

Foreign-Invested Enterprises in China: Development and Sustainability

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Abstract. The objective of this study was to illustrate the development and sustainability for foreign-invested enterprises in China. Banks would react to banking regulation of Basel III. The traditional loans are very costly in capital. Banks restrict lending and treat lending as a marketing tool. Foreign-invested enterprises will be difficult to get the traditional loans. The development of peer to peer (P2P) lending will be targeted for the foreign-invested enterprises' new financing channel in China and the world. Also, brand name is the key factor for enterprise survival. It represents the commercial integrity. Foreign-invested enterprises can use the concept of creating shared value (CSV) as reference to sustain their business in China.

Keywords. Foreign-Invested Enterprises, Peer to Peer (P2P), Creating Shared Value (CSV), China.

JEL. E22, M00, O10.

1. Introduction

According to the statistics of news release of foreign investment from ministry of commerce People's Republic of China, from January to July 2015, newly approved foreign-invested enterprises amounted to 14,409, up by 8.8% year on year. However, the factor of making profit by taking advantage of the foreign investment utilization system, market and preferential policies will gradually fade away. Before 1998, there were many benefits for Chinese enterprises to use foreign investment, such as change of operating mechanisms, greater autonomy in income distribution and pricing, raising capital, and making profit by taking advantage of existing traditional systems and administrative consumption and investment. In particular, the differential in preferential policies was able to generate huge profit margins. However, these factors will gradually fade away and some have already disappeared. Today, the foreign-invested enterprises in the manufacturing sector may decrease. Market competition and technological upgrading in China have reduced the possibilities for making money by taking advantage of the system difference and market space. As a result, newly arrived foreign-invested enterprises find it difficult to capture a market share and make profits. In the manufacture sector, the local industries are already in severe competition and there is no room for foreign-invested enterprises to invest massively in these industries. Furthermore, the manufacturing industry has gradually become aware of seeking development potential from the capital markets at home and abroad. Many foreign-invested enterprises of manufacturing industries in China moved to India, Thailand, Vietnam and Bangladesh. The service industry

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is the main development area for foreign-invested enterprises, but the scale is limited. If foreign investment goes into the service industry massively, great changes and market competition will take place in this sector in the coming future. Small and medium size foreign investments will face strategic adjustment.

Banking regulation of Basel III changes in “capital” definitions, adequacy requirements and new liquidity requirements. Banks will be difficult to lead money for enterprises. The development of peer to peer (P2P) leading perform will be targeted for the foreign-invested enterprises’ new financing channel in China and the world. Also, foreign-invested enterprises can use the concept of creating shared value (CSV) as reference to sustain their business in China. The objective of this study was to illustrate the development and sustainability for foreign-invested enterprises in China.

The paper is organized as follows. Section 2 reviews the literatures. Section 3 explain the methodology of the present study. Section 4 describes foreign-invested enterprises and law in China. Section 5 illustrates the foreign-invested enterprises development and sustainability in China. Section 6 provide the conclusion.

2. Literature Review

He et al. (2015) identify three performance contributors to marketing seeking foreign direct investment (FDI): the host country’s favorable formal institutions towards FDI, the subsidiaries’ operational experience and absorptive capacity in the host country, and the ownership structure of the subsidiary. Their findings support the hypotheses that market-seeking orientation becomes more profitable for foreign subsidiaries in China when the host country provides a more favorable institutional framework towards FDI; the subsidiary has a longer history of FDI operation in the host country that leads to stronger absorptive capacity; and the subsidiary is organized in a wholly owned manner. Zhang & Wei (2015) reveal that the expansion of retail transnational corporations (TNCs) has been influenced by the gradual liberalization policies of the Chinese government. Spatially, they expanded in two directions: from the eastern coastal region to the central and western hinterland, and along China’s urban hierarchy from larger cities to smaller cities. While home economies greatly influenced their initial strategies, foreign hypermarket retailers are constantly adjusting to better embed in the Chinese market and to more effectively resolve the structural paradox. Tian et al. (2015) find that positive foreign direct investment (FDI) technology spillovers take place through tangible rather than intangible assets, domestically sold rather than exported products, traditional rather than new products, and employment of unskilled rather than skilled workers in joint ventures. In contrast, negative FDI technology spillovers take place through exported products and employment of skilled workers in wholly foreign owned enterprises. The findings suggest that developing countries should encourage multinational corporations (MNCs) to enter their markets in the form of joint ventures rather than wholly foreign owned enterprises. Liao & Zhang (2014) reveal that strict green standards should be introduced as a requirement for Chinese overseas direct investment (ODI), especially ODI by Chinese state-owned enterprises (SOEs). Achieving green growth at home is not just in China’s own interests but is also a significant contribution to society as a whole. As the future largest economy in the world, China needs to go beyond traditional notions of the ‘national interest’ that (as observed in many countries) regard fewer reductions in emissions as a sort of national interest while simultaneously expecting other countries to raise the levels of their emission reductions. Green growth through deep emissions cuts actually represents an enormous opportunity and could ultimately become a source of

