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CEPA Supplement VIII measures (Trade in goods and services) - opportunities for Hong Kong

Trade in services

The Central and Hong Kong governments jointly announced on 13 December 2011 the latest service liberalisation measures under Supplement VIII to CEPA, the ninth phase of the CEPA package that will be implemented in April 2012. A total of 23 liberalisation measures spanning 16 service sectors (further divided into 13 existing sectors and three new sectors) are provided under Supplement VIII to CEPA. With Supplement VIII, the total number of service sectors agreed under CEPA will increase from 44 that are currently in force to 47. When Supplement VIII is implemented next April, the total number of service liberalisation measures will have gone up to more than 300.

Of interest to note is that many liberalisations incorporated within Supplement VIII to CEPA were actually touched upon by Vice Premier Li Keqiang in his three-day visit to Hong Kong in August 2011. Aside from unfolding a package of 36 measures, the vice premier indicated that the trade in services between the Chinese mainland and Hong Kong should be basically free by the end of the 12th Five-year plan in 2015. This is perhaps one of the clearest indications regarding how soon and how far the mainland market will eventually open up for Hong Kong service suppliers and professionals, who could then expect progressive liberalisation in concerned service sectors over the next few years, until national treatment will basically have been accorded.

Regarding Supplement VIII to CEPA, the Chinese mainland has specifically granted relaxed market access conditions in the 16 service sectors as follows: (i) Legal services, (ii) construction services, (iii) research & development services, (iv) technical testing, analysis and product testing, (v) manufacturing services, (vi) job intermediary services, (vii) distribution, (viii) insurance services, (ix) banking services, (x) securities services, (xi) medical services, (xii) tourism, (xiii) recreational, cultural and sporting services, (xiv) road transport services, (xv) professional qualification examinations, (xvi) individually owned stores.

To cope with the fallout of the international financial crisis, Hong Kong has advocated since 2009 the development of six new industries in which Hong Kong enjoys clear advantages, namely education services, medical services, testing and certification services, environmental industries, innovation and technology, and cultural and creative industries. CEPA, in both Supplements VIII and VII, has incorporated measures geared to assisting Hong Kong service suppliers (HKSS) to gain enhanced access to the mainland market (more detailed discussion can be found in subsequent sections).

Guangdong and Hong Kong have striven hard to foster a closer economic relationship as a result of their geographic proximity and strong business ties. As the immediate hinterland of Hong Kong, Guangdong thrives in its symbiotic economic relationship with Hong Kong. In addition to being a manufacturing stronghold for Hong Kong companies, Guangdong is increasingly seen as a potent market for Hong Kong products and services.

The Central government, in its release of the *Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020)* (The "*Outline*") in December 2008, specifically elevated Guangdong/Hong Kong cooperation to the national policy level.[1] Against this background, governments of the two places signed the *Framework Agreement on Hong Kong and Guangdong Co operation ("Framework Agreement")* in April 2010, with a view to translating the macro policies set out in the *Outline*. Importantly, in the 12th Five-year Plan released by the Central government in March 2011, there was a dedicated chapter on Hong Kong with strong emphasis on deepening cooperation between Guangdong and Hong Kong and the implementation of the *Framework Agreement*, advocating the use of CEPA's pilot implementation measures in further liberalising the PRD and cooperating with Hong Kong.

Therefore, Guangdong's early and pilot implementation measures (先行先試) continue to be a key feature of the latest CEPA package. There are a total of seven liberalisation measures for pilot implementation in Guangdong under Supplement VIII, focussing on the construction, distribution and insurance sectors (see respective measures in subsequent sections).

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[1] China's National Development and Reform Commission announced in December 2008 the Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020) (http://en.ndrc.gov.cn/policyrelease/P020090120342179907030.doc).

Based on the latest estimates in 2010, CEPA generated an additional business receipt of HK$61.6 billion for HKSS from 2004-2009. As at end-December 2011, the cumulative number of HKSS applications approved stood at 1,570. Among those Hong Kong companies which have been issued HKSS certificates, about half of them reported having established business operations on the mainland. Top three HKSS certificate applicants come from the sectors of transport and logistics, distribution services and air transportation service, which account for 62% of the approved total, and the percentages of these HKSS having established business operations on the mainland are believed to be higher than the overall average.

Service sectors benefiting from CEPA (1st to 9th phase)

Accounting	Inter-disciplinary research & experimental development service#	Rail Transport
Advertising	Job intermediary*	Research & development*
Air Transport	Job referral agency*	Scientific and technical consulting
Audio-visual	Legal*	Securities*
Banking*	Logistics	Services related to management consulting and project management
Building cleaning	Management consulting	Social services for elderly and disabled
Computer and related services	Market research	Specialty design
Construction and real estate*~	Medical and dental*	Recreational, cultural and sporting services (including library/museum services#)
Conventions and exhibitions	Manufacturing services#	Storage and warehousing
Cultural entertainment	Mining services	Technical testing, analysis and product testing
Distribution*~	Patent agency	Telecommunications
Environmental	Photographic	Tourism*~
Freight forwarding agency	Printing	Trade mark agency
Individually owned stores*	Professional qualification examination*	Translation & interpretation
Insurance*~	Public Utility	Transport (road and maritime)

** Existing services sectors with liberalisation under Supplement VIII to CEPA*
~ Guangdong pilot and implementation measures under Supplement VIII to CEPA
 # New services sectors under Supplement VIII to CEPA

Relaxation in definition of Hong Kong service suppliers

Supplement VIII has incorporated a remarkable breakthrough by relaxing the "substantive business operations" criterion for HKSS, which has been adopted since the implementation of CEPA in 2004. Until the new CEPA provisions go into effect from April 2012, service suppliers in Hong Kong are only allowed to apply for HKSS certificates provided that their services fall within the 44 sectors in force. From April 2012, when a total of 47 service sectors will become available, service suppliers in Hong Kong who are providing services outside those service sectors will for the first time be allowed to apply for HKSS certificates, and they may choose one of the following service sectors to be declared on their HKSS application forms:

- services related to agriculture, forestry and fishing;
- administrative and support services;
- education services; and
- personal, pet and household services.

