NEWSLETTER

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Highlights

- Updated Company Law in China: Essential Insights for Foreign-Invested Enterprises
- Fidinam in Australia: A Partner for Local and Regional Opportunities
- Case Study: How Fidinam Supported Aspire to Obtain the MSO License in Hong Kong

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FIDINAM WELCOMES NEW HEAD OF ASIA DESK IN SINGAPORE

Fidinam is pleased to welcome Ms. Desiree M. Tan as the new Head of Asia Desk in our Singapore office.

Desiree brings 18 years of experience in private client practice, notably in the Trust and Corporate Services Industry. She specializes in advising on Family Office, Companies (onshore and offshore) for business expansions and family trust set-up across Singapore and various offshore jurisdictions.

Her clientele includes Forbes list members, celebrities and entrepreneurs from Southeast Asia and Europe.

She has been an active member of the Women in Business committee for BritCham Singapore for about five years now and recently started serving as a committee member of Mandala Club, a private members' club in Singapore.

Desiree holds a Bachelor of Commerce from Murdoch University and an LLM in International Business Law from University of Liverpool.

At Fidinam Singapore, Desiree will lead our Asia Desk, leveraging her extensive experience to enhance our services in the region.

Welcome aboard, Desiree! We look forward to the expertise and insights you will bring to our team and clients.

PASSING THE BATON: BUSINESS VS. WEALTH SUCCESSION

When we discuss succession planning, are we referring to business succession - finding someone to continue running the operating businesses (let's call them fruit trees) - or are we talking about wealth succession planning, i.e., managing the fruits of the business? Although these are two distinct concepts, they are often conflated and both require tailored legal and tax strategies.

Nurturing a family business legacy encompasses a blend of tradition, usually by the first generation or founders, innovation, common family values and years of resilience to achieve success. However, sustaining and expanding a family business across generations is no small feat. It involves careful planning, effective succession strategies, and various structures to navigate family dynamics and business challenges, all while aligning with the family vision and business goals.

Trust is built among stakeholders and family members by aligning with the business vision and leveraging individual and collective strengths. Building this trust is crucial for ensuring continuous growth and seamless leadership succession from the founding generation to the next, grooming future leaders.

Business succession planning should align with the strategic direction of the business. It is important to strike a balance between family ties and workplace meritocracy. Establishing governance structures structures and documenting roles and responsibilities

are crucial steps to mitigate conflicts, ensuring a smooth transition and a clear roadmap for succession.

Singapore's reputation as a global business hub, bolstered by its strategic location, pro-business policies, and competitive tax regime, makes it an ideal destination for foreign investment.

Expanding a family business naturally follows market opportunities, whether inbound or outbound from Singapore. This can involve entering new markets in Europe, the Middle East, or Asia, diversifying product lines, pursuing mergers and acquisitions, or developing strategic partners.

A Single Family Office (SFO) typically refers to an entity which manages assets for or on behalf of only one family and is wholly owned or controlled by members of the same family. The term 'family' in this context may refer to individuals who are lineal descendants from a single ancestor, as well as the spouses, ex-spouses, adopted children and step children of these individuals.

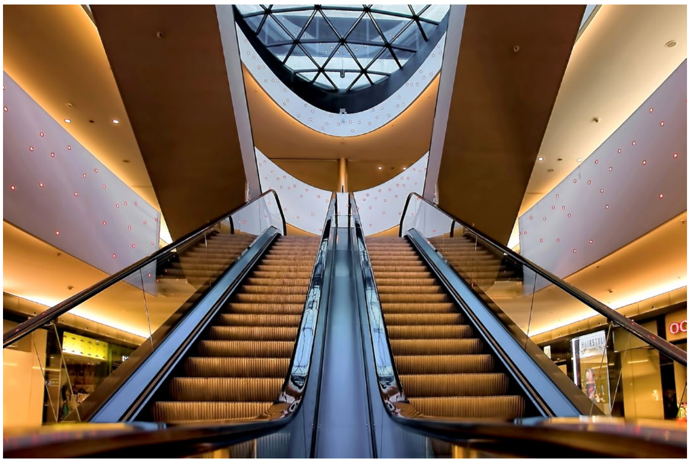
There is a lot of press about setting up a SFO in Singapore as strategy for managing the fruits of the family business. This approach centralizes financial oversight and strategic planning under one roof, enhancing management of both business operations and family wealth. Singapore's appeal for SFOs lies in its robust regulatory environment, privacy, and asset protection, coupled with significant tax incentive schemes.