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economic growth. Yuen (2014) shows that anti-trust enforcement has been inseparable from motives and dynamics other than ensuring free competition. It is fueled by a deep-rooted techno-nationalistic sentiment to link science and technology development to national well-being, to protect national security, and to nurture domestic technology firms into some of the world's best. Anti-trust measures are among a range of regulatory – or even interventionist – measures to pressure foreign firms to cut prices and make them contribute more tangibly to the Chinese economy from China's perspective, such that domestic firms can benefit. Xu & Yeh (2013) find that FDI in Guangdong tends to favor cities closer to Hong Kong, with lower wage rates, better market potential and more preferential policies, and to follow the agglomeration of FDI from the same origin. The diverse home-based characteristics have resulted into the varied pathways of spatial redistribution of FDI. Cheng & Shi (2012) conclude that the enforcement of the New Income Tax Law in 2008 consolidated two separate systems and fundamentally changed China's tax regime. The new law eliminated the differences in the income tax rates between domestic enterprises and foreign invested enterprises, and unified the tax rate for all enterprises operating in China. The effects on existing foreign investors are substantial, although a five-year transition period has been given. Before the end of the transition period, the incumbents need to reexamine their tax plans to optimize the current preferential tax treatments and change their investment strategies to meet the new challenges after 2012. Lam (2008) report that foreign multinational corporations need to invest in social capital that facilitates the transfer of knowledge of comprehensive corporate responsible practices from the headquarters to their Chinese subsidiaries, and to encourage their Chinese subsidiaries to be more actively engaged with external business partners that support corporate social responsibility. Poon et al. (2005) find that Shanghai has strengthened its power to attract foreign investments and improved the quality of these investments by putting more emphasis on the development of modern manufacturing industries, modern servicing industries and new high-tech industries. The inferior economic development level and lower standards of living in regions greatly restrict the expansion of their market size and, make it difficult for them to attract foreign investors. They are Hainan and Guangxi from the eastern; Sichuan, Guizhou, Yunnan, Gansu and Xinjiang and from the western area; and Inner Mongolia from the central area. However, since these poor regions are characterized by a vast land area, rich mineral and forests resources and a sparse population, their marginal returns to investment are relatively higher than those of the regions in the developed eastern area. Young & Lan (1997) shows that the extent of technology transfer is fairly limited but at the level expected given China's developing country status and technological capacities. Given the size and growth of the market, however, substantial opportunities exist for increased technology transfer with appropriate policy changes. The potential for utilizing FDI as an instrument of technological development in a Chinese context is greater than theory would suggest. Hu (1995) shows that the international transfer of advantages by a firm is a necessary condition for successful international operations. Because of the difference between advantages relative to home competitors and advantages relative to foreign competitors, the source of the advantage transferred abroad need not be something unique to the firm. Rather, it can be a factor or characteristic shared by the industry or nation, or it can also be a non-distinctive asset or skill. Non-transferability, in turn, stems from immobility due to geographical specificity and tacit knowledge. Transfer is neither automatic nor easy and often requires investment in complementary assets. Transferability also affects and is affected by the choice of the mode of operation and the choice of target country.

3. Methodology

We attended the seminars “Enterprises Development: A Challenge for Sustainability” organized by the Department of Business Administration and a seminar “Financial Risk Management & Banking Regulation of Basel III”, organized by the Department of Economics and Finance at Hong Kong Shue Yan University in 2015. Author sorted out the seminars’ information to write this paper. In order to verify the creating shared value (CSV) concept we apply four case studies (Intel, Triciclos, National Australia Bank and General) provided by FSG research. We can evaluate that the company’s strategy can be considered as a case of shared valued creation. We also consider the basic conditions developed by Porter & Kramer (2011) as well as determining if one of the three approaches of creating shared value has been applied.

4. Foreign-invested enterprises and law in China

Because of the open door policy was carried out in 1979, China’s economy had been turned to upside down but in a correct way to develop business. First of all, four special economic zone set up to attract overseas investments. A plenty of special policies were made to attract foreign direct investment (FDI) all over the world. Nowadays, China market is still growing and become a world factory. China government not only focuses on any specific projects but also hope to build up her economic infrastructures all over the nation. According to the statistics of news release of foreign investment from ministry of commerce People’s Republic of China, from January to July 2015, newly approved foreign-invested enterprises amounted to 14,409, up by 8.8% year on year; and the actual use of foreign investment reached USD 76.63 billion, up by 7.9% year on year. In July 2015, newly approved foreign-invested enterprises amounted to 2,495, up by 9.6% year on year; and the actual use of foreign investment reached USD 8.22 billion, up by 5.2% year on year. From January to August in 2015, the top three nations and regions with investment in China (as per the actual input of foreign capital) are as follows: Hong Kong (USD 62.85 billion), Singapore (USD3.98 billion), Taiwan Province (USD 3.14 billion). Chinese governments still try her best to attract FDI from overseas. The forms of investment providing to investors include:

4.1. Chinese-foreign joint equity venture

Limited Liability Company formed between foreign companies, enterprises and other economic organizations or individuals, and Chinese companies, enterprises or other economic organizations. The parties to the venture shall jointly invest in the venture, jointly manage the venture, and share the profits, risks and losses of the venture according to the share they hold in the registered capital of the venture.

