP). On 1 June, 2020, the General Plan of the Construction of Hainan FTP has been jointly issued by the Central Committee of the Communist Party of China and the State Council of China. According to this general plan, by 2035, the institutional system and the operation model in Hainan FTP shall be much more mature, the trade and investment rules system featuring liberalization, fairness, rule of law and high-level supervision during the event shall be basically established, in order to facilitate the free trade, free investment, free cross-border financial flows, free movement of persons, free movement of transport and free data flow in safe and order. By mid-century, a high-level Hainan FTP with great international influence shall be fully built up. At present, Hainan provincial government is working on the legislative framework of the Hainan FTP, for which the earlier related system of FTZ is an important and beneficial reference and guidance.

From FTZ to FTP, the reforms involved are complicated and massive, the present study focuses on putting forward some suggestions on the future commercial registration system reform of Hainan FTP.

2. Overviews of the FTZ and FTP in China

2.1 Distinction between the FTZ and FTP in China

FTZ and FTP are important measures taken by Chinese government to deepen reform and opening up in the new era. But each of them has different historical missions and specific tasks.

As to the construction mode, the FTZ is not a completely closed customs zone, it has a special customs supervision zone and also a non-special customs supervision zone. While Hainan FTP is a completely closed customs zone when the conditions permit. It aims to achieve the effect of Outside the Customs and within the Boundary by the supports of special policies. Taking the customs supervision as an example, the special customs supervision in FTZ applies only to enterprises engaging in production and business activities, while in FTP, the special customs supervision applies not only to enterprises engaging in production and business activities, but also to consumption.

As to the top-level policy design, the FTZ is an experimental field of reform and opening up, which takes the institutional innovation as a core demand, and the replicability and the generalizability as the fundamental requirements. However, Hainan FTP aims to build a frontier zone of Chinese reform and opening up in the new era. The market in Hainan FTP will be more open than all of the current Chinese FTZ. Therefore, the supporting policies in Hainan FTP should be more favorable and attractive than those in FTZ: firstly, the policy of duty-free treatment; secondly, the policy of expansion of financial opening which aims to build a multi-functional system of free trade accounts to facilitate the free flow of cross-border capital; thirdly, the policy of investment liberalization and the implementation of a market access commitment system to liberalize the investments in all fields, except those involving national security, social stability, the red line of ecological protection and major public interests; fourthly, the improvement of the rule of law in Hainan FTP by perfecting the legal system of the special laws of Hainan FTP, local regulations and commercial dispute resolution mechanism.

2.2 Sustainable Development from FTZ to FTP in China

Chinese pace of opening up will gradually form a new situation in which the development of FTZ will be driven by FTP, while the construction of FTP will be supported by FTZ. From an academic point of view, the Hainan FTP is an upgraded version of FTZ, which is a more comprehensive and higher level of opening up to the outside world than FTZ. For example, Hainan FTP has been granted greater autonomy in reform and more power to formulate local laws and regulations, such as Hainan bankruptcy regulations and fair competition regulations. Therefore, on the one hand, market access, taxation, trade, finance, customs supervision and other aspects in Hainan FTP should be aligned to international advanced standards for fully realizing the important role of the special customs supervision zone; on the other hand, the construction of Hainan FTP can strengthen the supervision of goods, capitals and personnel to prevent the potential adverse impact on other provinces of China.

Therefore, by updating the FTZ to the FTP, the construction of China's commercial registration system should be more sound and open, and able to going after the international advanced standards in order to ensure the sustainable development of opening up policy.

3. Evaluation Indicators, Methods and Data of the Commercial Registration System of FTZ

3.1 Evaluation Indicator of Starting a Business in the FTZ of Shanghai and Hainan from the Perspective of Doing Business

Starting a business is the first evaluation indicator of the World Bank's Doing Business. A research paper entitled Access Regulation expounds, by using an empirical approach, the necessary procedures of market access regulation, the time and cost needed for completing the procedures of starting a business in 85 major economies of the world.¹ According to the Doing Business, Starting a business measures the number of procedures, time, cost and paid-in minimum requirement for a small-to medium-size limited liability company to set up and formally operate in each economy's largest business city.²

Starting procedures means all necessary procedures officially required for an entrepreneur to set up and formally operate an industrial or commercial business, including all necessary interactions with the State, local governments, lawyers, auditors, company seal manufacturers, notaries, etc. These interactions are featured by externality, compulsion and independence of subjects. The externality refers to the interactions among the entrepreneurs and the outsiders, which excludes all internal interactions. For the interactions completed by entrepreneurs in the same office for procedures in different order, each interaction has to be calculated independently. The World Bank

¹ Simeon Djankov, Rafael La Porta, Florencio Lopez-De-Silanes and Andrei Shleifer. The Regulation of Entry. *The Quarterly Journal of Economics*, (2002) 1.

² (August 15, 2020) Retrieved from <https://www.doingbusiness.org/en/data/exploretopics/starting-a-business/what-measured>.

assumes that entrepreneurs conduct all the procedures themselves, without intermediaries or professional service provided by accountants or lawyers, unless laws or administrative regulations so require. If laws or administrative regulations so require, each interaction has to be calculated independently. Besides, each electronic procedure has to be calculated independently. However, only the procedures required for all enterprises are counted, those applicable to certain special enterprises are excluded. The compulsion refers to the interactions explicitly required by law or regulations. The independence of subjects means all independent or separate government authorities that entrepreneurs need to interact with for obtaining all necessary approvals, licenses, permits and completing any required notifications or inscriptions for the company and employees.³

Time needed for starting a business refers to the working days taken to complete all starting procedures and calculated according to official data. Since entrepreneurs may not be able to visit several different government authorities on the same day, the minimum time required to visit one authority is calculated as one day.

Fees needed for starting a business refers to the costs of starting a business which is calculated according to all identifiable official costs relating to forms, photocopying, stamps, legal services and notarization fees etc., but excluding bribery.

Table 1. Overview of starting a business in Shanghai Pilot FTZ⁴

Secondary indicators	Definition	Data for 2018	Data for 2020
Procedures	Any interaction between business and external personnel	7	6 See Table 3 for details
Time	Time required to complete all starting process	22 Calendar days	5 Calendar days
Fees	Official fees and legal or professional fees required by law	300-1000 CNY	0 CNY
Minimum paid-up capital	Amount that an enterprise needs to deposit in a bank or hand over to a third party at the registration stage	0 CNY	0 CNY

³ Luo, P. X. (2018). Evaluation Methodology of Doing Business of the World Bank: from the perspective of the indicator of Starting a business. *Dong Faxue (Eastern Law)*, No. 6, 12-19.

⁴ Shanghai Municipal Bureau of Industry and Commerce (2018). Analysis on the Construction and Operation of One Window Pass Service Platform for Start-up Enterprise in Shanghai. *Zhongguo Shangbao (China Business Daily)*, July 5, 3.