Funds managed by a Singapore-based fund management company are exempted from tax on a broad range of specific income from designated investments, including stocks, shares, securities and derivatives. A key exclusion is immovable property in Singapore.

The much-discussed Sections 13U and 13O (previously respectively 13X and 13R) of the Singapore Income Tax Act 1947 are not the only 2 tax exemptions / tax strategies that families can leverage on – there are many others.

Besides utilizing the right structures for business expansion, every business needs a team of trusted advisors, including tax and legal experts. Family businesses can benefit from implementing family governance, such as advisory boards or family councils, to formalize decision-making, clarify roles, mitigate conflicts, and ensure accountability and transparency.

Ultimately, whether focusing on business or wealth succession, the strategies and tools selected should align with the location of your businesses and assets, the availability and capability of your people, and the jurisdictions involved. Whatever your situation, we are here to provide the guidance and support needed to navigate these complex decisions.



Our professionals are dedicated to offering you the necessary guidance and support, please get in touch via info@fidinamgw.com.

By Desiree M. Tan
Head of Asia Desk
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UPDATED COMPANY LAW IN CHINA: ESSENTIAL INSIGHTS FOR FOREIGN-INVESTED ENTERPRISES

On December 29, 2023, significant amendments to China's Company Law were enacted by the National People's Congress, with implementation set for July 1, 2024. These changes bear critical implications for both existing companies and new market entrants in China.

The alterations are designed to streamline corporate operations, safeguard shareholders, and enhance regulatory compliance, all while maintaining a competitive business environment in one of the world's largest economies.

Understanding these modifications is crucial for compliance and optimizing strategic operations within the Chinese business landscape.

Company Capital and Shareholder Contributions

Under the new Article 47, all shareholders of a Limited Liability Company (LLC) are required to fully pay their subscribed capital within five years of the company's establishment. This represents a shift from the previous flexibility in the 2018 law where shareholders could set their own timelines in their Articles of Association.

For companies established before this new mandate, there's a three-year grace period until June 30, 2027, to adjust to these new requirements, ensuring that all capital contributions are scheduled for five years or less from July 2027, unless already compliant.

To protect the company and creditors' interest, new rules are introduced to ensure shareholders pay up their full

capital contribution. Article 54 allows creditors and management of the company to demand immediate payment of any unpaid capital contributions if the company faces insolvency.

Additionally, there are penalties for non-disclosure of capital information. Companies must now disclose their capital registration through the National Enterprise Credit Information Disclosure System, detailing the amount, method of contributions, and shares subscribed. Failure to comply can attract fines ranging from RMB 10,000 to RMB 200,000.

Transfer of Equity

Significant changes under Article 84 now facilitate the transfer of equity interests. If an LLC shareholder wishes to transfer their equity to someone outside the existing shareholders, the prior requirement for majority shareholder approval has been removed. Instead, shareholders are simply notified, and if there is no response within thirty days, their right of first refusal is considered waived.

Enhanced Share Flexibility

The updated law introduces more flexibility in the types of shares a company can issue, such as preferred shares, subordinate shares, and shares with special voting rights. This change provides companies, especially listed ones, greater leeway in managing their capital structure.

Corporate Governance

Articles 83 and 133 provide smaller-scale companies greater flexibility in corporate governance by allowing them to choose not to appoint a board of supervisors, instead possibly appointing a single supervisor or none at all. For corporate oversight, an audit committee within the board of directors can be established under Articles 69 and 121 to fulfil these supervisory functions.

There's an expanded scope for shareholder rights, particularly around accessing financial and operational documents. This includes the right for LLC shareholders to inspect company accounting vouchers, a step further than the previously allowed access to accounting books.
Legal Representatives

With Article 10, the designation of legal representatives in small companies is broadened to include any director or general manager who manages company affairs, diverging from the previous limitation to specific executive roles. This amendment facilitates greater flexibility in appointing key operational roles within foreign-invested enterprises.