4.2. Chinese-foreign joint contractual venture

Formed by contract between foreign enterprises, other economic organizations or individuals and the Chinese enterprises or other economic organizations. Terms, distribution of profits, share of risks and losses, investment return, and mode of management of the parties to the venture as well as the division of residual property when the cooperation terminates shall be specified in the joint venture contract.

4.3. Wholly foreign-owned enterprise

Solely funded by foreign companies, other economic organizations or individuals. Profits of the enterprise belong to the foreign investors.

4.4. Foreign invested joint stock limited company

Incorporated entity whose capital is divided into shares of equal value and whose shareholders assume liabilities to the company according to the number of

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shares purchased and at least 25% of whose registered capital is purchased and held by foreign shareholders. The company assumes liability for the debt of the company with all its properties. It may be set up by means of initiation or fund-raising.

4.5. Foreign invested financial institution

Branch funded by foreign financial institutions inside China to conduct financial business and solely foreign funded financial institution or Chinese-foreign joint equity financial institution with Chinese legal person status (incorporated entity) inside China.

4.6. Compensation trade

Foreign investors will be responsible for providing equipment and technology and commit to purchase a certain amount of exported products from the Chinese side. The money for importing the equipment and technologies provided can be paid back by stages. Money borrowed to import the equipment and technologies can be paid back in the form of other products in addition to the products produced with the imported equipment and technologies upon agreement from the parties concerned.

4.7. Processing and assembling

For processing with supplied materials and according to supplied samples and assembling with supplied components, the foreign parties are responsible for providing technology, equipment, components and raw and accompanying materials and import the processed or assembled products. The Chinese parties will collect processing or assembling fees. When the equipment is sold to the Chinese parties, the money for purchasing the equipment will be paid by the processing fees in stages.

4.8. International leasing

A special way to raise funds, to be specific, obtaining the right to use foreign advanced equipment by payment of rent. Rent is paid according to the lease agreement. When the lease term expires the enterprise may purchase the leased equipment. The foreign parties or lessor may also provide technical services, raw materials, fuels, components, and so on.

4.9. Build-Operate-Transfer

In a typical Build-Operate-Transfer (BOT) project, a government signs a contract with a project company sponsored by a private sector foreign investor. The project company is responsible for fund raising and building of infrastructure projects. The project company owns, operates and maintains the facilities, recovers the investment and obtains reasonable profits through collecting utilization fees or service fees during the contract period. When the term of the contract expires the ownership of the facilities will be transferred to the government free of charge. BOT is mainly used to develop toll roads, power generation plants, railways, wastewater processing facilities, subways (urban railways) and other infrastructure. Feng et al. (2015) investigate the impact of government guarantees on toll charge, road quality and road capacity by taking perspective of the private investor. The main results are: (1) Minimum traffic guarantee increases toll charge while decreasing road quality. Under a low guarantee level, minimum traffic guarantee has no impact on road capacity. However, it improves road capacity when a high guarantee level is performed. (2) Under minimum revenue guarantee, if the guarantee level is sufficiently high, the optimal toll charge will be sufficiently large, but road quality and road capacity will approach zero. (3) Price compensation guarantee decreases toll charge and increases both road quality and road capacity. This paper further investigates the impact of government guarantees when the contract is auctioned. They find that auction reduces the impact of

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government guarantees on toll charge while failing to affect the impact of government guarantees on road quality and capacity.

4.10. Transfer-Operate-Transfer

The undertaking unit, i.e. the Chinese party, transfers a project that has been finished and is in operation, such as a toll road or power station, to a foreign company to operate. The foreign operator will pay for the transfer in a single up-front payment based on its calculation of the cash flow of the project during the term of the concession. The foreign operator is entitled to collect reasonable service fees, utilization fees and other fees from the users of the facility during the operational period. After the operational period expires, the foreign operator will transfer the project back to the Chinese party. Meng et al. paper (2011) introduces the application of Transfer-Operate-Transfer (TOT) systems to urban water supply projects in China through evolution review and case studies. Four case studies have been carried out in different regions such as Shenyang, Shanghai, Shenzhen, and Lanzhou that show typical examples of TOT projects with both successes and failures. Their study attempts to look at the key to TOT project success from a balanced point of view. This means that, focusing on the local government's strategy, attention is also given to the investor's concern and public welfare. Following this principle, critical success factors (CSFs) for TOT projects are identified from well-developed case studies. The eight CSFs identified include project profitability, asset quality, fair risk allocation, competitive tendering, internal coordination within government, employment of professional advisers, corporate governance, and government supervision.

4.11. Purchase of shares

Acts of purchasing shares issued by Chinese companies and listed overseas, as well as stocks issued to overseas investors and listed inside China through stock exchanges in Shenzhen and Shanghai or overseas stock exchanges by foreign investors and individuals, incorporated entities and other organizations in Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan province, and by Chinese citizens having permanent overseas residence and other investors.

