

Measures for the Administration of Certification Consulting Institutions

The Measures for the Administration of Certification Consulting Institutions, which were adopted upon deliberation at the executive meeting of the General Administration of Quality Supervision, Inspection and Quarantine on August 31, 2005, are hereby promulgated, and shall go into effect as of November 1, 2005.

Director General, Li Changjiang

September 29, 2005

Measures for the Administration of Certification Consulting Institutions

Chapter I General Provisions

Article 1 With a view to strengthening the supervision and administration of certification consulting institutions and regulating the certification consulting activities, the present Measures are formulated according to the Administrative License Law of the People's Republic of China, the Regulations of the People's Republic of China on Certification and Accreditation and the relevant provisions of the State Council.

Article 2 The term "certification consulting institutions" as mentioned in the present Measures refers to the organizations that provide consultation to those persons engaging in the certification review, verification, inspection or any other certification-related activity.

Article 3 The certification consultation conducted within the territory of the People's Republic of China shall be in line with the present Measures.

Article 4 The Certification and Accreditation Administration of the People's Republic of China (hereinafter referred to as the CNCA) is responsible for the uniform administration and supervision of certification consulting institutions and certification consulting activities.

The local departments of quality and technology supervision at all levels and the entry-exit inspection and quarantine authorities of all regions (hereinafter jointly referred to as the local certification supervisory and administrative department) shall, according to their respective functions and duties, conduct supervision over and inspection of certification consulting activities within their respective jurisdictions.

Article 5 The certification consulting institutions are encouraged by the State to obtain the accreditation from the accreditation institution as authorized by the CNCA ((hereinafter referred to as the accreditation institution)) so as to guarantee their sustained and stable capacity to provide certification consulting.

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Chapter II Requirement for Establishment and Procedures for Approval

Article 6 The establishment of a certification consulting institution shall be subject to the approval of the CNCA. It may not carry out the certification consulting activity within the approved scope unless it is qualified as a legal-person.

Article 7 The applicant shall satisfy the following requirements when applying for the establishment of a certification consulting institution:

- (1) Having the fixed business place, necessary facilities;
- (2) Having the registered capital not less than RMB 100 thousand Yuan;
- (3) Having the document on quality management system as required for the relevant certification consulting institution;
- (4) Having no less than 4 professional certification consultants among whom there is one senior consultant.
- (5) Other conditions as required.

As for the establishment of a foreign-invested certification consulting institution, besides the above-mentioned requirements, a foreign investor shall also have the professional certification consulting qualification or certification consulting authorization as prescribed by the laws of its home country or region.

Article 8 The examination and approval procedures for the establishment of a certification consulting institution are as follows:

- (1) An applicant applying for the establishment of a certification consulting institution (hereinafter referred to as the applicant) shall submit to the CNCA a written application and the relevant certification materials;
- (2) The CNCA shall conduct the preliminary examination of those application materials submitted by the applicant, and shall, within 5 days as of the date of receipt of the application materials, make a written decision as to whether or not to accept the application;
- (3) The CNCA shall examine and verify the material contents of application materials upon the acceptance of the application, and shall make a decision as to whether or not to grant approval within 20 days. In the case of approval, it shall issue to the applicant a Notice on Approval of the Establishment of Certification Consulting Institutions; in the case of disapproval, it shall notify the applicant of such result and give explanations; and
- (4) The applicant shall, upon the strength of the Notice on Approval of the Establishment of Certification Consulting Institutions as issued by the CNCA, go through the relevant registration formalities according to law, and obtain a Letter on Approval of Certification Consulting Institutions on the basis of the registration formalities.

The CNCA shall make public the directory of those certification consulting institutions that are established according to law.

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Article 9 The valid period of the Letter on Approval of the Establishment of Certification Consulting Institutions shall be four years.

If a certification consulting institution needs to extend the valid period of a Letter on Approval of the Establishment of Certification Consulting Institutions, it shall file an application with the CNCA within 90 days prior to the expiration of the valid period.

Article 10 A permanent representative office of an overseas certification consulting institution established within the territory of the People's Republic of China may not carry out the business contacts, market research, technical exchange or any other promotion activity unless it is put on record by the CNCA in the written form. It may not engage in the certification consulting business operation.