Board Resolutions

Changes to decision-making processes are clarified under Articles 116 and 124, with new stipulations that shareholders' meetings resolutions and board of directors' resolutions must pass with a majority of voting rights and directors, respectively. This ensures clearer governance and decision-making protocols.

Company Deregistration and Liquidation

The newly added Chapter 2 in the Company Law outlines streamlined processes for company registration, changes, and deregistration.

Simplified deregistration procedures are available to companies without debts or those that have settled all debts and it requires unanimous agreement from all shareholders. Deregistration should be announced via the National Enterprise Credit Information Disclosure system with a minimum announcement period of 20 days. If no objections are received, the company can apply to cancel the company registration within 20 days after the announcement period.

The Forced Deregistration Mechanism targets "zombie companies" that remain legally active but are non-operational. Triggered by Article 241, it applies to companies failing to liquidate within three years after their business license is revoked. The deregistration process begins with a public announcement from the company registration authority, followed by a 60-day response period. If no objections are received, the company's registration is cancelled. Despite deregistration, the responsibilities of shareholders and liquidators remain unchanged, ensuring accountability for any remaining liquidation duties.

Context of the Foreign Investment Law

Since its introduction in 2020, the Foreign Investment Law (FIL) has unified the regulatory framework for foreign-invested enterprises (FIEs) in China, including wholly foreign-owned enterprises and joint ventures, under the PRC Company Law. Existing FIEs established before January 2020 have until December 31, 2024, to align with the new law, while those established afterward must comply by July 1, 2024. FIEs are advised to consolidate changes, such as updating external equity and legal representatives, in a single effort to simplify compliance.

Conclusion

The 2023 amendments to China's Company Law mark a significant shift in the regulatory environment, enhancing transparency, protecting stakeholders, and streamlining operations for both domestic and foreign enterprises. As China continues to attract global business interest, understanding and adapting to these new regulations is crucial for companies looking to succeed in this dynamic market.

For expert advice and strategic guidance, contact Fidinam to manage these changes effectively and ensure your business' compliance. Email us at info@fidinamgw.com.

By Tommaso Colli
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FIDINAM IN AUSTRALIA: A PARTNER FOR LOCAL AND REGIONAL OPPORTUNITIES

As a single point of contact for all your business needs across Asia Pacific, Fidinam presence in the region includes Fidinam Corporate Services in Sydney.

Our office in Australia stands as a pivotal part of our Asia Pacific network, to streamline and enhance your business operations across the region.

Our expert team in Sydney specializes in business incorporation, accounting, tax filing, HR and payroll services, offering tailored solutions informed by local and regional expertise. This strategic positioning allows us to facilitate smoother transitions for businesses entering or expanding within Australia, providing a cohesive experience across Asia Pacific.

Enhance your understanding of the Australian business environment with our Australia Business Guide, which delivers insights into company setup, taxation, and HR essentials within this dynamic market. Download the guide via our website at www.fidinam.com/en/set-up-company-in-australia.

To explore the full spectrum of services that Fidinam offers across Australia and the broader Asia Pacific region, please request access to our services brochure.

With Fidinam, you engage with one service provider for all your business needs, ensuring consistency and reliability in every market you enter.

Contact us to discover how we can support your business aspirations in Australia and beyond. Email us at info@fidinamgw.com.

By Katrina Luo
Manager - Accounting & Corporate Services
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FOREIGN INVESTMENT IN PHARMACEUTICAL PRODUCTION COMPANY IN VIETNAM

Vietnam is an attractive market for pharmaceutical production because of the high demand for these products and the current dependence on imported pharmaceutical products.