Table 2. Specific procedures, time and cost of starting a business in Shanghai Pilot FTZ in 2018

No.	Procedures	Time	Cost
1	Pre-examination of business name Government agencies: Commerce and Industry Bureau	1 day	0 CNY
	Enterprises can obtain application documents on the office or website of the Bureau of Industry and Commerce and submit after signature by the investors From 1 July,2004, enterprises can get results on the spot if they go direct to the service window; the results can be obtained by mail or fax within 15 days		
2	Application for Business Licence Authority: Commerce and Industry Bureau	7 days	0 CNY
	Enterprise needs to prepare application documents, the results of pre-examination of the business name, identity documents of investors, authorization letter, real estate certificate of the office, etc The Commerce and Industry Bureau will be responsible for the transfer of information received among governmental departments		
3	Application for company seal Authority: Public Security Bureau	1 day	0 CNY
	If all investors are natural person (the World Bank model presupposes), the enterprise should prepare the original and copy of the business license, the power of attorney, the identity of the legal representative and his mandatory The public security department will issue the company seal after examination		
4	Production of Company Seals Undertaker: Engraving enterprises (need to have a corresponding license)	1 day	300 CNY
	The cost of engraving is between 300 and 1000 CNY, depending on requirements and quality		
5	Application for Invoicing Qualification Authority: Tax Bureau	10 days	0 CNY
	Enterprises should prepare the tax registration data, ID card, invoice style, company seal, etc Small and micro businesses no longer need to pay for invoices in Shanghai from 2013		
6	Employment registration —— human resources Authority: Regional Human Resource Centre	1 day	0 CNY
	Companies are required to submit information online within 30 working days of hiring employees		
7	Employment registration —— social security Authority: Regional Social Security Centre	1 day (sync with previous step)	0 CNY
	Companies are required to submit information online within 30 working days of hiring employees After completing the registration, the social security center will open an account for the enterprise, and then the enterprise will be linked to the bank account to start paying social security for employees		
Total		22 days	300 CNY

Table 3. Specific procedures, time and cost of starting a business in Shanghai in 2020⁵

No.	Procedures	Time	Cost
Registration of business			
Operation Platform: Shanghai "One Window Pass" Service Platform			
1	(1) Fill in the registration information of the enterprise: the application documents, the pre-examination of the name of the enterprise, the identity documents of investors, the authorization letter, the real estate certificate of the office, etc (2) The registration authority provides pre-examination services online to applicants	3 day	0 CNY
Engrave Company Seals			
2	If a newly established enterprise chooses to engrave its official seal free of charge through the "One window pass" service platform for starting enterprise (http://yct.sh.gov.cn/), it may obtain a paper business license, company seal and invoice in the "One window pass" service area. 4 seals including the company's official seal, special financial seal, special invoice seal and the seal of legal representative	1 days	0 CNY
Tax-related matters (including invoices)			
3	Authority: Tax Bureau to handle tax registration record by carrying with business license, legal person ID card, official seal to the local state tax bureau	1 day	0 CNY
4	Employment and Social Security Registration	Can be synced with step 3	0 CNY
5	Housing Provident Fund Deposit Registration	Can be synced with step 3	0 CNY
6	Bank account	Can be synced with step 3	0 CNY
Total		5 days	300 CNY

Table 4. Overview of starting a business in Hainan FTP in 2020⁶

Secondary indicators	Definition	Data
Procedures	Any interaction between business and external personnel	7 Times
Time	Time required to complete a procedure	4 Calendar days
Cost	Official fees, as well as legal or professional fees required by law	300 CNY
Minimum paid-up capital	The amount an enterprise needs to deposit in a designated bank account at the stage of registration	0 CNY

⁵ (August 25, 2020) Retrieved from <http://zwdt.sh.gov.cn/govPortals/municipalDepartments/SHGSSH>.

⁶ (August 25, 2020) Retrieved from <http://218.77.183.36:9087/ICPSP/index.action>.

Table 5. Specific procedures, time and cost of starting a business in Hainan FTP in 2020⁷

No.	Procedures	Time	Cost	Remarks
1	Self-declaration of business name	1 day	0 CNY	From 1 January, 2019, applicants can only apply online. ⁸
2	Starting registration (Application for business Licence)	3 days ⁹	0 CNY	Website: http://218.77.183.36:9087/ICPSP/index.action
3	Social security registration		0 CNY	APP: Hainan E-registration
4	Housing provident fund account registration	Can be	0 CNY	
5	Seals engraving and filing	synced with	0~300 CNY ¹⁰	
6	Tax invoice declaration	step 2	0 CNY	
7	Bank account			Can not be processed online
Total		4 days	0~300 CNY	

According to the above data, under the guidance of the indicator of Starting a business, the procedure of starting a business in Shanghai Pilot FTZ has made obvious progress in both procedural simplicity and cost reduction. To be more specific, firstly, the number of procedures of starting a business has been reduced from 7 in 2018 to 6 at present. Besides, Shanghai government set up an online pre-examination service according to that all entrepreneurs can file the enterprise registration information through "Shanghai One window pass" service platform, on which all entrepreneurs can apply to starting a business through only one form and only one service windows for completing all procedures and getting all materials, including the business license, company seal, invoices and Ukey. Secondly, the time needed for starting a business was reduced from 22 calendar days in 2018 to 5 calendar days in 2020. Thirdly, the employment and social security registration, housing provident fund deposit registration and bank account opening can be synchronized with tax-related matters. At last, entrepreneurs have the right to apply for a free service of engraving the company seals at the moment of establishing the enterprise, according to the Notice on Free Service for Engraving Company Seals in Shanghai jointly issued by Shanghai Administration for Market Regulation, and Shanghai Public Security Bureau.

The procedure of starting a business in Hainan FTP just needs 4 calendar days and, is obviously shorter than in Shanghai Pilot FTZ. However, the company seals engraving services in Hainan FTP is not free in all cities except in Haikou city.

3.2 Overview of the Registration of New Enterprises in Shanghai and Hainan FTZ

To a certain extent, the active status of the commercial subjects reflects the degree of vitality and health of the economic development.¹¹ The analysis of the active status of enterprises in the White Paper on the Development of the commercial subjects in Pudong District in 2019 mainly focuses on two primary indicators: basic indicator

⁷ (September 15, 2020) Retrieved from <https://wssp.hainan.gov.cn/hnwt/handlingGuideline?%20id=661246&%20sourcekeyid=314161>.

⁸ (October 15, 2020) Retrieved from <http://www.hainanpc.net/hainanpc/xxgk/xfsd/942469/index.html>.

⁹ The Administration for Market Regulation of Hainan Province (note 6 above).

¹⁰ If entrepreneurs choose to set up the enterprise in Haikou city of Hainan FTP, it is free for engraving the company seals.

¹¹ In 2017, the Administration for Market Regulation Bureau of Pudong District has issued the White Paper on the Development of the main body of the Pudong District Marke, which has been published for four consecutive years, 2016, 2017, 2018 and 2019. The white paper uses the Pudong District enterprise registration database and the enterprise annual report database, unifies other related public data, through the data analysis, the characteristic combing, the longitudinal tracking, the horizontal comparison, the quantitative and qualitative, the comprehensive and the key combination and so on, has carried on the objective and systematic analysis to the Pudong District each kind of commercial subjects' development situation.

and other impact indicator. The basic indicator includes several secondary indicators, such as the situations of starting a business, of the exit facility of enterprises and of the publicity of the annual report of enterprises, while the situation of starting a business divided into two sub-level indicators, one is the number of new enterprises, the other is the amount of newly registered capital. The other impact indicator includes also several secondary indicators, such as the number of employees, the amount of business and the amount of tax.