Article 11 A certification consulting institution shall be subject to the approval of the CNCA if it plans to establish branch institutions.

Article 12 Overseas certification consulting institutions to establish residential representative office in China should previously apply for filing to State Certification Supervision Committee and then conduct the promotion work of business communication, market research, technological exchange, but should not conduct any profitable consultation.

Chapter III Code of Conduct

Article 13 A certification consulting institution shall establish quality system and procedures for the effective control of certification consultation and take internal quality verification and management evaluation once in 12 months.

Article 14 A certification consulting institution shall make known such information as the basic requirements of certification consulting, and shall ensure the authenticity, accuracy and integrity of the consultation

The implementation procedures of certification consultation include: investigation and diagnose, systematic plan, staff training, construction of documents, handing out of documents, operation of the system (no less than 3 months' operation), internal verification, management evaluation and investigation of the conformity.

The certification consultation concerning special fields such as environmental management system, career health and security management system should include additional procedures of identification and assessment of environment and risk factors; the certification consultation of product should include additional procedures of verification of conformity and design.

A certification consulting institution shall keep the complete records of the certification consulting process and keep them in archives.

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Article 15 A certification consulting institution shall establish the system of recruit, train, verification and evaluation of whole time employees and part time employees.

A certification consulting institution shall choose those who have good professional ethics, professional background and experience, and who get the registered certificate of certification consultant.

Article 16 A certification consulting institution should conduct management, supervision and evaluation on the process of certification consultation and establish related procedures to measure the progress, quality and efficiency of the consultation. The process and result of evaluation should be reported to the clients if necessary.

Article 17 A certification consulting institution should submit the annual report to the CNCA department of the region before February each year. The annual report should include the information of the list of organizations consulted in the previous year, the evaluation of the whole time or part time consultants in the institution, and the verification of the internal quality system and evaluation of the management.

Article 18 Where a certification consulting institution is under any of the following circumstances, it shall, prior to the occurrence of change, report it to the CNCA and handle the relevant matters as to the change:

- (1) The legal representative, business scope or business location is changed;
- (2) The articles of association of the certification consulting institution is changed;
- (3) The shareholders, the top manager with executive power is changed;
- (4) The professional certification consultants are no longer comply with the requirements.
- (5) The branch institution is changed.

Article 19 A certification consulting institution should not conduct the following activities:

- (1). hire those who do not have the registered qualification for certification consultation.
- (2). outsource the business to other institutions or operate cooperatively with other institutions.
- (3). The representative office conducts certification consulting business.
- (4). Deprive the consulted party of the right for free choice.
- (5). Commissioned collection of the certification fee or accept bribe
- (6). Conduct certification through interference in the approval of certification institutions or as a branch of certification institution.
- (7). Fabricate systematic documents for the consulted party or help or inspire the consulted party to disguise the relevant conditions.
- (8). Make misleading or cheating promotions or promises.
- (9). Recommend unauthorized certification institutions to the clients
- (10). Other activities violating laws, and administrative regulations

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Chapter IV Supervision and Inspection

Article 20 State Certification Supervision Committee should supervise and guide the approval of certification consulting institutions by provincial CNCA department.

If the provincial CNCA department give approvals beyond the limitation of authority and cause damage to the legal right of the party, the provincial department should shoulder the responsibility of the damage.

Article 21 A local certification supervisory and administrative department shall, in compliance with the present Measures, supervise and inspect the certification consulting activities, and shall investigate and deal with the illegal acts.

The CNCA department of provincial level should conduct inspection on the annual report submitted by certification consulting institutions.

Article 22 Any entity or individual has the right to report any illegal or irregular certification consulting act to the CNCA or the local certification supervisory and administrative department, which shall timely investigate and deal with the matter, and shall keep secret the informant.

Article 23 Under any of the following circumstances, the CNCA shall handle the relevant formalities for canceling the decision on approving the establishment of the certification consulting institution:

- (1) The valid period of the Letter on Approval of Certification Consulting Institutions has expired but has not been extended;
- (2) A certification consulting institution has been terminated according to law;
- (3) A certification consulting institution is no longer competent for certification consulting; or
- (4) Other circumstances as prescribed by laws or regulations under which the decision on approving the establishment of the certification consulting institution shall be cancelled.