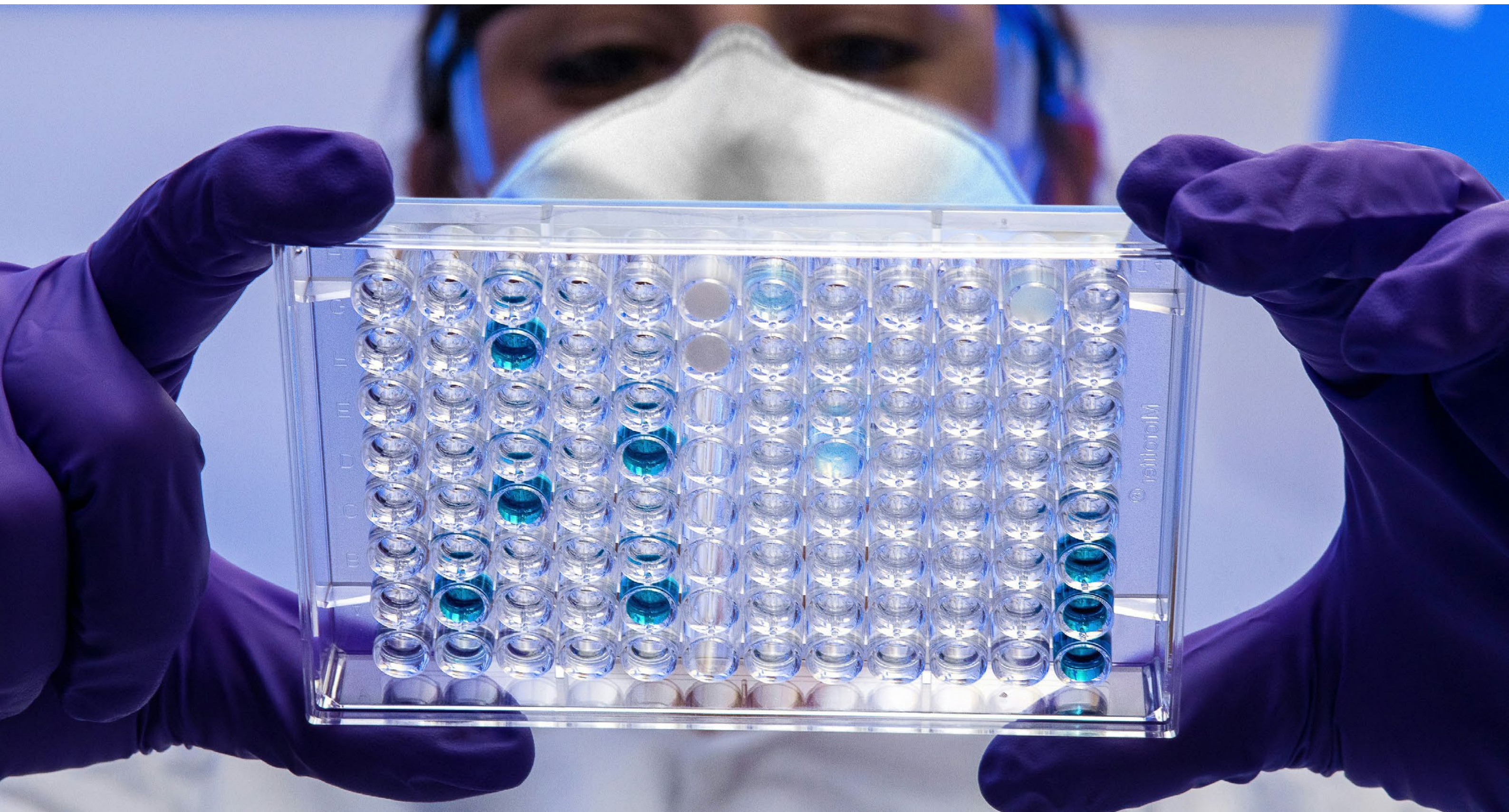
In October 2023, the Prime Minister issued Decision No. 1165/QD-TTg, approving a strategy to develop Vietnam's pharmaceutical industry to 2030, with a vision to 2045, aiming to match the standards of advanced regional countries and boost domestic drug and herbal ingredient production.

Additionally, the Ministry of Health has released a draft Law Amending the Law on Pharmacy, offering numerous incentives to further develop the industry.

In Vietnam, foreign-invested enterprises can import drugs and medicinal ingredients but cannot distribute them or engage in related activities. One recommended strategy to enter the market is to establish a manufacturing company, which can distribute its own produced drugs and medicinal ingredients in Vietnam.