4.12. Transfer to enterprise property right

Act of selling or purchasing the property rights of the state owned enterprises according to laws. Foreign incorporated entities, individuals or other organizations are entitled to the right of purchasing the property rights of the state owned enterprises according to competent regulations. Once the enterprises are purchased, they will be entitled to the preferential policies extended to foreign funded enterprises. Owing to above opportunities, where to of China's utilization of foreign funds. Experts with the China State Information Center forecast that utilization of foreign funds in China will be shown in the following four trends in coming several years. The country's capital market will become the main area for the utilization of foreign funds by the country. In addition to the present foreign direct investment and loans, there will be some new forms for the country long and medium term investment from other countries such as purchase, merger, investment fund and securities fund.

Foreign-invested enterprises need to face the law in China. Chinese legal system is codified, but US and UK legal systems are uncoded. Any foreign-invested enterprises must pay attention to this issue otherwise a great trouble is ahead. We see Chinese company law, revised customs law, complaint from enterprise and one administrative law regarding process industry and import/export goods. China's company law was drafted in 1983 and promulgated in 12/1993 with major amendments in 12/1999. In general, the current company law has the following ten

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major problems that might assist a person or a company to know more data before deciding to operate or not.

4.13. Limitation of legal capital

The company law provides that the registered capital of a joint stock company is the total paid-in stock capital registered with the registration organ. Compared with the authorized capital system prevailing in the British and American law systems, the current paid-in capital system lacks the necessary elasticity and intensifies the conflict among subjective qualifications during the setting-up stage, especially when the joint stock company issued stocks or developed abroad. This is the most outstanding problem. On the one hand, the laws of places where stocks are issued and listed require Chinese joint stock companies to obtain the legal subject qualifications and that the company should in its articles of association and business license provide legal and effective regulations and authorization of the stocks to be issued. On the other hand, it is impossible for Chinese registration organ to register the stocks that are yet to be raised and will not allow the stock to be issued to enter into the articles of association and business licenses nor allow the articles of association to enter elastic capital limitation articles. This has cast into doubt the legality of Chinese joint stock companies to make initial public offering (IPO) abroad and put the excessive right share option system, which prevails on the international capital market but is not confirmed by Chinese laws, in an embarrassing position.

4.14. The limit of capital for foreign investors is too rigid

The laws provides that the proportion of investment in other limited liability companies, joint stock companies, except in investment companies and holding companies, as provided by the State Council should not exceed 50% of the net assets of the investors. Such rigid restriction is no reasonable at all. It is nothing but an obstacle to the development of companies and to the development of grouping by companies. There are no such cases in other countries and regions. Taiwan, which once had such provision, has already discarded it. Such provision has forced many companies to expand their account value of assets by appreciation of land appraisal, absorbing non-operating assets and bad assets and increasing intangible assets evaluation in order to meet the operation demand.

4.15. One-man company

The company law and provisions concerning industry and commerce provide that only state enterprises and wholly foreign owned companies may set up a one-man company and so may their son and grand-son companies. No other companies are allowed to set up such companies. Such provision has obviously restricted the development of enterprise grouping and most companies are not equally treated. It does not only go against the development trend of the company law of various countries but also seriously deviates from the actual conditions of China's legal system of companies.

4.16. There is no company personality denial system

At a time when it is widespread to form modern company groups and associated enterprises, the unveiling principle and "deep stone" rules originated in Britain and the US have been extensively accepted. By the system, if shareholders of a company or associated enterprises have done something harmful to the interests of other shareholders or debtors of the company or associated enterprises, the court may, according to the request of the parties concerned, deny the legal status of the company and order the shareholders in default to undertake unlimited responsibilities. As China has not provided for such a system, when foreign-invested enterprises have committed transfer pricing behavior aimed at evading taxes or committed associated trading aimed at harming the interests of small

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shareholder and even when company groups have committed deceptive bankruptcy aimed at evading debts, the victims are unable to seek effective legal protection.

4.17. Conflict between the power and position of the president and general manager

The company law provides that president of a company is the legal representative and the power of execution of the company's behavior lies with the general manager, thus putting into conflict the powers and position of the president and general manager. Such conflict, in practice, will entail many disputes. This is especially outstanding with security fund management companies. This includes whether or not the president can directly undertake the company's behavior when the company or the articles of association have no provision for it, whether the general manager may sign foreign contracts according to the provisions of company law or the articles of association when the president has not granted the authorization, or how to define each other's powers in the situation where there is conflict or dispute between the president and general manager. This is closely associated with the power disputes between the president and general manager in practice and the non-provision in the company law and other regulations. Such disputes cannot be settled and will become worse.

4.18. The fund-raising establishment system is weakened when the planned fund-raising system imposes much restriction

The company law has provided that the establishment of a joint stock company may adopt the method of promotion and prospectus to set up joint stock companies. As China still implements the planned fund raising system and examination system, the fund raising of a company has to be confined to a prescribed amount and has to undergo examination and approval. This has restricted the role of the rules provided in the company law.