Article 24 Under any of the following circumstances, the CNCA may revoke the approval decision granted to a certification consulting institution at the request of any interested party or according to its powers and functions:

- (1) Its functionary abuses his power or neglects his duty to make the approval decision;
- (2) The approval decision is made by exceeding the legitimate authority;
- (3) The approval decision is made by violating the statutory procedures;
- (4) The approval is granted to an applicant that is not qualified or does not satisfy the legal requirements; or
- (5) Other circumstances under which the approval decision may be revoked.

Chapter V Penalty Provisions

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Article 25 Anyone who engages in certification consulting activities without permission shall be ordered to cease its certification consulting activities with a fine of 30,000 Yuan, and it shall be made known to the public.

Article 26 Where an applicant disguises the relevant conditions or provides false materials when applying for establishing a certification consulting institution, the CNCA shall refuse to accept or disapprove the application, and give the applicant a warning.

Article 27 Where a certification consulting institution obtains the approval document by frauds, bribes or other improper means, it shall be ordered to cease its certification consulting activities and be imposed a fine of 30,000 Yuan; and the CNCA shall revoke the approval document and make it known to the public.

Article 28 Where a certification consulting institution alters, leases or lends its approval certificate or illegally transfers its certification consulting business by subcontracting or commission-based enrollment, it shall be ordered to make corrections and be imposed a fine of 30,000 Yuan; if the circumstances are serious, the CNCA shall order it to suspend business for rectification till its approval document is revoked, and make it known to the public.

Article 29 Anyone who violates the provisions in Articles 13 to 18 of the present Measures shall be ordered to make corrections and be given a warning; if the circumstances are serious, the CNCA shall order it to suspend business for rectification, and make it known to the public.

Article 30 Anyone who violates the provisions in Articles 13 to 18 of the present Measures shall be ordered to make corrections imposed a fine of no less than 10,000 Yuan but no more than 30,000Yuan. If the circumstances are serious, the CNCA shall order it to suspend business for rectification, and make it known to the public.

Article 31 Where a certification consulting institution disguises the relevant information, provides false materials or refuses to provide authentic materials as to its actual activities in the supervision and inspection conducted by the CNCA or the local certification supervisory and administrative department, it shall be ordered to make corrections and be imposed a fine of no less than 10,000 Yuan but no more than 30,000 Yuan; if the circumstances are serious, the CNCA shall order it to suspend business for rectification, and make it known to the public.

Article 32 Where a permanent representative office of an overseas certification consulting institution established within the territory of the People's Republic of China has not been filed with the CNCA for the record or undertakes the certification consulting, it shall be ordered to make corrections and be imposed a fine of 20,000 Yuan, and it shall be made known to the public.

Article 33 Where a certification consulting institution continues to conduct the certification

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consulting activities during the period that the CNCA orders it to suspend operations for rectification, it shall be ordered to make corrections and be imposed a fine of 20,000 Yuan; if the circumstances are serious, the CNCA shall order it to suspend business for rectification, and make it known to the public.

Article 34 Anyone who continues the business of certification consultation in the period of suspense of business for rectification forced by related governmental department shall be ordered to make corrections and be imposed a fine of 30,000 Yuan. If the situation is quite serious, the State Certification Supervision Committee should withdraw the documents of approval and make related announcement.

Article 35 Any functionary of the CNCA or the local certification supervisory and administrative department who violates the provisions of Items 1 through 4 of Article 24 of the present Measures in the work relating to the examination and approval of certification consulting institutions shall be given an administration sanction by the competent department. If any crime is constituted, he shall be investigated for criminal liabilities according to law.

Chapter VI Supplementary Provisions

Article 36 With regard to the establishment of certification consulting institutions or permanent representative offices in any other province, autonomous region or municipality directly under the Central Government of the People's Republic of China by the applicants from the Hong Kong or Macao or Taiwan, the examination and approval as well as other related matters shall be carried out in light of the present Measures.

Article 37 The charges for certification consulting shall be in conformity with the relevant provisions of the price laws and administrative regulations of the State.

Article 38 The power to interpret the present Measures shall reside in the General Administration of Quality Supervision, Inspection and Quarantine.

Article 39 The present Measures shall go into effect as of November 1, 2005.

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