1. Possibility of setting up a 100% foreign-owned company in Vietnam

Currently, Vietnam allows foreign investors to incorporate 100% foreign-owned companies in pharmaceutical production.



2. Incorporation procedures and required licenses

2.1. Incorporation

To set up a foreign-owned company (i.e. 100% foreign-owned company or joint-venture company) ("**VN Co**"), the investors need to conduct the following steps:

- Step 1: Apply for an Investment Registration Certificate ("**IRC**")
- Step 2: Apply for an Enterprise Registration Certificate ("**ERC**")

The term of an IRC can be up to 50 years.
There is no term for the ERC.
The company is legally established on the date of the ERC

2.2. Required licenses:

In addition to IRC and ERC, the company in Vietnam is required to perform and obtain the following licenses/certificates.

(i) Certificate of eligibility for pharmaceutical business and Pharmacy Practice Certificates

Conditions for issuance of Certificate of eligibility for pharmaceutical business are:

- Having the premises, factory, laboratory, storage of drugs/medicinal ingredients, auxiliary systems, equipment, machinery for manufacture, testing, storage of drugs, quality control system, technical documents, and personnel that fulfill Good Manufacturing Practice ("**GMP**") requirements.
- The person responsible for pharmacy expertise and the person in charge of quality assurance of a facility manufacturing drugs or medicinal ingredients must have a Pharmacy Practice Certificate appropriate to the manufacturer of drugs, medicinal ingredients.

For distribution of the products that the company manufactured in Vietnam, the company also needs to satisfy other conditions of the infrastructure, equipment, and personnel applied such as having the premises, a storage area, storage equipment, technical documents, transportation, etc. to obtain the Certificate of eligibility for the pharmaceutical business.

(ii) Circulation Registration Certificate

Drugs and medicinal ingredients must be registered before being circulated in Vietnam.

(iii) Fire prevention and fighting

Depending on the scale, business area, and volume, the pharmaceutical factories need to comply with the regulations on fire prevention and fighting and must ensure the safety conditions for fire prevention and fighting, including the Certificate of design appraisal for fire prevention and fighting the fire.

(iv) Environmental protection

Depending on the scale of projection and the generation of hazardous waste during the production, the company needs to carry out Environment License/Environmental Registration/ Environment Impact Assessment before the incorporation process/official operation.

3. Investment Incentives

The Vietnamese government offers numerous investment-related business incentives to retain the country's appeal to international investors, and it continually enhances its offerings through reforms and upgrades.

There are 4 forms of incentives that are available to investment projects within Vietnam as follows:

- Corporate Income Tax (**CIT**): including applying the Preferential tax rates, or exemption from and reduction of CIT.
- Import Duties/Tax: including exemption from import duty for fixed assets, raw materials, supplies, and components for implementation of an investment project.
- Land rent and levies: including exemption from and reduction of land rent, land use fees, and land use tax.
- Accelerated depreciation, increasing the deductible expenses upon calculation of taxable income.

According to the laws of Vietnam, Pharmaceutical Production is a business line eligible for investment incentives under the Law on Investment 2020. The enterprises doing a production from the implementation of the new investment projects in Economic Zones, Hi-Tech Parks are entitled to enjoy:

- The preferential tax rate of 10% within 15 years from the first year the company has revenue, and
- Exemption for 4 years, and reduction of 50% of tax payable for a maximum period of 9 subsequent years calculated from the first year having taxable income from the investment project. In case there is no taxable income in the first 3 years, from the first year having revenue from a new investment project, the tax exemption or tax reduction period is calculated from the fourth year.

In addition, the draft of Law Amending the Law on Pharmacy released by the Ministry of Health, promises to provide many attractive incentives for boosting the development of the pharmaceutical industry.

Accordingly, the new law which is scheduled to come into force in 2025, provides attractive content such as incentives for investment in drug manufacturing technology transfer, marketing authorization of drugs and medicinal ingredients, management of drug price, drug import and export, and pharmaceutical business of foreign-invested enterprises in Vietnam.
The draft law proposes various types of incentives for various activities, including:

- Incentives as per regulated in the Law on Investment
- Incentives for capital borrowing;
- Other incentives and support for administrative procedures related to investment and business, issuance of Certificate of eligibility for pharmaceutical business, issuance of drug Circulation Registration Certificate;
- Incentives and support in the production of raw materials for pharmaceuticals, new drugs, drugs applying high technology in production, specialized drugs, essential drugs, etc.;
- Incentives for scientific research on pharmaceutical formulation technology and biotechnology for the production of new drugs; and
- Other investment support policies as stipulated by the law.