In addition, the current requirements stipulate that HKSS should apply for preferential CEPA benefits on the mainland within the sectors in which they are currently engaged in Hong Kong. Effective from April 2012, HKSS can apply to the mainland authorities for CEPA benefits available in service sectors beyond those sectors in which they are engaged in Hong Kong. That said, HKSS are still required to substantiate that they have been engaging in substantive business operations in Hong Kong for at least three to five years, with relevant licence or permit required by the laws of Hong Kong.

This change in HKSS definition will considerably enhance the flexibility of making HKSS applications and widen the business scope available to HKSS, unless individual CEPA measures, or laws, regulations as well as administrative regulations of the Chinese mainland impose specific requirements on the nature and scope of business.

The six new industries – liberalisation and cooperation measures

After incorporating the first few liberalisation measures related to the six new industries in the previous CEPA package, Supplement VIII also includes some measures in support of HKSS operating in the six new industries, spanning the medical as well as product testing sectors. The Hong Kong government considers it imperative to develop six new industries in which Hong Kong clearly enjoys a competitive edge, aside from the four traditional pillar industries of finance, trade and logistics, tourism and professional services.

The notion of developing Hong Kong's six new industries came in 2009 in response to the fallout of the international financial crisis, which arose in late 2008 to exert an adverse impact on the traditional sectors, trade and logistics in particular. The six new industries comprise (i) medical services, (ii) testing and certification services, (iii) education services, (iv) environmental industries, (v) innovation and technology, and (vi) cultural and creative industries. Based on the latest estimates, these six industries directly contributed 8% of Hong Kong's GDP and employed about 395,000 people or 11.3% of the total workforce in 2009.[2]

Medical services

Hong Kong's medical sector is well recognised on the Chinese mainland for its professionalism and service quality, especially in neighbouring Guangdong, where many people travel to Hong Kong to receive the city's premier medical services. Hong Kong is well known for its cutting-edge procedures and quality than just for cost, with top-grade hospitals and doctors offering medical care that rivals the best practice in the world.

In addition to attracting mainland patients to Hong Kong, HKSS in the medical service sectors have started to build a foothold gradually in the mainland market. With CEPA, Hong Kong's medical sector is provided with considerable preferential access to the mainland market compared with service suppliers from other places. For example, HKSS are allowed to establish wholly owned medical institutions in Guangdong, including outpatient clinics, convalescent hospitals, and hospitals, and are subject to lower investment thresholds. As at the end of December 2011, 16 HKSS certificates had been approved within the sector of medical and dental services. Meanwhile, many Hong Kong-run outpatient clinics have been established in Guangdong, especially in Shenzhen.

On the heels of the liberalisation measure under Supplement VII to CEPA, Supplement VIII will allow HKSS to establish wholly owned hospitals beyond the five pilot places of Guangdong, Shanghai, Chongqing, Fujian and Hainan, to cover all municipalities under the Central government and provincial capitals on the Chinese mainland. This measure will broaden the geographical choice for HKSS in establishing Hong Kong-run hospitals on the mainland in the provision of Hong Kong-style management and medical services.

This new liberalisation measure is expected to supplement existing measures by providing greater job opportunities for Hong Kong healthcare practitioners to work in Hong Kong-run hospitals in the future. Thanks to the previous CEPA package, all 12 types of statutory healthcare practitioners[3] of more than 76,000 are allowed to apply for the three-year renewable licence under CEPA to provide services on the mainland.

From the table below, CEPA provides preferential access for HKSS by effectively lowering their entry threshold for accessing the mainland market compared with other foreign-invested companies (whose access conditions are subject to the mainland regulations as depicted in the left-hand column of the table below, under *Current Scope of Access*. Therefore, CEPA is certainly WTO-plus).

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[2] The Hong Kong Census and Statistics Department released in February 2012 "The Situation of the Six Industries in Hong Kong in 2008 and 2009".

[3] Under Hong Kong legislation, 12 types of statutory healthcare professionals are required to be registered with respective councils or boards before practising locally. They include medical practitioners, Chinese medicine practitioners, dentists, pharmacists, nurses, mid-wives, medical laboratory technologists, occupational therapists, optometrists, radiographers, physiotherapists and chiropractors.