From the perspective of the secondary indicator "the situation of starting a business", the present research will describe the dynamic changes of the number of new enterprises and the amount of newly registered capital, since the establishment of Shanghai Pilot FTZ and Hainan FTZ, and the implementation of the independent commercial registration system of FTZ.

3.2.1 The Situation of Starting a Business in Shanghai Pilot FTZ

Shanghai Pilot FTZ was formally established on 29 September, 2013. In 2017, Shanghai has announced, guided by the Plan for Comprehensively Deepening the Reform and Opening up of China (Shanghai) Free Trade Pilot Zone issued by the State Council, 24 key tasks in the reform and innovation of the FTZ. Shanghai Pilot FTZ has entered into a new stage of version 3.0 of reform, according to which the reform of commercial registration system mainly includes three aspects: firstly, to further deepen the reform of commercial registration system, to form an investment administration system with negative list as the core, and to gradually form a consistent market access standard without distinguishing the domestic and foreign investment; secondly, to comprehensively promote the pilot policy to separate Regulatory Licenses from Business License in Pudong District, and to extend such policy to the others FTZ. At last, to further deepen the reform of registration of enterprises' name and combination of different licenses and one license with several operating address.

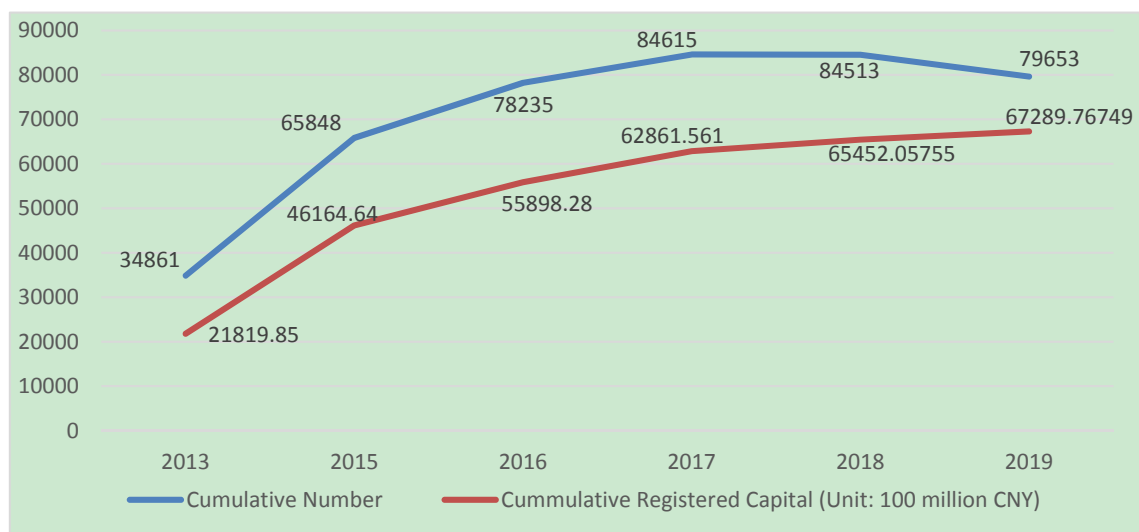


Figure 1. Trends of the Cumulative Number and Registered Capital of Enterprises in Shanghai Pilot FTZ from 2013 to 2019¹²

¹² (October 15, 2020) Retrieved from http://www.pudong.gov.cn/shpd/departments/20200918/019004006_fefcb249-c355-4741-9f25-97a47abcf063.htm.

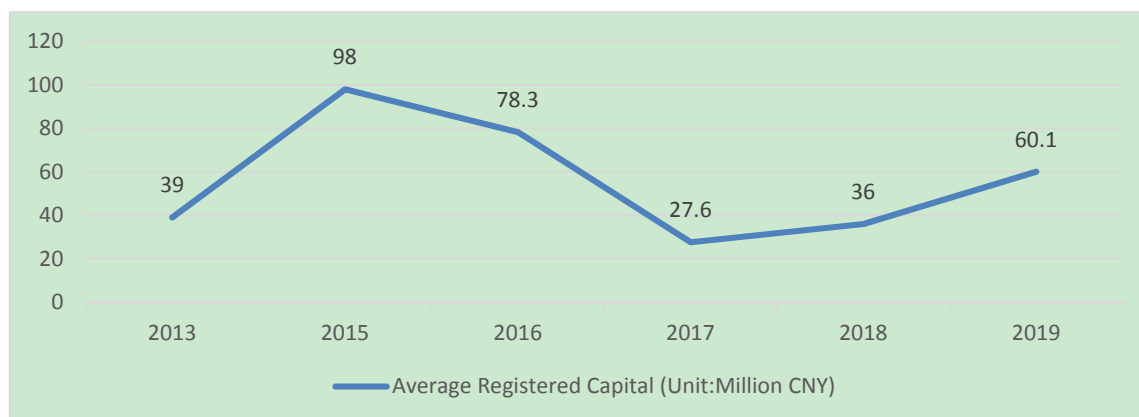


Figure 2. Average Scale (Unit: Million CNY) of Newly Established Enterprises in Shanghai Pilot FTZ

Figure 1 and Figure 2 illustrate the following facts:

On the one hand, the number and the registered capital of newly established enterprises continue to rise but more slowly after reaching a peak in 2017. After the establishment of the Shanghai Pilot FTZ in 2013, the number of newly established enterprises maintained a high growth rate on the whole, but obviously slowed down from 2017. Particularly, the cumulative number of enterprises decreases for the first time in 2018, 102 less than the year earlier. This situation continues in 2019, in which the cumulative number of enterprises is of 4860 less than the year of 2018. This shows that the policies of reforms of Shanghai Pilot FTZ in 2017 have not led to an increase of the number and the registered capital of newly established enterprises.

On the other hand, the quality of newly established enterprises in Shanghai Pilot FTZ continues to improve. The average scale of newly established enterprises in the FTZ arose from 39 million CNY per enterprise in 2013 to 98 million CNY per enterprise in 2015, then declined to 27.6 million CNY in 2017, and rise again from 2018.

3.2.2 The situation of starting a business in Hainan FTZ/FTP

Table 6. Types, Number and Proportion of Newly Established Enterprises in Hainan FTZ/FTP¹³

	2014	2015	2016	2017	2019
Number of newly established enterprises	43752	55689	63702	77662	103994
Proportion of state-owned enterprises	3.2%	2.6%	2.3%	1.9%	0.8%
Proportion of private enterprises	46.6%	42.1%	43.4%	47.1%	68.6%
Proportion of foreign-invested enterprises	0.7%	0.5%	0.5%	0.4%	0.2%

Table 6 shows that the number of newly established enterprises in Hainan FTZ has increased year by year. Especially after the promulgation of the Regulations on the Administration of the Commercial Registration of China (Hainan) Pilot Free Trade Zone, the cumulative number of enterprises in Hainan FTZ has exceeded 100,000. This shows the positive effects of the new reform policies, which is similar to situation incurred in Shanghai Pilot FTZ. However, it is not sure if this growth will be maintained in the coming years. In addition, it is worth noting that the proportion of foreign-invested enterprises in Hainan FTZ has yearly decreased from 0.7% in 2014 to 0.2% in 2019.