The draft law also adds a new clause that encourages foreign investment in Vietnam's pharmaceutical industry specifically: *"Encourage research and production, receive technology transfer and attract foreign investment in the production of medicinal raw materials, the production of new drugs, original brand-name drugs, specialized drugs, biological drugs, national brand pharmaceuticals, and raw materials for drug production"*

Customs Duty

Under some relevant FTAs with Vietnam, pharmaceutical products exported from Vietnam can enjoy the benefit of reduction or elimination of customs duties.

The Vietnam - EU Free Trade Agreement (EVFTA)

The Vietnam - EU Free Trade Agreement (EVFTA) officially took effect on 1 August 2020. The EU has eliminated import taxes since the effective date of EVFTA for the pharmaceutical products belonging to Chapter 30 of the Tariff Schedule of the Union exported from Vietnam.

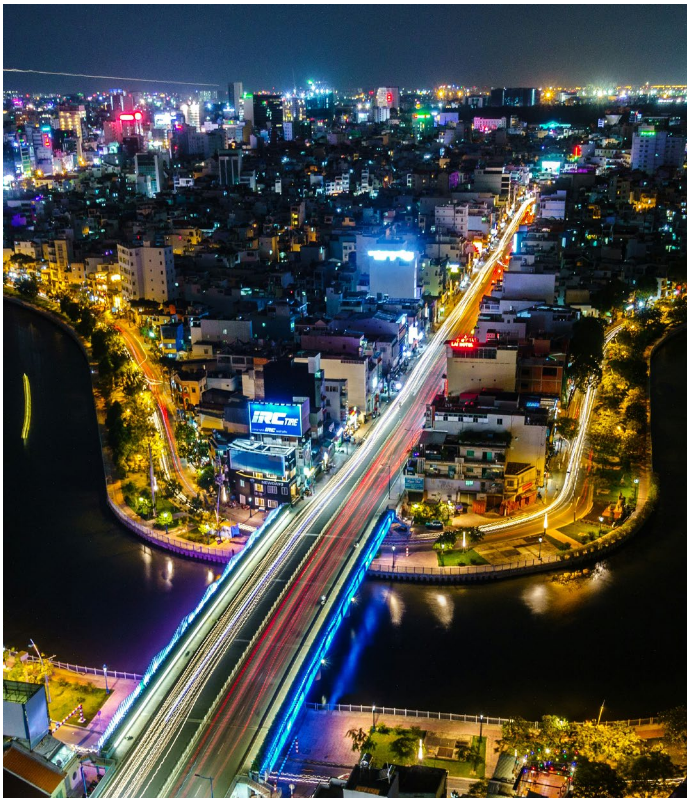
ASEAN-China Free Trade Area (ACFTA)

For the Asian region, following the *ASEAN-China Free Trade Area (ACFTA)* between the Member States of the Association of Southeast Asian Nations ("ASEAN", comprising Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam) and China, China committed on the reduction or elimination of customs duties for various products imported from Vietnam.

From 2018, import taxes for all the pharmaceutical products regulated in the *ACFTA Tariff Reduction Schedule- China exported from Vietnam to China* exported from ASEAN have been eliminated to 0%.

Fidinam can help

With Vietnam's strategic trade agreements, robust infrastructure, and skilled workforce, the country provides an optimal environment for global brands seeking to enhance their production capabilities and expand their reach.



To explore how you can benefit from this opportunity and successfully set up your pharmaceutical production in Vietnam, contact Fidinam Vietnam today for comprehensive support and guidance throughout the process. Email us at info@fidinamgw.com.