4.19. Is it the company or promoter that make the IPO?

There is bound to be conflict with the qualification of the subject and on the other hand, the company has to operate and sign contracts, issue shares and file applications in the name of the company. The mixing of company offering and offering by promoters means the mixing of the company's behavior with the behavior of the promoter, thus resulting in the confusion of the nature of the behavior and in the investment verification and accounting books.

4.20. There are contradictions with bearer's shares

The company law provides that the bearer's share has no real meaning as China's stock trading has in fact adopted the method of paperless trading, but the stocks are not bearer's. These two concepts are not compatible.

4.21. Failure to provide the quorum at the shareholder's meeting

This is a loophole. With the economic development, it is inevitable for a company's equity to be diversified. In China, there are frequent acquisitions shares of listed companies and the shareholders controlling the shares are not restricted in their behavior. In such context, the quorum of a shareholder's meeting will become the focus of disputes. In many companies the current shareholder's meeting is controlled by a few people, or more usually by one big shareholder, and small shareholders have to be manipulated by big shareholders. The company law should standardize such behavior.

4.22. Lack of a company legal proceeding system

The company law over stresses the administrative responsibilities and criminal responsibilities to the neglect of civil responsibilities. There is the lack of provisions about the right of action. This has seriously affected the operability of a company and raised the cost of implementing the law. Under the current legal system, the courts cannot accept most disputes with companies. In fact, companies

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are unable to take legal action against shareholders controlling the shares and there are no derivative legal action systems, thus leaving the rights of the parties concerned unprotected.

In China, the most complicated issue is customs regulations. All customs branches in China are controlled by Beijing General Customs Department. At initial, their goal was to avoid customs officers had chance to get corruption but it became a monster and caused a lot of troubles to investors. The previous Customs Law took effect on 1 July, 1987 and it was revised which had been enforced in 1 January, 2001. The reasons are: the smuggling situation is very grim, smuggling was not given severe enough penalties within the frame of the power and legal responsibility of the customs under the previous Customs Law; the procedure of law enforcement was neither perfect nor transparent enough and could not fully cope with the demands of China's entry into world trade organization (WTO); with the rising level of customs management by information technology and the deep-going reform of custom passage operation, a series of new problems needed to be clarified in legislation; many new problems cropped up in the fast developing processing trade and bonded business which required standardization in legislation; as the contradictions of strict supervision and control and fast customs passage operation became increasingly outstanding, it was essential to practice effective classified management and guarantee systems; tariff collection measures were not strong enough and stronger measures were compelled by the law; restrictions on the power of customs personnel in law enforcement were not effective enough and it was necessary to take measures to improve and enhance supervision and restrictions etc.

The revised law has added supplementary rules to, and improved and solved the following problems: Basically it solves the legislation problems affecting customs in hitting smuggling. For example, the installation of anti-smuggling police and establishment of their legal status; the institution of a new anti-smuggling system and clarifying the division of responsibilities; the customs are vested with greater power to fight smuggling; more severe penalties are meted out against smuggling and other illegal acts. The establishment of a new customs supervision and control system following the reform to cope with demands of development of its work and the reform of custom passage operation. For example, making definite the legal effect of custom declaration in the form of electronic data practiced under the reform of the custom passage operation, establishment of the system of custom administrative ruling, customs affairs guarantee system and Customs Law enforcement of trade control. Improve the imperfect supervision and control system of the previous Customs Law. For example, supplementary rules are added to customs supervision and control system in the previous law, including the law enforcement procedure, management of processing trade, tariff collection and management, and legal responsibility of tariff delivery. They are further improved, readjusted and more detailed. The revised law creates conditions in legislation relating to China's accession to the WTO, in following its rules and other international customs and conventions and for China's Customs Law to dovetail with international convention.

In China, many foreign-invested enterprises invest in processing business especially in the Canton province and Shanghai area. How a foreign-invested enterprise should obtain proof for processing business in China? In the following message, we know the detailed procedures in processing business. On the other hand, you can see the troublesome of China's administrative law that make a barrier to reject FDI at certain extent. According to the official, to apply to engage in processing business, initially, the following documents and materials should be provided by the foreign-invested enterprise.

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- i. A written application report plus an application form for engaging in processing trade with corporate seal produced by the related foreign-invested enterprise.
- ii. For the initial application, an approval certificate and the business license of the applying foreign-invested enterprise.
- iii. For the initial application, the contract and articles of association of the applying foreign-invested enterprise.
- iv. For initial application, capital assessment report of the applying foreign-invested enterprise.
- v. For the initial application, business opening certificate of the applying foreign-invested enterprise.
- vi. Certificate of annual check of the foreign-invested enterprise (valid for one year).
- vii. Certificate of production capacity of the applying foreign-invested enterprise issued by the foreign trade and economic cooperation department of the county or above government of the place where the foreign-invested enterprise registered valid for one year.
- viii. Import and export contract signed by the foreign-invested enterprise with the overseas business (original).
- ix. Other certifying documents and materials deemed by the examination and approval department necessary.