3.3 Evaluation of the Practice of Negative List Approach to Foreign Investment in the FTZ

3.3.1 The Paradigm Change of Chinese Administration on Foreign Investment by Adopting the Negative List Approach

Negative List approach adopted in Shanghai Pilot FTZ is a milestone of Chinese administration mode on foreign investment. As a way for the government to regulate market access, the core of the negative list approach focus on

¹³ (October 15, 2020) Retrieved from <https://data.stats.gov.cn/easyquery.htm?unitscn=E0103>.

the relationship between the government and the market. Its' main goal is to limit the governmental protectionism, reduce excessive government intervention in market activities, and make the market mechanism a decisive role in resources allocation.¹⁴ It requires to form a new administrative mode of pre-establishment national treatment plus negative list, in which the authority entitled to release the Negative List should be unique, the content of Negative List should be certain and clear, the effect of the Negative List should be definite. It embodies the rule of law spirit from government management to social governance, from government power leading to law leading, from comprehensive intervention to automatic regulation, from government orientation to coordination, from local spirit to global vision.¹⁵

3.3.2 The Overlarge Items of the Negative List

The Negative List has firstly been released in Shanghai Pilot FTZ in 2013, then adopted by the central government in 2015, and extended to apply to all 11 FTZ throughout the country in 2017. The Negative List has been slimmed down 7 times, with the number of negative items being reduced from 190 in 2013 to 30 in 2020.

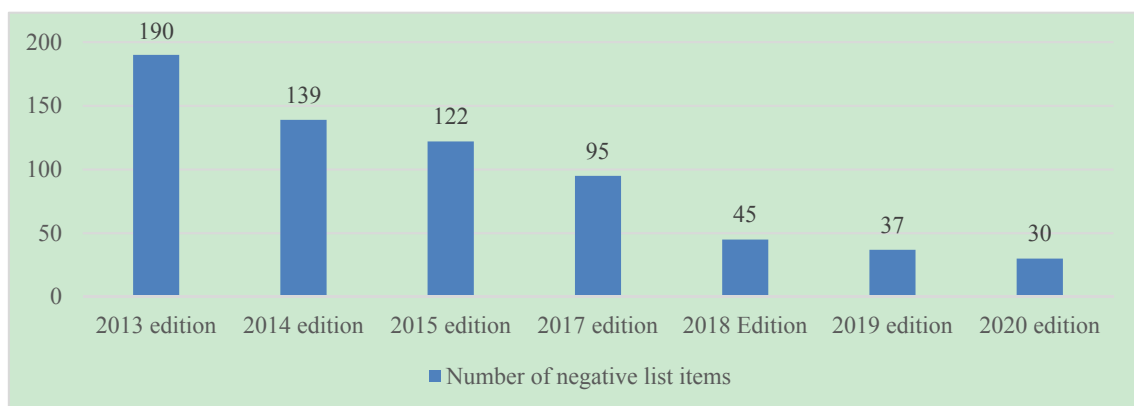


Figure 3. Number of negative list items of version 2013~2020

By comparing the different editions of negative list, it can be found that the Chinese FTZ has introduced some new opening measures in the industries of transportation, value-added telecommunications, infrastructure and manufacturing, mining and agriculture which allows foreign investors to be controlling shareholder even unique shareholder of the company in these industries. It shows the determination and efforts of Chinese FTZ in improving the level of opening up and creating an equal Doing Business environment for all domestic investors and foreign investors.¹⁶

However, not all of the decrease of items in the new edition of Negative List is material, some of the reduction are symbolic rather than substantial, because they are simply caused by "a merge of similar items".¹⁷ For example, in the 2013 Edition of Negative List, the item of restricting investment in barite mining stipulated in the "mining industry" and the item of restricting investment in the barite survey listed in the "scientific research and technology service industry" are actually duplicated in content. So, 2014 Edition of Negative List integrated these duplicated contents in the same mining sector.¹⁸

3.3.3 Related Regulatory Policies of Negative List Are Simple and Efficient

The related regulatory policies of Negative List adopted in Shanghai Pilot FTZ and Hainan FTZ are much simpler and more efficient than those in other areas in China, such as the policy to separate Regulatory Licenses from Business License, the policies of one window for acceptance and combination of different licenses and one license with several operating address, e-registration for all procedures of starting new enterprise, self-declaration system

¹⁴ Kuang, M. J. (2020). Reflections on the Legal System of Market Access under the Negative List System. *Beifang Jinrong (Northern Finance)*, No. 8, 080-085.

¹⁵ Zhang, S.F. (2012). Interpretation of the Rule of Law Spirit of the Negative List Management Model. *Zhengzhi Yu Falv (Politics and Law)*, No. 2, 11-18.

¹⁶ Kuang, M.J. (note 14 above), 083.

¹⁷ Kuang, M.J. (note 14 above), 084.

¹⁸ Liao, Z. T., Chen, Z. J., He, X. L. & Yang, Z. X. (2018). An Inquiry into the Negative List of China FTZ - An Analysis Based on the Negative List of 4 editions. *Guanli Guancha (Management Watch)*, No. 6, 91-94.

on line of business name, implementation of formal examination by commercial registration authority of the documents submitted by entrepreneur (s) and some other special supporting policies of FTZ.

3.3.4 The Positive Spillover Effect of Negative List Approach

To analyze the positive spillover effect of Negative List approach, can be used as indicators of an empirical analysis that the situations of the newly established foreign-invested enterprises and of the cross-border capital flow in the service industry in Shanghai Pilot FTZ and Hainan FTZ.

a) Impacts of the Negative List on the establishment of foreign-invested enterprises in FTZ. As is showed in the Figure 4 here below, the establishment of foreign-invested enterprises in Shanghai Pilot FTZ has the following characteristics:

Firstly, the number of newly established foreign-invested enterprises in Shanghai Pilot FTZ has declined from 2,356 in 2016 to 909 in 2019, while the newly registered capital has had the same trends.

Secondly, in terms of activity levels of enterprises, the numerical indices of activity of private enterprises is 95.68, which is the highest and is in the hyperactive interval. While the numerical indices of foreign-invested enterprises is 73.18 which is in a highly active range.

Finally, in terms of the indicators of newly established enterprises and the employment promotion, the private sector ranks first, and is much higher than the state-owned enterprises and foreign-invested enterprises. It highlights the important role of private enterprises in promoting employment and livelihood protection.

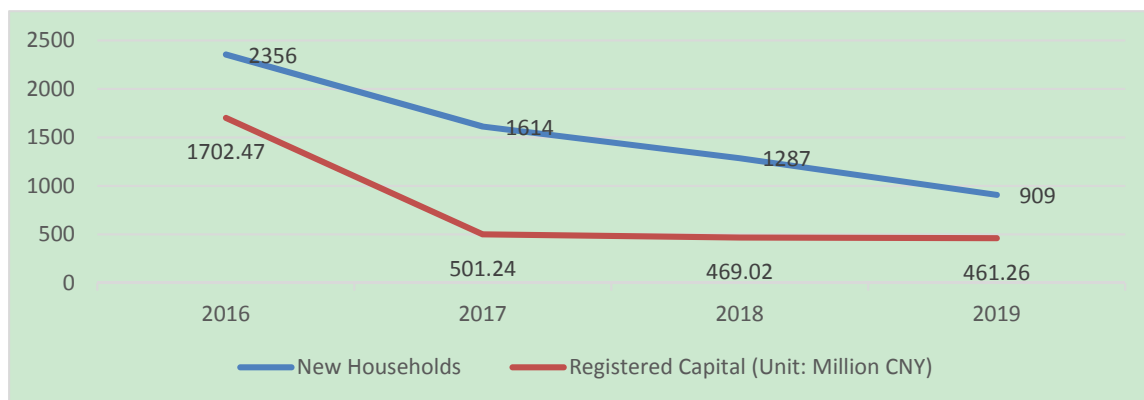


Figure 4. Number and Registered Capital of Foreign-invested Enterprises in Shanghai Pilot FTZ from 2016 to 2019

In Hainan, the number of newly established foreign-invested enterprises has declined from 2013 to 2017. But the number started to yearly increase from 2018 after the approval of Hainan FTZ with the obvious increase of investment amount, which means that the quality of foreign-invested enterprises has steadily improved. The total registered capital of foreign-invested enterprises has exceeded 80 billion US dollar in 2019.

