

# Client Alert

---

January 8, 2014

## MIIT and Shanghai Government Confirm Telecoms Market Opening in China (Shanghai) Pilot Free Trade Zone

By Paul D. McKenzie, Gordon A. Milner, Thomas Man and Sherry Yin

Following issuance over the last several months of more general policy statements promising liberalized foreign investment rules applicable to the telecommunications sector within the China (Shanghai) Pilot Free Trade Zone (“SHFTZ”), the Ministry of Industry and Information Technology and the Shanghai Municipal People’s Government on January 6, 2014 jointly issued the *Opinions on Further Opening Up Value Added Telecommunication Services to Foreign Investors in China (Shanghai) Pilot Free Trade Zone* (关于中国（上海）自由贸易试验区进一步对外开放增值电信业务的意见; the “Opinions”).

Key provisions of the Opinions include the following:

- In regard to **information services** and **storage and forwarding services**, which were opened to foreign investment following commitments to the WTO but subject to a 50% cap on foreign shareholding, foreign shareholding may now exceed 50% (within information services, this relaxation applies only to app stores).
- **Call center services, domestic multiparty telecommunications services, Internet access services** and **domestic Internet virtual private network services** are newly opened for foreign investment within the SHFTZ. The Opinions further provide that foreign shareholding in domestic Internet virtual private network services is subject to a 50% cap but with no such cap applicable to the other three service categories.
- **Online data processing and transaction processing services** (operational E-commerce) are subject to a 55% cap on foreign shareholding.
- The Opinions specify that in order to engage in the foregoing services, an enterprise must be registered and have its servers installed within the SHFTZ. They also state that, while Internet access services may only be offered within the SHFTZ, the other services may be offered nationwide.
- The Opinions contemplate the suspension of the application of the Provisions for Administration of Foreign Invested Telecommunication Enterprises (《外商投资电信企业管理规定》; the “FITE Provisions”) within the SHFTZ and call for the formulation of pilot administrative measures, along with simplified approval procedures and shortened approval periods. This provision of the Opinions is backstopped by a State Council document, also issued January 6, 2014, formally suspending the FITE Provisions, along with a raft of other foreign investment regulations.
- Consistent with the policy requirement that the market liberalization not have an adverse effect on network security, the Opinions call for the adoption of a number of safeguard measures, including improving collection

## Client Alert

---

and analysis of information and specifying requirements for network infrastructure, data resources and protection of user data.

Morrison & Foerster continues to monitor regulatory developments in the SHFTZ relevant to international companies in the telecommunications and other sectors.

### Contact:

**Paul D. McKenzie**

86 10 5909 3366

[pmckenzie@mofo.com](mailto:pmckenzie@mofo.com)

**Gordon A. Milner**

852 2585 0808

[gmilner@mofo.com](mailto:gmilner@mofo.com)

**Thomas Man**

86 10 5909 3313

[tman@mofo.com](mailto:tman@mofo.com)

**Sherry Yin**

86 10 5909 3566

[syin@mofo.com](mailto:syin@mofo.com)

### About Morrison & Foerster:

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 10 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at [www.mofo.com](http://www.mofo.com).

*Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.*