The related examination and approval department will issued an approval certificate of processing trade, stamp the special seal of examination and approval of processing trade, fill in the detailed list for application for imported materials for reference and detailed list of exported finished products and the consumption of corresponding imported materials for reference, and stamp the special seal of examination and approval of processing trade after it finds the applicant is qualified. In addition, the related foreign-invested enterprise has also to pay attention to the following matters:

- i. Where the imported materials processed belong to the category of waste and old metals or articles, an approval document for the imported materials issued by the State Environment Protection Bureau should be provided according to the related rules.
- ii. Where the imported materials processed or the finished products for export belong to the category of chemicals easy to be made into poison and chemicals capable of being used for both military and civil purposes, and approval documents for the import of materials or export of finished products issued by the related department should be provided in accordance with the related rules.
- iii. Where the processed products are of a restricted type or the enterprises belong to category C, the examination and approval department shall specify such characters as “Shizhuan” in the column of remarks on the approval certificate of processing trade business.
- iv. Enterprises under category D are not allowed to conduct processing trade. No permit shall be granted to enterprises conducting processing trade where the imported materials belong to the prohibited type.
- v. The period allowed for the export of finished products specified in the approval certificate of processing trade will be determined, in principle, in line with the validity of the enterprise’s export contract but that should not exceed one year normally. The period allowed for the export of such finished products as sugar, cotton, vegetable oils, wool and natural rubber is normally within 6 months.
- vi. In conducting processing trade where the imported raw materials are those whose import under processing trade needs to be balanced, such as cotton, sugar, vegetable oils, wool, natural rubber, crude oil, and refined oils, the processing trade examination and approval department at the place where the enterprise

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conducting the processing trade should be responsible for the examination and approval. For common projects, the examination and approval right will be delegated to city-level departments in charge of foreign trade and economic co-operation.

- vii. If it is necessary to prolong the period allowed for the export of finished products due to objective reasons, the enterprise should report to the original examination and approval department for approval within the specified period allowed for the export of finished products. The period should not be extended more than two times and be less than 6 months for each examination.
- viii. Where it is necessary to change some of the items due to objective reasons, an application should be submitted to the original examination and approval organ within the specified period on the approval certificate of processing trade for approval.

5. The development and sustainability of foreign-invested enterprises in China

Banks would react to banking regulation of Basel III in China. The traditional loans are very costly in capital. The short-term loans increased liquidity cost because of uncertain cash inflow from borrowers. Financial trading increased liquidity cost because it involves cash inflows and outflows. Deposit taking increased liquidity cost in taking whole funds. The possible strategies for banks will transfer all costly business to non-bank institutions (money lenders, fund houses, securities firms, etc.). Banks select clients involving less capital and liquidity costs (such as retail clients). Banks focus more fee-based activities, develop innovative products by-pass capital and liquidity requirements. Banks also restrict lending and treat lending as a marketing tool. Foreign-invested enterprises will be difficult to get the traditional loans. In order to face the change of financing in China and the world, foreign-invested enterprises have comprehensively adjusted their financing strategies in China and the world towards peer to peer (P2P) perform. Basel III (2013 - 2018) is a global, voluntary regulatory framework on bank capital adequacy, stress testing and market liquidity risk. Banks increased capital requirements on risky assets and exposures to absorb possible-unexpected loss. It included more equity required (at least 4.5%); capital conservation buffer (2.5%); countercyclical buffer (at most 2.5%); additional capital for globally-systemically important banks (at most 2.5%); leverage ratio requirement (at least 3% of total asset). Basel III also tightened liquidity requirements to assure stable funding for bank. It included penalizing wholesale funds (liquidity coverage ratio is greater than or equal to 100%); mitigating maturity mismatch (net stable funding ratio is greater than or equal to 100%). China Banking Regulatory Commission revealed that since January 1, 2013, China implemented the Capital Rules for Commercial Banks (Provisional), therefore the original Rules on Capital Adequacy Ratio (CAR) was abolished. The new Capital Rules adopted the tougher measurement methods including newly added capital requirement for operational risks, stricter definition of eligible capital instruments, readjustment of risk weightings, and removal of calculation thresholds for market risks, etc. Banks need to provide capital surcharge on globally systemically important banks (GSIBs) in November 2014 (see Table 1). Agricultural Bank of China, Bank of China, and Industrial& Commercial Bank of China (ICBC) need to provide 1% capital surcharge on globally systemically important banks.

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Table 1. *Capital surcharge on GSIBs (Globally systemically important banks) in Nov 2014*

Capital surcharge	Name of bank	Name of bank
4 (2.5%)	HSBC	
	JP Morgan Chase	
3 (2%)	Barclays	Citigroup
	BNP Paribas	Deutsche Bank
2 (1.5%)	Bank of America	Mitsubishi UFJ FG
	Credit Suisse	Morgan Stanley
	Goldman Sachs	Royal Bank of Scotland
	Agricultural bank of China	Nordea
1 (1%)	Bank of china	Santander
	Bank of New York Mellon	Societe Generale
	BBVA	Standard Chartered
	Group BPCE	State Street
	Group Credit Agricole	Sumitomo Mitsui FG
	ICBC	UBS
	ING bank	Unicredit Group
	Mizuho FG	

Source: “Financial Risk Management & Banking Regulation of Basel III”, by Dr. Michael C S Wong, Seminar at Hong Kong Shue Yan University, 14 October 2015, p.8.