There are 31 newly established enterprises in 2019 whose householder are companies ranking Fortune Global 500, China's top 500 enterprises. Hainan FTP is a higher and upgraded stage of Hainan FTZ, which has a higher strategic significance, and a stronger demonstration effect on the reform of commercial registration system of the following FTZ or FTP.

Table 7. Number and registered capital of foreign-invested Enterprises in Hainan FTZ from 2012 to 2020¹⁹

	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of enterprises	3105	3105	3038	3111	2660	2442	2707	3319	4324
Total investment (Unit: million US dollar)	27072	26994	27888	31174	76039	76089	92793	104528	—
Registered capital (Unit: million US dollar)	14337	15823	15719	18015	60668	61002	70670	81336	—

b) Analysis on influencing mechanism of the Negative List on cross-border capital inflow of service industry in FTZ. The Negative List approach effectively reduces the trade barriers in services and promotes the cross-border capital inflow of foreign-invested enterprises in the service industry. The specific influences are as follows:

First of all, Negative List approach has a lighthouse effect to some extent. After the promulgation of the Negative List approach in Shanghai Pilot FTZ, the market has received a positive and clear signal that Chinese government focuses on adopting a more transparent and open mode to supervise the business activities and build a more fair and reasonable competitive environment.

Secondly, the Negative List approach in Shanghai Pilot FTZ has changed the original examination and approval system of commercial registration into a register records system. Foreign investors can set up a company or other commercial subjects engaging in business activities through this highly simplified and efficient register records system which brings great convenience and benefits to the business.

After the application of the Negative List in the Shanghai Pilot FTZ, the positive impact on cross-border capital inflows in the service industry in 2014 exceeded 30 percent, and further increased to 40 percent in 2015. This positive impact continues to be evidenced by the later business practices.²⁰

Finally, since the first edition Negative List, the special administrative measures in the important service industries such as health care, transportation, information services, education and finance have been decreased year by year. Especially, the policy of constructing the RMB offshore center on the basis of Shanghai's relatively developed financial industry marks an increasing openness and level of China's service industry, which attracts the rapid inflow of financial capital and related industry capital to a large extent.²¹

4. Evaluation of the Commercial Registration System Reform in Shanghai Pilot FTZ and Hainan FTZ/FTP

4.1 Introspection on the Commercial Registration System Reform in Shanghai Pilot FTZ

4.1.1 The Fragmentation of the Normative Documents Related to Starting a Business

First, the State Council has issued several guiding normative documents for the commercial registration system of Shanghai FTZ, which mainly includes: General Plan of China (Shanghai) Free Trade Pilot Zone (September 2013), which requires to promote government management from the prior approval of starting a business to the supervision during and after the event of that, and, to explore the establishment of negative list management model and filing management system in foreign investment; Plan of Further Deepening the Reform and Opening of China (Shanghai) Free Trade Pilot Zone (April 2015), which guides the comprehensive reforms of enterprise registration from negative list, social credit system, information sharing, annual disclosure of enterprise information, lists of enterprises with abnormal operations etc.; Plan of Comprehensively Deepening the Reform and Opening of China (Shanghai) Free Trade Pilot Zone (March 2017), which clearly points out some commercial registration reform measures: to establish a more open and transparent market access management model, to deepen the reform of the commercial registration system comprehensively, to implement separating permits from the business license etc.; and other commercial registration reform measures. After that, Shanghai promulgated the Administration Measures of China (Shanghai) Pilot Free Trade Zone (October 2013), which contains guiding provisions of registered capital subscription system, Business License First and Regulatory License Later system, negative list and registration record system in foreign investment, one window service mechanism, dynamic regulation mechanism, annual disclosure of enterprise information, credit information system, supervision information

¹⁹ (November 12, 2020) Retrieved from <https://data.stats.gov.cn/easyquery.htm?cn=E0103>.

²⁰ Tan W. J., Cui, F. & Yang Z.Y. (2019). The influence of Negative List administrative mode on the capital flow of service industry in Shanghai Pilot FTZ - An analysis based on synthetic control method. *Weiguan Jingji Yanjiu (Macro-economic Research)*, No. 5, 117-132.

²¹ Tan W. J., Cui, F. & Yang Z.Y. (note 20 above), 117.

sharing system etc. For lack of systematic provisions on starting a business, the above-mentioned normative documents tend to be lopsided and fragmental.

4.1.2 Reflections on "Shanghai One Window Pass" Service Platform

In fact, the establishment of "one window" has not brought convenience to foreign-funded enterprises. For instance, it is showed that "one process, one day, one application form, and no cost" on the "Shanghai One Window Pass" service platform, but for starting a foreign-invested enterprise, the related investors encounter several problems:

a) *The difficulty as to the company name.* The related investors need to communicate many times with their Chinese lawyers for determining the definitive name which has to conform to the willingness of the investors on the one hand, and has to be accepted according to Chinese law on the other hand.

b) *The difficulties as to the communications and costs.* one application form means that all details have to be determined and fulfilled in one form. In such cases, the Chinese lawyers need to translate the entire form into English, which will lead to more expenses and a waste of time. Besides, all details in the one form also mean that one single change will lead the form to null and void, and the form needs be prepared, confirmed, and signed step-by-step once again. Therefore, the "Shanghai One Window Pass" service is not a perfect mode for starting a foreign-invested enterprise as these policymakers expected. By contrast, the traditional offline mode, in which the Chinese attorneys shall have the opportunity to communicate and confirm the details with the person in charge of the registration on the spot, is a more practicable mode for that.