Current scope of access	Access for HKSS under CEPA
– Joint-venture medical institutions (including hospitals or clinics) are allowed.	– HKSS are allowed to set up wholly owned hospitals in Guangdong, Shanghai, Chongqing, Fujian and Hainan, subject to the corresponding investment requirements. – *From April 2012*, HKSS can set up wholly owned hospitals in all municipalities directly under the Central government and provincial capitals on the mainland.
– Minimum total investment of JV hospitals is RMB 20 million.	– The minimum investment amount for HKSS in setting up hospitals on an equity or contractual JV basis is RMB 10 million. – HKSS setting up hospitals on an equity or contractual JV basis in Guangdong are not subject to total investment restriction. – HKSS setting up hospitals on an equity or contractual JV basis in Guangdong, Shanghai, Chongqing, Fujian and Hainan, are not subject to the restriction imposed on the ratio of capital investment between HKSS and their mainland partners.
	– HKSS are allowed to set up wholly owned, outpatient clinics in Guangdong with no restriction on the total investment. – For setting up equity or contractual JV outpatient clinics by HKSS in Guangdong: – No restriction on the ratio of capital investment between HKSS and mainland partners in the equity or contractual JVs. – No restriction on the total investment in the form of equity or contractual JVs.
	– HKSS are allowed to set up convalescent hospitals in the form of wholly owned, equity JV or contractual JV to provide medical services in Guangdong.
	– Guangdong's health administrative department is responsible for project establishment and approval procedures for setting up outpatient clinics in Guangdong by HKSS on a wholly owned, equity or contractual JV basis. – Guangdong's health administrative department is responsible for the project establishment and approval procedures for setting up medical institutions in Guangdong by HKSS on an equity JV or contractual JV basis.
– The majority of medical personnel employed by JV hospitals or clinics must be of Chinese nationality.	– The majority of medical personnel employed by Hong Kong-mainland JV hospitals or clinics can be Hong Kong permanent residents.
	– Hong Kong permanent residents who are legally eligible to practise in Hong Kong and have practised for 5 full years are allowed to open clinics on the mainland after obtaining the mainland's practising qualifications.
	– Qualified Hong Kong permanent residents with Chinese citizenship are allowed to apply for and obtain the mainland's *"medical practitioner's qualification certificate"* through accreditation.
	– Hong Kong permanent residents who are legally eligible to practise medical and dental services in Hong Kong are permitted to sit the mainland's qualification examination. – Hong Kong permanent residents who are licensed pharmacists and fulfil the application criteria under

	pharmacists and fulfil the application criteria under the mainland's *Provisional Regulations on Licensed Pharmacists Qualification System* can sit the mainland's licensed pharmacist qualification examination; – Those who pass the examination will be issued the mainland's "licensed pharmacist's qualification certificate", and can register in accordance with the mainland's *Provisional Mechanism for Licensed Pharmacists Registration Management* and other relevant regulations.
– The maximum duration of the licence granted by China's Ministry of Health to foreign practitioners to provide short-term medical services in the mainland is six months. – On expiry, the licence can be extended to one year.	– All statutory healthcare professionals registered to practise in HK can provide short-term services up to 3 years on the mainland, with the licence renewable upon expiry. – The licence is renewable.

Technical testing, analysis and product testing

With the mainland authorities intent on spurring economic growth with private consumption, a policy direction outlined in the 12th Five-year Plan, selling to the mainland market is becoming a more tenable option for Hong Kong companies, many of which have been focussed on exporting their mainland-produced products to the developed markets. For many products to be sold in the mainland market, there is the safety requirement that they receive the China Compulsory Certificate mark, commonly known as CCC mark. In keeping with the thrust of Supplement VII, which opened the new sector of CCC product testing for the first time for HKSS, Supplement VIII will expand the scope of CCC product testing from some selected Hong Kong-processed items to cover all existing products processed in Hong Kong that require CCC.

China has never opened up CCC-related product testing to foreign testing entities, and in respect of this, CEPA is certainly WTO-plus. Among the testing organisations in Hong Kong, about 160 are estimated to benefit from such a scheme. In order that they will be allowed to perform testing for the relevant products under the CCC System, they have to be accredited by Hong Kong Accreditation Service, a unit within the Hong Kong government.

While this measure under Supplement VIII is a marked improvement from the previous Supplement, covering all Hong Kong-processed products relevant to CCC, it still falls short of industry expectations that CCC product testing should eventually be expanded to include items other than those processed in Hong Kong.

For Hong Kong companies targeting the mainland market with CCC-related products processed in Hong Kong, they can more expeditiously have their products CCC-tested through accredited HKSS, thus hastening the reach of their products to the mainland market. For overseas products targeting the mainland market, they have to go through product testing carried out by CCC-compliant testing organisations on the Chinese mainland, which could sometimes take months to process.

Current scope of access	Access for HKSS under CEPA
– Foreign testing organisations are not allowed to undertake testing of products under the China Compulsory Certification System.	– Hong Kong testing organisations are allowed to cooperate with designated mainland organisations to undertake product testing for the China Compulsory Certification (CCC) System on a pilot basis. – The Hong Kong-based organisations need to meet conditions as follows: 1. Accredited by Hong Kong Accreditation Service and capable of performing testing for relevant products under the CCC System; 2. Testing of selected products in the CCC catalogue that are processed in Hong Kong; *From April 2012*, the scope of CCC testing to be undertaken by these testing organisations in Hong Kong will be expanded to include all existing products processed in Hong Kong that require CCC; and 3. Complying with cooperation arrangements outlined in the *Regulations of the People's Republic of China on Certification and Accreditation*.

New sectors in cultural, research and development, and manufacturing services

Over the years, CEPA has incorporated many measures to facilitate the inroad of Hong Kong's recreational and cultural services sector into the mainland market, including the establishment on the mainland of wholly owned performing venues, joint-venture performance agencies, wholly owned art shops and galleries, and minority-owned Internet culture business units and Internet online service business premises.