A colloquial term for peer to peer (P2P) lending in China is grey market, not to be confused with grey markets for goods or an underground economy. Off line peer-to-peer lending between family and friends is a popular practice and has been around in the country for centuries. In recent years a very large number of micro loan companies have emerged to serve the 40 million small and medium-sized enterprises (SMEs), many of which receive inadequate financing from state-owned banks, creating an entire industry that runs alongside big banks. As the Internet and e-commerce took off in the country in the 2000s, many P2P lenders sprung into existence with various target customers and business models. The most prominent among them are Credit Ease (founded in 2006 and headquartered in Beijing, Credit Ease is a national leader in wealth management, credit management, microfinance investment, and microcredit loan origination and servicing.), Lufax (full name Shanghai Lujiazui International Financial Asset Exchange Co., Ltd., is an online Internet finance marketplace in China headquartered in Lujiazui, Shanghai. Founded in 2011, it is an associate of China Ping An Group), Tuandai, China Rapid Finance (operates on the Orchard platform for marketplace lenders. Its target group of borrowers in the Tencent deal was emerging middle-class mobile activated. This refers to young people primarily under 30 who have mobile access, but no credit access.) and Dian Rong. CreditEase runs a huge offline network with branches in major Chinese cities, and the latter has links to Lending Club in the U.S. and concentrates on the online market. The first peer to peer leading (P2PL) in Hong Kong is WeLab Holdings, which has backing from American venture capital firm Sequoia Capital (Sequoia Capital was founded in 1972 in Silicon Valley and is a leading global venture capital firm. Sequoia Capital focuses on early-stage investments and has invested in Apple, Cisco, Oracle, Yahoo, Google and many other successful companies.) and Li Ka-Shing's TOM Group. The development of peer to peer leading perform will be targeted for the foreign-invested enterprises' new financing channel.

In order to fit the economic condition in China, foreign-invested enterprises have comprehensively adjusted their development strategies in China towards diversified investment and all-round competition. Main contents include to restructure their investment in manufacturing industry and make China “a factory catering to the world's demand”. China's market became more difficult than before

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and many products have become oversupplied. However, there is still space for investment in some raw materials and spares and fittings projects. In fact, some foreign-invested enterprises are not satisfied with the performance of their investment projects in China. They are adjusting and rectifying the existing projects and would increase purchases rather than invest in already oversupplied projects. Some foreign-invested enterprises have even shifted their production to China. More than that, foreign-invested enterprises are also busy constructing spares and fittings production and purchasing networks in China. Foreign-invested enterprises find that the Chinese market bears many unique characteristics, and Chinese consumers have unique consumption demands. Without the aid of research and development (R&D) centers, manufacturing sector projects would lack competitiveness. Also, foreign-invested enterprises have demanded entry into China's knowledge-intensive service market. With the opening of the service sector, enterprises are very likely to shift their operation and management functions to China, and the country is very likely to become a management and operations center of enterprises in the North Asian area, or even in the Asian and Pacific region. Most projects foreign investors launch in China are either sole foreign capital firms or joint ventures with Chinese partners. This kind of investment must go through land use, construction of factory building and installation of equipment procedures, which take a long time to complete. But, on the other hand, the shelf life of products in information age is very short and the speed of replacement is very fast. Then the problem of investment risks occur and some foreign investors resort to the method of purchasing and annexing, now prevailing abroad. Foreign-invested enterprises looked for state-owned enterprises as their co-operation partners. However, many foreign-invested enterprises have shown great interest in privately owned enterprises. It is because they find the private enterprises are subject to standard management and have advanced technology and equipment, and the most satisfactory fact is that they follow the market-oriented operation mechanism, which is the step with that of the multinationals.

Brand name is the key factor for enterprise survival. It represents the commercial integrity. Foreign-invested enterprises can use the concept of creating shared value (CSV) as reference to sustain their business in China. Hart & Milstein (2003) revealed that firms are challenged to minimize waste from current operations (pollution prevention), while simultaneously reorienting their competency portfolios toward more sustainable technologies and skill sets (clean technology). Firms are also challenged to engage in extensive interaction and dialogue with external stakeholders, regarding both current offerings (product stewardship) as well as how they might develop economically sound solutions to social and environmental problems for the future (sustainability vision). Sustainable development is defined in line with the Brundtland Commission as, "development which meets the needs of current generations without compromising the ability of future generations to meet their own needs."¹ A concept of creating shared value (CSV) developed by Porter & Kramer (2011). They note "the concept of shared value blurs the line between for-profit and non-profit organization. New kinds of hybrid enterprises are rapidly appearing". They argue for CSV which "involves creating economic value in a way that also creates value for society by addressing its needs and challenges". Foreign-invested enterprises can use the concept of creating shared value to sustain their business in China. Creating shared value is the practice of creating economic value in a way that also creates value for society by addressing its needs and challenges. There are three ways to create

¹See Report of the World Commission on Environment and Development: Our Common Future
Available at : <http://www.un-documents.net/our-common-future.pdf>