4.1.3 Reflections on the Reform of "Two Licenses Separation"

On 16 December, 2015, the executive meeting of the State Council deliberated and adopted the General Plan on the Pilot Reform of separating Regulatory Licenses from Business License in Shanghai, which decides to pilot reform of license separation in Pudong District. In China, the Business License and the Regulatory License are the two keys for all enterprises to enter the market. The Business License refers to the business license issued by the industrial and commercial department, and the Regulatory License refers to the regulatory license issued by the competent departments of the relevant industries. In order to start a company in old days in China, entrepreneurs needed to obtain the regulatory license from the competent department first before they applied for the business license from the industrial and commercial department. Since the establishment and expansion of the Shanghai FTZ, it has taken the lead in carrying out the reform of the commercial registration system and implementing the policy of Business License First and Regulatory License Later in the field of market access, which means enterprise may carry on general production and business activities only with the business license obtained from the industrial and commercial department. If the enterprise wishes to carry on activities which need to be permitted later, it needs to apply for regulatory license from the competent department.²²

On 30 March, 2017, the Plan of Comprehensively Deepening the Reform and Opening of China (Shanghai) Free Trade Pilot Zone has been formulated by the State Council, which established reform measures of Starting a business(including license separation). The methods to pilot reform therein include five aspects: the first is to cancel approval and implement industry self-discipline. The administrative approvals to the matters that can be adjusted by market competition mechanism and can be self-disciplined by the industrial organizations or intermediary organizations are canceled and governed by industrial self-discipline instead. Enterprises are permitted to engage in 10 related business activities directly. The second is to change the system of prior approval into registered record system. Enterprises may carry on relevant business activities once they file the relevant documents to the applicable government departments under the prescribed filing conditions. The government departments do not approve or license the filing documents and govern the enterprises through strengthening supervision during and after the event to rectify or punish the illegal behaviors. The third is to simplify the administrative approval procedures, and implement the notification-commitment system.²³ The notification-commitment system is applicable on the fields that the administrative approval procedures cannot be canceled immediately, but can be regulated by supervision during and after the event, and no serious consequence would

²² State Council Reply to the General Plan on the Pilot Reform of separating Regulatory Licenses from Business License in Shanghai. (August 25, 2020). Retrieved from http://www.gov.cn/zhengce/content/2015-12/29/content_10519.htm.

²³ The notification-commitment system refers to an administrative system under which a competent administration can directly handle related administrative licensing matters without asking the applicant concerned to provide relevant written proofs, in condition that this administration informs the applicant concerned, in written form (including electronic text) and at a time, of the duty of proof and the content of proof, and the applicant concerned makes a written commitment that all statutory conditions, standards and requirements have been conformed, and he will bear all legal liability of any false commitment. Defined by the Circular of the Ministry of Justice concerning the implementation of the pilot work programme of notification-commitment system. (March 10, 2021). Retrieved from http://www.moj.gov.cn/government_public/content/2019-05/14/tzwj_234850.html.

happen if there is no prior approval. The fourth is to improve the transparency and predictability of approval procedures. To those administrative approvals that cannot be immediately canceled and cannot be immediately applied the notification-commitment system, the authorities shall simplify the process, publish the work procedure, improve the standard management and online service and clarify the approval standard and processing time limit so as to minimize the discretionary power of approval to the maximum extent, achieve the openness and transparency in processing and make clear expectation to the result. Such method covers 41 administrative approval affairs, including the establishment of accounting firms and their branches. The fifth is to strengthen market access administration of specific activities, including public safety.

After the implementation of the reforms, there are still several problems to be solved:

First, the reform of changing the prior approval system into registered record system fails to achieve the goal of helping enterprises entering into business quickly to a certain extent. Because a large proportion of the record items must be completed prior to the business activities, but not an after-event mode. If the prior mode could change into after-event mode, the authorities may complete all relative procedures on the spot. In such cases, the expectation of reform of license separation will be truly realized, which means to expand market access and save the time of establishing enterprises to the maximum extent so as to enable enterprises to enter into business quickly.

Second, the supporting regulations need to be perfected. The procedures of simplifying the Starting a business need a more wholesome regulate mechanism. However, in the view of the progress of the pilot reform, the supporting laws and regulations are not perfect yet, especially the legal construction of supporting comprehensive regulations, and the supporting management system matching the requirements of supervision during and after the event is still missing. For example, hundreds of laws and regulations promulgated by different departments are still used as the basis of market supervision and law enforcement. The time limits and the processes contemplated in these laws and regulations are different and lack of unified supporting legal construction, which interferes the effect of comprehensive law enforcement.

Third, the scope of reform needs to be fully covered. According to a preliminary summarization, there are about 510 items involving in the approval procedure of market access, 116 of them already reformed relatively focused in the area of transport, food and medicine, public health and so on. According to the requirements of strengthening the reform, it's necessary to deepen the reform of the whole chain in key industries and areas. Meanwhile, there are still a considerable number of items excluded in the scope of reform, such as some industrial and technical standards and specifications, certifications, inspections and testing, evaluations and some other items.

Fourth, the punitive measures, including massive compensation mechanism and restriction of personal liberalization, is lacking in the relative laws. The punitive massive compensation aims to prevent recidivism and act as a warning, which is different from compensatory compensation. It applies to behaviors having significant influence or caused by subjective intent and requires the acting man to pay more compensations than the actual amount of damage.

4.2 Introspection on the Reform of Commercial Registration System in Hainan FTZ

The commercial registration system of Hainan FTZ embodies high unity and lays a good foundation for the relevant legislation of Hainan FTP. Hainan FTZ has issued Regulations on the Commercial Registration of China (Hainan) Free Trade Pilot Zone, which stipulates principal regulations on the direct registration of foreign enterprises and allow foreign enterprises that meet certain conditions to engage in business activities in specific areas other than those expressly prohibited by China's laws and regulations. However, the commercial registration system still has the problem of multi-headings: in 2019, People's Congress of Hainan vigorously promoted the construction of legal system which suits Hainan's comprehensive and deepening reform and opening up, by example, to formulate the Regulations on registration of foreign enterprises in China (Hainan) Free Trade Pilot Zone. Therefore, the registration systems, the business scope of domestic and the foreign enterprises are still governed by different laws and regulations.

4.2.1 The Conflict between the Commercial Registration System in Hainan FTZ and Its Superior Law

The State Council decided to temporarily suspend the application of certain regulations in China (Hainan) Free Trade Pilot Zone from 18 June, 2020 to 31 December, 2024, such as Regulation of the People's Republic of China on Guarantee for Customs Affairs, Regulation of the People's Republic of China on Import and Export Duties, Regulations of the People's Republic of China on International Ocean Shipping, Regulations of the People's Republic of China on Inspection of Ships and Offshore Facilities and Regulation on the Administration of Domestic Water Transport. But the Regulations of the People's Republic of China on Administration of Registration of Companies issued by the State Council is still applicable in Hainan FTZ. The legal level of Hainan

FTZ's relevant normative documents is apparently lower than those of Regulations of the People's Republic of China on Administration of Commercial Registration and Administrative Licensing Law of the People's Republic of China, so the conflict between the commercial registration system in the FTZ and superior law is prominent.

First, the conflict of examination systems. The commercial registration system in Hainan FTZ applies explicitly the formal examination under which the registration authority examines only the formal legitimacy but not the substantive legitimacy of relevant application materials. However, according to Administrative License Law of the People's Republic of China and Regulations of the People's Republic of China on Administration of Commercial Registration, the compromise examination system should be applied.

Second, the conflict of the contents and the supervision methods of enterprise information disclosure system. Article 58 of the Regulations of the People's Republic of China on Administration of Commercial Registration stipulates that the enterprises shall submit the an annual report of the previous year to the registration authority through the enterprise credit Information Disclosure system from January 1 to June 30 of each year and make it public to the society. The contents of the reports and the supervision methods shall be stipulated by the State Council. Paragraph (1) to (3) of Article 46 of Regulations of the Hainan FTZ on the Administration of Commercial Registration stipulate that the relevant departments of the provincial people's government shall publish the registration, administrative license, administrative punishment and other supervision information of the commercial subjects through the enterprise credit Information Disclosure system. The commercial subjects shall publish the contribution, administrative license, change of equities and other information through the Enterprise Credit Information Disclosure system, where the administrative punishment they suffered is excluded to the scope of disclosed information.