Under Supplement VIII to CEPA, a new sector for library, archive, museum and other cultural services will be opened to HKSS from April 2012. They will be specifically allowed to form wholly owned business entities in the provision of professional services for libraries as well as museums on the mainland. Aside from this, the library sectors in Hong Kong and on the mainland will engage in close cooperation so as to explore areas where there could be cooperation in the provision of library services.

Another new sector open to HKSS under Supplement VIII is the service related to inter disciplinary research and experimental development, under the broader category of research and development services. From April 2012, HKSS will be allowed to set up wholly owned enterprises on the mainland to provide inter-disciplinary research and experimental development services on natural sciences on an equity joint venture, contractual joint venture or wholly owned basis, as they are currently allowed to provide research and experimental development services on natural sciences and engineering. China did not make any related commitments to the WTO in its 2001 accession protocol and the CEPA measures are definitely WTO-plus.

The third new sector available to HKSS under Supplement VIII is the manufacturing service, where HKSS will be allowed to provide services incidental to manufacturing on an equity joint venture, contractual joint venture or wholly owned basis, except for prohibited categories in the *Catalogue for the Guidance of Foreign Investment Industries* of the Chinese mainland. Similarly, there was no WTO commitment made by China in relation to this service.

Enhancing cooperation in the six new industries

Aside from the liberalisation measures in the medical, and testing and certification sectors, Supplement VIII reaffirms the need to enhance cooperation in the area of innovation and technology between the Chinese mainland and Hong Kong, so as to support Hong Kong's development in these fields. This is consistent with the prior commitment enshrined in Supplement VII that Hong Kong research institutes and enterprises will be progressively involved in the country's innovation system, with Hong Kong research personnel and organisations encouraged to participate in national science and technology projects. Besides, exchanges and cooperation in high-technology research, development and application, as well as fundamental scientific research will be strengthened.

Four pillar industries

Based on the most updated official assessment, the four pillar industries of finance, tourism, trade and logistics, and professional services employed 47.3% of Hong Kong's workforce and accounted for 55.6% of Hong Kong's GDP in 2009, predictably declining respectively from 47.7% of the workforce and 57% of GDP in 2008 as a result of the adverse impact of the financial tsunami.[4]

A large number of liberalisation measures to facilitate the inroad of HKSS and concerned professionals and personnel in the four traditional pillar industries into the mainland market have been provided under CEPA since 2004. In recent years, the financial sector has become the focal point of service liberalisation and bilateral cooperation. In August 2011, when Vice Premier Li Keqiang announced the 36-point package in support of the Hong Kong economy, many measures were tied to the financial sector, including the introduction of the RMB foreign direct investment (RFDI) and RMB Qualified Foreign Institutional Investors (RQFII) schemes.

For the financial sector alone, it hired more than 212,000 people or 6.1% of Hong Kong's workforce in 2009, while accounting for 15.2% of Hong Kong's GDP. While GDP contribution of the financial sector declined slightly from 16% in 2008, employment expanded from 206,100 or 5.9% of Hong Kong's workforce in 2008, with the decline in banking employment more than offset by the employment growth in the insurance and other financial sectors. The outstanding performance of Hong Kong's non-bank financial sector in 2009 was exemplified by the strong IPO activities in Hong Kong, which surpassed New York and London as the world's top IPO centre. Further, Hong Kong held onto its top position in the global IPO league in 2010, and retained the top IPO market position for three consecutive years in 2011 by raising US$34.8 billion.

In December 2011, Hong Kong moved to the top of the World Economic Forum's Financial Development Index, overtaking the US and UK for the first time since the index was launched in 2008. The index measures the efficiency and size of banking and other financial services, the business environment, financial stability, and the extent of financial disclosure and market liberalisation. In September 2011, the Global Financial Centre Index compiled by the City of London ranked Hong Kong as Asia's leading financial centre, which marginally trailed London and New York with the score gaps narrowing considerably over the past five years.

Banking services

CEPA has been a key mechanism which the Chinese mainland and Hong Kong have employed to spearhead financial cooperation between the two places, while providing HKSS with WTO-plus, cost-effective access to the mainland market, in particular Guangdong Province. Supplement VIII to CEPA supports mainland banks to make use of Hong Kong's international financial platform to develop their international businesses on the premises of prudent operation. In respect of gaining preferential access to the mainland market, for instance, CEPA uniformly set the minimum asset requirement for establishing a branch or body corporate on the mainland, or acquiring a shareholding of a mainland bank at US$6 billion, which is considerably lower than that which would otherwise apply to non-CEPA foreign banks.

Furthermore, for a Hong Kong bank to set up a wholly foreign-funded bank or a foreign bank branch on the mainland, the minimum time required for maintaining a representative office on the mainland is set at one year prior to the application compared to the two-year minimum for other foreign-funded banks. The minimum time required for operating RMB business on the mainland for foreign-funded banks prior to application is set at two years, while it should be profitable for one year prior to the application. The respective CEPA requirements are one year less than those applying to qualified foreign banks.

In addition, Hong Kong banks' branches or wholly foreign-funded banks established in Guangdong are allowed under CEPA to set up "cross-location" sub-branches within Guangdong, without a branch being first established in the same administrative area. More than a dozen Hong Kong banks now operate in Guangdong, many of which have invoked the cross-location sub-branching measure to speed up their network establishment in Guangdong.