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shared value: by reconceiving products and markets, by redefining productivity in the value chain, and by enabling local cluster development. Shared value is not corporate social responsibility or philanthropy-creating shared value is at the core of the business strategy. Spitzeck & Chapman (2012) explain that CSV strategies is an emerging field in the intersection of development studies, strategy, stakeholder theory, innovation and measurable triple-bottom-line (people, planet, profit) results. As with any emerging field the current challenge lies in generating empirical observations to confirm, contradict and refine the new theory. FSG research² let us know many success cases in the world as follows;

Case 1:

Intel invests more than \$100 million a year in education, and they have trained 10 million teachers around the world. For example, they are working with the government of Portugal to transform the country's primary education system with 1:1 technology integration. The project combines age-appropriate technology and content with the training, support, and Internet connectivity students need to develop 21st century skills. Since 2008, they helped deliver broadband Internet access to all schools in the country, and equip all students in grades 1 to 4 (more than 750,000 students) with a locally produced computer that uses the Intel-powered classmate PC design. Since launching this project, they have seen students PISA (Programme for International Student Assessment) scores rise by 20 percent. And this created \$2.5 billion of additional revenue for Portugal. This way to create shared value by enabling local cluster development.

Case 2:

Founded in 2009, Triciclos is a private company and certified B Corporation that is working to reduce waste in Chile through recycling. It recycles all recyclable materials, selling some for a profit and seeking opportunities to establish new markets for materials that cannot currently be recycled profitably. By 2013, Triciclos had established 47 recycling collection centers and had recycled over 2 million kilograms of material, equivalent to over 5 million kilowatts of electricity, over 20,000 trees, nearly 750,000 liters of petroleum, over 3.5 million liters of water, and nearly 9 tons of carbon dioxide. The company is also considering how to measure changes in consumer behavior as a result of its education efforts. In 2012, Triciclos accumulated US\$ 1.4 million in revenue, generating a profit of 8% of sales and a 30% return on capital. This way to create shared value by reconceiving products and markets.

Case 3:

National Australia Bank (NAB), one of the four largest banks in Australia, responded to the financial crisis in exactly this way. The bank created NAB Care, a program to provide financial hardship advisory and loan repayment options for struggling customers. NAB's head of collections engaged a mental health nonprofit organization called Life Line to train all NAB Care employees to recognize and manage financial hardship among customers. The bank also changed its employee performance evaluations to incentivize and reward staff for proactively managing its customers' financial health. As of 2013, NAB Care had helped over 100,000 vulnerable customers, resulting in a 20 percent reduction in loan defaults. NAB Care has been so successful that 40 percent of the bank's clients voluntarily seek advice before a collections event, saving NAB \$7.2 million in costs. This way to create shared value by redefining productivity in the value chain.

Case 4:

² FSG research is available at: <http://www.fsg.org/about>

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Executives at General Electric began looking across its portfolio of industrial and consumer businesses, eyeing ways to apply new technology to reduce energy consumption. They were prompted by corporate customers voicing concerns about rising electrical and fuel costs, and by governments pushing for curbs on carbon emissions. The result was G.E.'s "ecomagination" program, a business plan as well as a marketing campaign. In recent years, the company has invested heavily in technology to lower its products' energy consumption, and the use of water and other resources in manufacturing. To date, more than 100 G.E. products have qualified, from jet engines to water filtration equipment to light bulbs. In 2010, such products generated sales of \$18 billion, up from \$10 billion in 2005, when the program began (Lohr, 2011). This way to create shared value by reconceiving products and markets.

6. Conclusion

The objective of this study was to illustrate the development and sustainability for foreign-invested enterprises in China. Tertiary industry become the focus of foreign investment. It opened common trades such as tourism, internal trade and living service and opened such key sectors as finance, insurance and telecommunications. Foreign-invested enterprises feel that the number of processing zones is small and the preferential policies are too limited, and the customs have too much supervision over the trading within the zones. The newly introduced policy cannot totally address the problems troubling the processing trade as seen from the current operational model and production procedures of foreign-invested enterprises. Owing to the rapid development of processing trade, together with the other special operations of "large volume import and export", "bonded plant transfer", "wide spread" problems such as smuggling, tax evasion and tax cheating have occurred.

Banks would react to banking regulation of Basel III. The traditional loans are very costly in capital. The development of peer to peer (P2P) lending perform will be targeted for the foreign-invested enterprises' new financing channel in China and the world. However, financial risk is transferred from banks to other less-regulated institutions (i.e., insurance companies, securities firms, private equity firms, hedge funds, corporations, peer to peer lending perform). This risk might not be diversified or properly managed. Brand name is the key factor for enterprise survival. It represents the commercial integrity. Foreign-invested enterprises can use the concept of creating shared value (CSV) as reference to sustain their business in China. We apply four case studies (Intel, Triciclos, National Australia Bank and General) provided by FSG research to explain this concept. The limitation is that the case study analysis is based on documentary materials; for further investigation it might be useful to develop in-depth interviews with key figures involved in the implementation of business models. Further research should strive to extend the analysis to all the business models that are being developed with the aim of creating shared value.

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