4.2.2 The Overlarge Scope of Substantive Examination of Commercial Registration

The business licenses issued by the Administration of industry and commerce contain the "business scope" item. Affected by the traditional theory of combined registration system, the registration authorities used to require the enterprises to provide the relative license certificates issued by other administrative authorities, even those items belongs to the after-event regulated activities.²⁴ By example, Article 14 of the Regulations of Hainan FTZ on the Administration of Commercial Registration requires the commercial subjects to register the name, domicile and business scope and so on. According to Regulations of the People's Republic of China on Administration of Registration of Legal Entities, the business scope of the legal entities shall match their strength, which is a standard of substantive examination. This standard has not been changed or canceled even in the newly revised or published regulation. However, it tends to be more strict and involve more and more examination factors. In addition to the traditional factors concerning the capital, technologies, equipment conditions, the new factors concerning business premises and staff have been taken into consideration.²⁵

4.2.3 The Imperfections of Enterprises Information Disclosure System

On the one hand, the nature of the disclosed information needs to be clarified. According to the Interim Regulation on Enterprise Information Disclosure, the disclosed information can be divided into two types according to its' subject, one is the information publicized by enterprises and the other is the information publicized by the government. The disclosed information can also be divided into two types according to the standard of voluntary or compulsory, one is compulsory disclosed information and voluntary disclosed information. The problem therein is that the scope of compulsory disclosed information is large and cannot correctly reflect the basic credit condition of enterprises, meanwhile the scope of voluntary disclosed information is small and cannot show the general profiles of enterprises' competitiveness. The administrative punishment information and other compulsory disclosed information has been precisely included in the Interim Regulation on Enterprise Information Disclosure. In addition, protect the creditors of the enterprises, or to facilitate the administrative management, some asset information shall be included into the compulsory disclosed information as well, such as the real estate, mortgage and guarantee status, equity information etc., because all commercial subjects gradually focus more on the asset credit than the capital credit. The voluntary disclosed information should be able to show the enterprises' competitiveness, such as the information of intellectual property rights and administrative license, which the enterprises may be voluntary to disclose, however, they are classified as compulsory disclosed information.²⁶ It is

²⁴ Liu, H. (2018). Research on the Legal Issues in the Reform of Commercial Registration Supervision System in Fujian FTZ—center on supervision during and after the event and Business License First and Regulatory License Later. *Haixia Faxue (Cross-strait Legal Science)*, No. 6, 98-104.

²⁵ Cao, X. Q. & Chen A. S. (2018). The Evolution of the Market Autonomy in the Reform of Administration of Industry and Commerce. 8 *The 10th Summit Forum of Economics and Legal—Business Environment and Government Responsibilities*.

²⁶ Cao, X. Q. & Chen A. S. (note 25 above).

an innovation that the enterprises established in Hainan FTZ are exempted from the obligation to disclose the administrative punishment they suffered, but it still needs to expand the scope of the voluntary disclosed information as well.

On the other hand, the supervision of the financial and economic status of enterprises needs to be strengthened. According to the Regulations of the Hainan FTZ on the Administration of Commercial Registration, enterprises are required to disclose its' annual report which includes the number of employees, total assets, total liabilities, external guarantees, total owners' equity, total operating income, total profit, net profits and total tax payments and so on. However, these traditional financial data can not foresee the difficulties that enterprises may encounter. Besides, the applicable company law in China implements the registered capital subscription system, which means no requirement on the verification and disclosure of paid-up capitals. Therefore, although some progresses have been achieved as to the rules of market access, the supervision during and after the event to the reform of the commercial registration system is not relatively perfect and need to be strengthened.

4.3 The Relationship between the Negative List in FTZ and Market Access Regulation Needs to Be Streamlined

Due to China's national conditions and the path dependence on traditional supervision, there are still some contradictions between the Negative List in FTZ and market access supervision system, which needs to be solved.

4.3.1 Negative Lists and Hidden Barriers to Market Access

There still exist some hidden barriers to market access that cannot be crossed nor be ignored for the industries not prohibited or restricted by the Negative List due to some special regulatory measures imposed by some relative regulatory authorities or local governments. The commercial subjects still face the risk of extra costs. For example, although the funeral-related industries are not prohibited or restricted by the Negative List, the civil administration department stipulates some specific regulatory measures on the grounds of Chinese traditions of funerals. Other industries may have the same situation.

4.3.2 Negative List and Market Access for Emerging Industries

Similar to the common foreign Negative List mode, the Negative List in China's FTZ also lists the industries prohibited or restricted from the existing industries catalogue. It's inevitable that whether some emerging industries out of the existing industries catalogue of one country could be freely access to foreign investment. According to the international common practice of Negative List, such emerging industries do not belong to the scope of freely access to foreign investment. It remains to be clarified that whether this international common practice is applicable to Negative List in China's FTZ.

4.3.3 Coordination among Different Types of Lists and Catalogue

There exist three types of negative lists in China, including the Negative List for Market Access which is generally applicable to domestic and foreign enterprises, Special Administrative Measures for Foreign Investment Access and Special Administrative Measures for Foreign Investment Access in the Free Trade Zone. Besides, there also exist some similar normative documents, such as the Catalogue of Encouraged Industries for Foreign Investment (2019 Edition). The relationship among these lists and catalogue remains to be clarified.

5. Proposals on the Legislation of Commercial Registration in Hainan FTP

Free trade port, normally having a wider range of "liberalization" than Free trade zone, is generally considered as the highest opening-up Free trade zone. In addition to the liberalization of trade, it also includes liberalization of investment, employment, operation and entry and exit of businessman. Hainan FTP allows offshore trade and offshore finance and other related high-level services industries on the basis of offshore trade.

The National people's Congress authorized the State Council to temporarily adjust and implement the relevant provisions of the relevant laws in the Hainan FTP to avoid the conflicts between Hainan's future reform and innovation in related fields and the national superior law. Hainan FTP has given a huge space for reform and innovation in related fields. The commercial registration system of Hainan FTP should be more convenient, efficient and be strict with the esprit of supervision after the event.

The central government chose Hainan as the experimental area of FTP, one of the reasons is that Hainan is the nearest coastal province from Southeast Asia. In recent years, the Asia-Pacific economy has become a new growth point of the world economy. As the most convenient province to connect with the Asia-Pacific countries in geography, the opening of Hainan is the demand of era. Therefore, the commercial registration system of Hainan FTP should aim at high-level international rule, so that commercial subjects can realize trade liberalization and circulation facilitation at the international level.

The General Plan of the Construction of Hainan FTP, jointly issued by the Central Committee of the Communist

Party of China and the State Council of China, intends to focus on the liberalization and facilitation of trade and investment mechanism, implements market access upon the commitment system. We should strictly implement the "non-prohibition equals to access permission" policy, cancel the administrative license in the fields with mandatory standards by establishing and improving the registered record system, and allow the market entities to carry out investment and business activities on condition that they promise to meet the relevant requirements and submit relevant materials for record. From the time of receiving the record, the filing-accepting institution shall assume the censoring responsibility. We should implement the investment facilitation system that focuses on supervision during the event, establish such policies and systems as the establishment convenience that is mainly based on electronic licenses, the operating convenience that is mainly based on "responding promptly", "avoiding interruption", the exiting convenience that is mainly based on the announced commitment, optimized procedures, and diligently-performed duties.