Supplement VIII to CEPA stipulates that any mainland-incorporated banking institution established by a Hong Kong bank will be allowed to engage in the sale and distribution of mutual funds from April 2012. This measure will expand the allowable business scope for Hong Kong banks operating on the mainland, taking advantage of needs for investment diversification of mainlanders, who are becoming increasingly affluent. According to the *2011 Asia-Pacific Wealth Report* released by Merrill Lynch and Capgemini, China remained the second largest base for high net-worth individuals (HNWI), trailing Japan in the region, and fourth largest in the world, with 535,000 HNWIs, up 12% from the previous year.[5]

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[4] The Hong Kong Census and Statistics Department released in April 2011 *"The Situation of the Four Key Industries in the Hong Kong Economy in 2009"*.

[5] HNWI are defined as those having investable assets of US$1 million or more, excluding primary residence, collectibles, consumables, and consumer durables.

Current scope of access	Access for HKSS under CEPA
– A foreign bank intending to set up a branch on the mainland needs to satisfy requirements as follows: 1. having total assets of not less than US$20 billion at the end of the year prior to the application; 2. having kept a representative office on the mainland for at least 2 years where the foreign bank applies to establish its first branch.	– A Hong Kong bank# needs to have total assets of no less than US$6 billion to establish a branch on the mainland. – For a Hong Kong bank to set up a wholly foreign-funded bank or a foreign bank branch on the mainland, it should have maintained a representative office on the mainland for more than 1 year prior to the application. # Major qualifying criteria for "Hong Kong bank": (1) Hong Kong registered bank; and (2) engaged in substantive operations as stated below: – A bank will have satisfied the "substantial business operation" requirement if it has operated as a branch for 2 years and as an incorporated entity for 3 years or more in Hong Kong. – The requirement for setting up a representative office before establishing a joint-venture bank is removed.
	– For a Hong Kong bank to acquire shareholdings in a mainland bank, the total asset requirement at the end of the year preceding the application is lowered to not less than US$6 billion.
– An operational foreign-funded bank intending to apply for RMB business shall satisfy the following requirements: 1. having opened business on the mainland for at least 3 years prior to the application; and 2. having been profitable for 2 consecutive years prior to the application.	– For a Hong Kong bank's operating institution on the mainland to apply to conduct RMB business, it should have been operating there for more than 2 years and profitable for 1 year prior to the application. – Profitability assessment for a Hong Kong bank's branch to apply for RMB business on the mainland is made on the basis of overall position of all branches instead of an individual branch.
– Foreign banks can open sub-branches in cities where they already have a branch operation.	– A branch of Hong Kong bank set up in Guangdong is allowed to apply to set up cross-location sub-branches within the province, that is, setting up a sub-branch in another administrative area before having to first establish a branch in that administrative area.## – The Guangdong-based branch of a wholly foreign-funded bank set up on the mainland by a Hong Kong bank can apply to establish cross-location sub-branches in Guangdong, that is, setting up a sub-branch in another administrative area before having to first establish a branch in that administrative area.## ## With reference to the relevant mainland rules for establishing sub-branches
	– *From April 2012*, any mainland-incorporated banking institution established by a Hong Kong bank can engage in the sale and distribution of mutual funds.
	– Any foreign banking institution established on the mainland by a Hong Kong bank can establish specialised institutions for providing financial services to small enterprises in accordance with the relevant mainland requirements.

Securities, futures and fund management services

In addition to the banking sector, Supplement VIII to CEPA also touches on cooperation between Hong Kong and the Chinese mainland in the securities and fund management sector, with a view to bringing the markets of both jurisdictions closer together, and deepening their cooperation in financial services and products development. While continuing to support qualified mainland financial institutions engaged in securities activities to set up subsidiaries in Hong Kong, Supplement VIII specifically notes that Hong Kong can invest in the mainland securities market through the RMB Qualified Foreign Institutional Investor (RQFII) programme.

Just days after the release of Supplement VIII to CEPA, China Securities Regulatory Commission (CSRC), People's Bank of China (PboC) and the State Administration of Foreign Exchange (SAFE) jointly issued the regulations governing the RQFII programme on 16 December 2011. According to the RQFII rules, Hong Kong subsidiaries of fund management companies and securities firms on the mainland can use RMB funds raised in Hong Kong to invest in mainland securities. The maximum initial quota for the programme is set at RMB 20 billion and assets are to be invested in an 80/20 split between fixed-income and equities. The investment amount for each RQFII will be restricted by quota allocation and it must obtain licence approval from CSRC as well as quota authorisation from SAFE.

The CSRC said in late December of 2011 that they had approved Hong Kong subsidiaries of nine fund management companies and 12 securities firms on the mainland to use RMB raised in Hong Kong to invest in the mainland's capital markets. Hong Kong's Securities and Future Commission indicated that as of 9 January 2012, they had approved 15 RQFII-related products amounting to RMB 15.2 billion, with another four products in the approval pipeline. Given the strong interest of qualified Hong Kong-based financial institutions in developing RQFII products, many of which were targeted to reach both institutional and retail investors by February 2012, the mainland authorities will have to review the maximum quota soon, which is initially set at RMB 20 billion.