By Phuong Thao Bui
Equity Partner and Managing Director
Fidinam Vietnam

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CASE STUDY: HOW FIDINAM SUPPORTED ASPIRE TO OBTAIN THE MONEY SERVICE OPERATOR (MSO) LICENSE IN HONG KONG

Background

Founded in 2018 and headquartered in Singapore, Aspire is a dynamic fintech company that has quickly ascended as one of Singapore's top ten fastest growing companies in 2023.

Aspire has rapidly expanded its team to 450 professionals across more than 5 countries, providing innovative financial solutions such as business accounts and spend management software to over 15,000 clients across Asia.

With a vision to extend their successful services to Hong Kong, Aspire faced the challenge of obtaining a Money Service Operator ("**MSO**") license in a new market.

What is an MSO License in Hong Kong?

A Money Service Operator (MSO) is an individual or institution offering money changing or remittance services. Money changing involves exchanging different currencies, while remittance services involve sending or receiving funds between Hong Kong and overseas locations.

MSOs must be licensed with the Commissioner of Customs & Excise (CCE) under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO), which covers both physical and mobile operations, including online services.

aspire

To apply for an MSO license, applicants must provide:

- Incorporation and valid corporate registration documents.
- Suitable premises for money service operations or a local management office, and a local place for storage of books and records.
- A "fit and proper person" as the director and ultimate owner of the company.
- Competent Compliance Officer and Money Laundering Reporting Officer.
- Comprehensive business plan.
- Documented anti-money laundering and counter-terrorist financing policy.
- Passing a written competence assessment.
- A bank account for operating the money service business.

The processing time for an MSO license varies based on factors such as preparation and submission of forms, supporting documents, completing the written competence assessment, on-site business inspections, and the time required for CCE to obtain records for a fit and proper person test.

Generally, the MSO license is valid for two years, and renewal is required before the license expires to maintain continuous operation.

Expanding into new territory

As Aspire decided to expand into Hong Kong, they approached Fidinam Compliance and Licensing Desk to seek support in obtaining a Hong Kong Money Service Operator (MSO) license.

Recognizing the need to secure this license prior to incurring significant expenses, our Client opted for our compliance officer solution. This approach enabled the Company to initiate the application process immediately and to effectively manage the initial costs of the project. Aspire successfully established its Hong Kong entity in May 2023.

Why Aspire opted for Fidinam

Aspire chose Fidinam for our proven expertise in MSO license applications, recognizing that our knowledge and experience would be crucial for a smooth and effective process.

This decision was influenced by their existing familiarity with our firm and our reputation for delivering thorough support throughout the application journey.

Strategic execution: Fidinam's role in the MSO License application

Fidinam provided support throughout the application, starting with the accurate preparation of all required forms.

We assisted Aspire in securing office premises that met all regulatory requirements, providing comprehensive layout descriptions for the application. Additionally, we facilitated the inspection of these premises, ensuring the office was fully prepared for the on-site regulatory review.

Our team carefully reviewed Aspire's business plan. We maintained direct communication with the MSO officer, with our Head of Compliance, Jema Baluran, serving as the primary contact. Jema personally attended all meetings with the MSO officer to address the application requirements in detail.

We provided advice and support to Aspire's Head of Compliance and Head of Strategy regarding the interview process with the MSO officer. This preparation covered essential topics such as onboarding protocols, KYC procedures, and data management. Jema guided them through the interview itself, offering insights and ensuring that all criteria were met.

Additionally, we took on the task of reviewing the AML compliance manual, further solidifying the framework for Aspire's operational processes in Hong Kong.

Outcome

With the expert guidance of Fidinam, Aspire successfully obtained their MSO license, marking a significant milestone in its regional expansion. This achievement reflects our commitment to providing tailored support to our Clients through complex regulatory landscapes.

Aspire's journey from a strategic vision to operational readiness in Hong Kong showcases its adaptability and determination. Reflecting on the collaboration, Joel Leong, Co-Founder & Chief Strategy Officer of Aspire, commented, "Working with Fidinam not only streamlined our licensing process but also enhanced our understanding of local compliance intricacies. Their expertise was invaluable, allowing us to focus on our core operations with confidence. We are grateful for their support and are excited about our future in Hong Kong."

Fidinam can help

At Fidinam, we specialize in guiding businesses through the intricate MSO license application process, ensuring compliance and strategic alignment with Hong Kong's regulatory requirements.