Therefore, the following new contents should be considered in the future commercial registration system of Hainan FTP.

5.1 To Delimit the Scope of application of the Commitment

The "market access upon commitment" system shall delimit the related scope of the applicable enterprises.

First, the scope of industries applicable to the system needs to be delimited. The General Plan of the Construction of Hainan FTP focuses on the development of tourism, modern service industry and high-tech industry, while the manufacturing industry is not the policy target. Its comparative advantage is ecological environment, doing business and policy environment. Therefore, in the establishment of "market access upon commitment" system, we should aims to provide a more convenient access measures for the above industries by exploiting comparative advantage.

Second, the scope of commitment for enterprises that the "market access upon commitment" system applies needs to be detailed, such as the company's name, the registered address, the property certificate and all shareholders' identity information and the proportion of all shareholders' contribution. But if a company is concerned about some special events, the scope of commitment should be applied conservatively. For example, as to some business activities needing special qualification or license, its legal representatives and executives should also be examined whether there is a criminal record against minors if it is a company engaging in K12 education.

5.2 To Further Optimize the Doing Business and Facilitate Business Registration

5.2.1 To carry out the video authentication registration

One of the most important goal of the reform of commercial registration system is to reduce the institutional costs, including the time cost, procedural cost and expenses costs. Therefore, in the registration of formation, alteration registration and deregistration of commercial subjects, the legal system and the registration authority should minimize their costs and further improve the efficiency of the commercial registration system.

For enterprise establishment, equity alteration and other occasions, entrepreneurs are required to be presented on site of the service window, but it is common that they cannot present on site for various reasons. In this case, the registration authority shall, according to the entrepreneurs' application, verify the identity of them by means of the video authentication, which is similar to an audio-video double recording system in securities trading. In this way, it can facilitate the applicant to apply for registration, help to improve the efficiency of registration, and avoid potential disputes and reduce the administrative reconsideration and litigation might caused.

5.2.2 To Increase Appropriately the Legal Forms of Contribution

As mentioned earlier, one aspect of improving the business environment and facilitating enterprise registration is to relax the restrictions on the form of capital contribution. Relaxing the form of capital contribution of the commercial subjects will help the commercial subjects with special property form to set up the company, stimulate its enthusiasm for entrepreneurship, and also help to create employment and social stability under special circumstances. In fact, China has made many reforms to facilitate the registration of companies, but there is little change in the form of capital contribution.

5.3 To Enhance the Regulations of Financial Information of Enterprises

5.3.1 To Establish a "Prevention-Discovery Mechanism" to Supervise and Prevent Enterprise's Predicament

Hainan FTP will be much more attractive for many entrepreneurs to establish their business. As to the disclosure of credit information of enterprises, if there is no appropriate supervision during and after the event system, it may lead to many social contradictions. The pursuing of conveniences and effectiveness in the establishment and market access of enterprises does not mean that enterprises' activities are permitted to deregulate. The economic and

financial situation of enterprises is highly related to the transaction security of the market, so the relative early warning system is extremely important, particularly under the current legal framework of registered capital subscription system which imposes no requirement for verification and publicity of the paid-in capital of enterprises. Therefore, enhancing the supervision during and after the event is important for the effectiveness of the reforms of shifting back of regulations and of the whole commercial registration system.

5.3.2 To Establish the Enterprise Financial Information Disclosure System

According to the Reform Plan for Accelerating Improvement of the Exit System for Market Participants, the transparency of enterprises in financial and operating information shall be improved, and the requirements for the responsibility of entities subject to obligation of information disclosure for the authenticity, accuracy and completeness of information disclosure shall be enhanced. Public companies shall disclose financial and operating information to the public in accordance with the law. Non-public companies shall disclose financial and operating information to shareholders and creditors in a timely manner. The obligation of enterprises in financial difficulty to disclose information to shareholders, creditors and other stakeholders in a timely manner shall be strengthened. Besides, all enterprises are encouraged to externally disclose more information that is conducive to judgment on debt risks.

After the reform from paid-up capital system to registered capital subscription system, the credit basis of the commercial subject changed from the capital credit to the asset credit. In order to facilitate the public to understand the asset condition of the commercial subject in time and improve the security and convenience of the commercial transaction, it is necessary to require commercial subjects to make its audited financial report disclosure so as to protect the security of the transaction.

5.4 To Harmonize the Legal System of Regulatory Authorities

At present, in the aspect of the reform of commercial registration system, all FTZ in China have focused on the simplification of procedures and the reduction of time cost of commercial registration, and have achieved positive results. But an efficient supervision system and a fast information feedback mechanism are also important.

An efficient supervision system requires that the departments of industry and commerce, quality supervision, food and medicine supervision and price supervision should break the piece-wise management which brings a lot of inconvenience to the commercial subjects as to the aspects of time cost and manpower cost, perfect the market supervision mechanism in which the industrial and commercial departments, the administrative licensing departments and the industry authorities are linked up with each other, and improve the efficiency of departmental cooperative supervision. The regulatory department should actively use the Internet+ Mode to speed up the supervision and increase efficiency, innovate the supervision mode of the Internet+, and realize the meshing and fine management of the basic items of the subsequent supervision of commercial registration.²⁷

A fast information feedback mechanism requires that any false registration or improper behavior of commercial subjects can quickly and effectively be revealed, supervised and corrected by the public. As to relative information, it is necessary to strengthen the sharing and utilization of the regulatory information resources, accelerate the sharing and utilization of governmental information resources, establish and improve the government information resource sharing platform, speed up the development of unified and standardized data standards and platform operation management system, and deeply integrate the information resources of various departments.

5.5 To Strengthen the Legislation on Applicant's Accountability and Disciplinary Mechanisms

5.5.1 To Clarify the Applicant's Responsibilities

In the context of simplified commercial registration, the responsibility of the applicant should be strengthened, such as the responsibility to make clear the false provision of information, the responsibility to breach the promise of prior business, the responsibility to carry out summary registration, etc.

Without conflicting with the existing laws and regulations, the provisions of these responsibilities serves as the further improvement of the relevant liability provisions, including the Regulation on the Administration of Commercial Registration of China (Hainan) Pilot FTZ, which will help to strengthen the supervision after the event under the premise of the relaxation of prior management.

In practice, it is not uncommon for commercial subjects to engage in business activities in violation of their commitments without obtaining post-licensing, such as permission of health or fire control. If this phenomenon is not be restricted, it may endanger people's health and safety and is inconsistent with the idea of supervision during

²⁷ Zhang, Y. (2019). Building a Supervision System in Commercial Registration. *Guangzhou Ribao (Guizhou Daily)*, 19 June, 101.

the event. The law should impose corresponding administrative legal liability on this illegal act and civil liability should also be borne if it causes losses to others.

5.5.2 To Introduce Punitive Measures of Massive Compensation

According to the current Regulation on the administration of Commercial Registration of China (Hainan) Pilot FTZ, there is no legal basis to engage the punitive measures of massive compensation. Such punitive mechanism aims to prevent the relative subjects from repeating the mistake by imposing a massive compensation, which is therefore obviously different from compensatory mechanism. It is significant to introduce this kind of punitive mechanism in future legislation of Hainan FTP. For example, for the dishonest or illegal behavior of an enterprise, it is not necessary and reasonable to assign the burden of proof to the enterprise acting dishonestly or illegally.

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