While the RQFII programme will be the primary route for mainland financial institutions' Hong Kong subsidiaries to invest in the mainland's financial market, the CSRC has also indicated that it is studying the feasibility of allowing more overseas institutional investors to participate in the pilot RQFII program, as well as expanding the investment ratio and products in the future. Not only will the RQFII programme enhance the mechanism of recycling offshore RMB into the mainland, it will also reinforce the role of Hong Kong as an offshore RMB centre in the development of RMB-linked products and fund management, while strengthening the competitiveness of Hong Kong financial institutions in the global market. As of end-December 2011, the RMB deposit in Hong Kong reached RMB 588 billion.

In his 36-point package announced in August 2011, Vice Premier Li Keqiang also touched on the exchange-traded fund (ETF) scheme that will enable mainland investors to access stocks listed in Hong Kong. The notion of introducing on the mainland an open-end, index-tracking ETF backed by portfolios of Hong Kong-listed stocks first arose in 2009 as encapsulated in Supplement VI, with Supplement VII of 2010 indicating that the measure had already proceeded to the policy formulation stage. In essence, both stock market regulators in Hong Kong and Shanghai have worked closely in recent months to fine-tune the requirements for cross border dual listing, which should likely see the ETF scheme materialising soon in early 2012. The ETF scheme will be a positive measure to stimulate the demand for Hong Kong-listed stocks in future to boost stock market turnover, creating opportunities for Hong Kong professionals to package ETF products targeting the mainland market on the one hand, while giving an alternative for mainland investors to diversify their investment in Hong Kong-listed stocks on the other.

Hong Kong's securities sector is expected to benefit from business opportunities in the mainland market through CEPA. Besides, as the securities markets of the two places expand, there will be growing employment opportunities for financial professionals, thanks to the mutual recognition of the professional qualifications and related examination arrangements, which greatly increase the flexibility of securities professionals integrating into the markets of both sides.[6]

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[6] In implementing CEPA, the Securities Association of China and Hong Kong Securities Institute have arranged that securities practitioners who wish to sit for either the mainland or Hong Kong regulatory examinations may do so in their respective jurisdictions. Those who have passed the examinations on Hong Kong rules and legislation can apply for the relevant licences on the Chinese mainland, and vice versa.

Current scope of access	Access for HKSS under CEPA
– Joint-venture securities firms (with foreign party holding no more than one-third of the shares) allowed. They may engage directly, without going through mainland intermediaries, in underwriting A-shares, and underwriting and transactions of B-shares, and government and corporate bonds.	– The same
– Foreign securities firms may deal in cross-border B-share transactions conducted without going through mainland intermediaries.	– The same
	– *Supplement VIII* stipulates that Hong Kong will be allowed to invest in the mainland securities market by means of the RMB Qualified Foreign Institutional Investor scheme (RQFII).
	– Hong Kong securities firms, which satisfy the qualification requirements as foreign shareholders of foreign-invested securities firms, are allowed to set up in Guangdong JV securities investment advisory firms with their mainland counterparts which satisfy the requirements for establishing subsidiaries. – The JV advisory firm will be a subsidiary of the mainland securities firm, and the business scope will focus specifically on securities investment advisory businesses. – The Hong Kong securities firm can hold up to one-third of the total shareholding of such JV advisory firm.
	– Hong Kong intermediaries* can set up minority JV futures brokerage companies on the mainland. – The scope of business and capital required of the JV futures brokerage companies are the same as those for mainland companies. – The current minimum capital requirement for mainland futures intermediaries is RMB 30 million.
	– Hong Kong professionals** applying to obtain the mainland's securities and futures industry qualifications need only to undertake training and pass examination on mainland laws and regulations; examination on professional knowledge is not required.

*Note: * "Intermediaries" refers to intermediary agencies registered with the Securities and Futures Commission of Hong Kong (SFC)*
*** "Professionals" refers to Hong Kong permanent residents who have been licensed by the SFC*

Insurance services

Hong Kong has the second most developed insurance market in the region after Japan, while the Chinese mainland is the fastest growth insurance market in the world. With CEPA, Hong Kong's insurance practitioners including actuaries can gain easier access to the mainland market.

On top of the existing CEPA provision to grant Hong Kong insurance agency companies the right in setting up wholly owned enterprises on the mainland to provide insurance agency services to mainland insurance companies, Supplement VIII to CEPA will allow Hong Kong's insurance brokerage companies to set up wholly owned insurance agency companies in Guangdong Province (including Shenzhen) on a pilot basis. In providing insurance agency services on the mainland, they will not be allowed to sell insurance products on the mainland on behalf of Hong Kong insurers.

The insurance sector is seen as a big winner in the CEPA VIII liberalisation package, with small-sized insurance brokerage firms allowed to set up agency operations in the Guangdong market at substantially lower entry thresholds. With effect from April 2012, the asset requirements for CEPA beneficiaries will be lowered from US$200 million to HK$500,000, with the prior operation period reduced from over 30 years to 10 years. They will be allowed to engage in agency business related to business and general insurance as well as reinsurance. Many insurance brokerage firms in Hong Kong are expected to benefit from this CEPA provision. As of 30 September 2011, there were 585 authorised insurance brokers and 36,150 appointed insurance agents in Hong Kong (further divided into 2,366 insurance agencies and 33,784 individual agents). As of the end of December 2011, there were nine approved HKSS applications for the sector of insurance and insurance-related services.