Contact us at info@fidinamgw.com to discover how our expertise can facilitate your successful entry into the financial services market of Hong Kong.

By Irene Tchedre
Managing Director French Desk APAC
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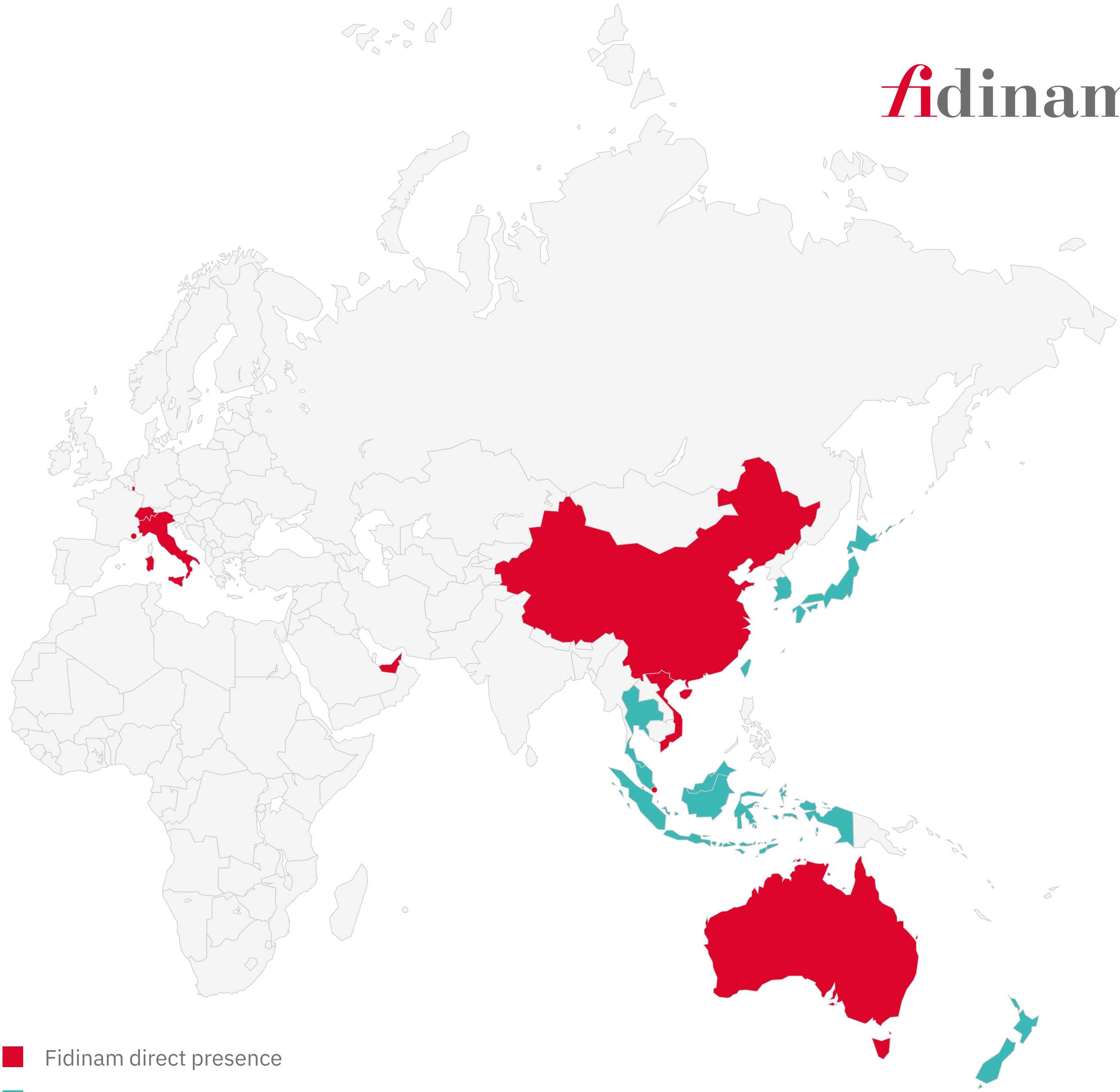

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