Supplement VIII also calls for closer cooperation of the insurance sector between Hong Kong and the mainland in areas of development of insurance products, business operation and operational management, while supporting Hong Kong insurance companies to enter the mainland market through setting up business institutions or capital infusion.

For the purposes of CEPA, the main qualifying criteria for HKSS to provide services in the form of juridical person on the mainland are those authorised under Hong Kong's *Insurance Companies Ordinance*, having engaged in substantive business operations for five years or more, paid profits tax in Hong Kong, own or rent premises in Hong Kong to engage in substantive business operations, and more than 50% of the employed staff should be Hong Kong residents and people from the mainland staying in Hong Kong on One Way Permits.

Current scope of access	Access for HKSS under CEPA
– Market access conditions for foreign insurance companies: 1. Total assets of over US$5 billion; 2. In operation for over 30 years; 3. Has established a representative office on the mainland for over two years.	– Hong Kong insurance companies are allowed to form groups through re-grouping and strategic mergers to enter the mainland market subject to the following market access conditions: 1. Total assets of over US$5 billion; 2. One of the Hong Kong insurance companies in the group has been in operation for over 30 years; 3. One of the Hong Kong insurance companies in the group has established a representative office on the mainland for over two years.
– Market access conditions for wholly owned foreign insurance agency companies are as follows: 1. In operation for over 30 years; 2. Total assets of over US$200 million; 3. Has established a representative office on the mainland for over two years.	– *From April 2012*, Hong Kong insurance brokerage companies can set up <u>wholly owned insurance agency companies</u> in Guangdong Province (including Shenzhen) on a pilot basis. The place of operation should be in Guangdong Province (including Shenzhen) and the applicant must fulfill the following criteria:~ 1. The applicant's insurance brokerage businesses in Hong Kong should be no less than 10 years; 2. The average annual business revenue for the past 3 years before application should not be less than HK$500,000 and the total assets as at the end of the year before application should not be less than HK$500,000; 3. Within 3 years before application, there has been no serious misconduct and record of disciplinary action; and 4. The applicant should have a representative office on the mainland for over one year.
	– Hong Kong insurance agency companies are allowed to set up wholly owned enterprises on the mainland to provide agency services for mainland insurers subject to the following requirements: 1. The applicant should be a professional insurance agency in Hong Kong or Macau, with an experience of operating in insurance agency business for over 10 years; 2. The average annual business revenues for the past 3 years before application should exceed HK$500,000; 3. The total assets as at the end of the year before application should exceed HK$500,000, and 4. The applicant should have no serious misconduct and record of disciplinary action, within 3 years before application.
– The equity ratio of foreign insurance companies in a mainland insurance company may not exceed 10%.	– The equity ratio of Hong Kong insurance companies in a mainland insurance company may not exceed 24.9%.
– After obtaining the mainland's professional qualifications in actuarial science, foreign actuary needs to obtain approval from China Insurance Regulatory Commission to practise.	– Hong Kong residents with Chinese citizenship who have obtained the mainland's professional qualifications in actuarial science are allowed to practise on the mainland without prior approval. – Hong Kong residents who have obtained the mainland's insurance qualifications and are employed by a mainland insurance institution are allowed to engage in the relevant insurance business.

~ *Guangdong pilot and implementation measures under Supplement VIII to CEPA*

Tourism and travel-related services

The tourism sector is the smallest among the four traditional pillar industries of Hong Kong, and it contributed 3.3% of Hong Kong's GDP in 2009, while employing about 193,200 people or 5.5% of Hong Kong's workforce for the same year.[7]

For the first 11 months of 2011, Hong Kong saw total visitor arrivals of 37.8 million, up 16.3% year-on-year and surpassing the yearly total for 2010. On 21 December 2011, Hong Kong's tourism sector celebrated a new milestone by welcoming its first 40-millionth visitor for a single year. The Chinese mainland is the largest source of Hong Kong's inbound visitors. Cumulatively, mainland arrivals expanded by 23.8% to an historic high of 25.3 million, surpassing the 12-month total for 2010.

As of end-November 2011, more than 16.4 million mainland tourists visited Hong Kong under the Individual Visit Scheme (IVS), representing more than 65% of the total mainland visitors to Hong Kong and surpassing the number of the IVS total of 2010. The IVS is a key component of the CEPA agreement first introduced in the second half of 2003, with considerable contribution to Hong Kong's economy. Given its proximity to Hong Kong, Guangdong is the largest source of mainland visitors to Hong Kong. Many from Shenzhen even travel to Hong Kong as same-day visitors, helped in no small part by the one-year multiple-entry Individual Visit endorsement scheme introduced since 2009. Based on the official estimate in 2010, IVS visitors created an additional visitor spending of HK$84.8 billion for Hong Kong between 2004 and 2009.

To attract more international visitor groups to travel to Guangdong Province through Hong Kong on "multi-destination" itineraries, Guangdong began to launch the "144-hour facilitation visa" measure in November 2000. Subsequent to the *Framework Agreement on Hong Kong/Guangdong Co-operation* in relation to simplifying the entry procedures for foreign visitor group tours intending to enter Guangdong via designated entry ports,[8] Supplement VIII provides that from April 2012, Guangdong will relax the requirement to pre-register the outbound control point and review the requirement regarding tour size at an appropriate juncture. This new measure will make it more flexible for international visitor groups to travel to Guangdong Province through Hong Kong on multi-destination itineraries, benefiting the tourist sectors of both Guangdong and Hong Kong.

Thanks also to CEPA, the mainland has opened up its outbound tourism market to Hong Kong travel agencies. Wholly owned or joint-venture travel agencies set up by HKSS in places like Beijing, Fujian, Guangdong, Guangxi, Guizhou, Hainan, Hunan, Jiangxi, Shanghai, Sichuan, and Yunnan are allowed to organise group tours to Hong Kong and Macau for permanent residents in those places. For visitors coming from distant municipalities or provinces, they are more likely to join group tours to Hong Kong and stay in Hong Kong for longer with higher overall spending.

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[7] The tourism sector as classified by the Hong Kong Census and Statistics Department includes both inbound and outbound tourism, covering retail trade, hotels and boarding houses, restaurants, cross-boundary passenger transport services, travel agents and airline ticket agents and others, pertaining only to those segments provided to Hong Kong-bound visitors and Hong Kong residents travelling aboard.

[8] Foreign visitor groups in Hong Kong can visit Guangdong Province for a maximum of 144 hours (6 days) via entry ports in Guangzhou, Shenzhen, Zhuhai, Foshan, Dongguan, Zhongshan, Jiangmen, Zhaoqing, Huizhou and Shantou using the 144-hour Convenient Visa.

Current scope of access	Access for HKSS under CEPA
– Wholly owned foreign travel agencies are allowed. The applicant should have annual turnover of over US$15 million, with a registered capital of no less than RMB 2.5 million. – Foreign joint-venture travel agencies are allowed. – Foreign partner in a joint-venture travel agency should have annual (global) turnover of over US$8 million.	– The same – Wholly owned or JV travel agencies set up by HKSS in places listed below can apply to operate group tours to Hong Kong and Macau on a pilot basis for permanent residents of those places, namely: – Guangdong, Guangxi, Hunan, Hainan, Fujian, Jiangxi, Yunnan, Guizhou, Sichuan, Beijing and Shanghai. – Guangdong is delegated the authority to approve HKSS for setting up travel agents on a wholly owned, equity or contractual JV basis in Guangdong.
	– *From April 2012*, Guangdong will relax the requirement to pre-register the outbound control point and review the requirement regarding tour size at an appropriate juncture in order to optimise the 144-hour facilitation visa policy.-
– A foreign enterprise must hire Chinese citizens as tour guides.	– Hong Kong permanent residents with Chinese citizenship are allowed to take the "*Mainland Qualification Examination for Tourist Guide*"; for those who have passed the examination, they can obtain the "*Mainland Tourist Guide Certificate*" in accordance with the relevant requirements. – Hong Kong permanent residents with Chinese citizenship are allowed to obtain the mainland credential for outbound tour escort; they can be employed by mainland international travel agents authorised to operate outbound group tours for mainland residents, as well as Hong Kong and Macau travel agents authorised to operate group tours to Hong Kong and Macau for mainland residents.
	– Mainland travel agents authorised to operate group tours to Taiwan can organise group tours for mainland residents with valid exit/entry permit for travelling to/from Taiwan, as well as travel endorsement (type L) to enter and remain in Hong Kong in transit. This measure is aimed at facilitating mainlanders' outbound travel, and travel agencies in Hong Kong and on the mainland to develop multi-destination tour products.

- Guangdong pilot and implementation measures under Supplement VIII to CEPA

Professional services

Hong Kong is a regional services hub that provides a wide range of professional services covering legal, accounting, auditing, architecture and engineering activities. Based on Hong Kong's official estimates, professional services combined with other producer services[9] contributed 4.2% of Hong Kong's GDP in 2009 while employing about 457,800 people or 13.1% of Hong Kong's workforce, making the sector the third largest economic pillar of Hong Kong following trade and financial services.

Architectural, surveying, engineering, technical and project engineering services, along with business management and consultancy services, form the largest chunk of professional services. Collectively, these sectors contributed 1.6% of Hong Kong's GDP, while employing 63,800 people or 1.8% of Hong Kong's workforce.

Construction professional services

Currently, Hong Kong professionals with the mainland's Class-1 registered structural engineer or Class-1 registered architect qualification by mutual recognition are allowed to register and practise in Guangdong, irrespective of whether they are registered practitioners in Hong Kong. Supplement VIII goes one step further by providing them with national treatment in Guangdong, as they will be allowed to register and practise in Guangdong Province on the same basis as mainland professionals with the same professional qualifications, effective from April 2012. In addition, they will be recognised as registered practitioners for the purpose of declaration of engineering design enterprise qualifications within Guangdong. Hundreds of Hong Kong architects and structural engineers are expected to benefit from the latest CEPA provisions.

Aside from the Guangdong pilot measures for Hong Kong's construction sector, Hong Kong professionals who have obtained the mainland's Class-1 registered architect or structural engineer qualification are allowed to act as partners to set up construction and engineering design offices on the Chinese mainland. When setting up the concerned enterprises, there is no restriction imposed on the ratio of Hong Kong partners to mainland partners, the ratio of capital respectively contributed by Hong Kong and mainland partners, as well as Hong Kong partners' residential period on the mainland.

Compared with other foreign-owned construction and engineering design enterprises, HKSS in the sector of construction professional services are clearly given much more preferential access to the mainland market in terms of qualification assessment, staffing and formation of joint ventures, and residency requirements, even though the former are also allowed to establish wholly owned or joint-venture enterprises on the mainland.

For example, performances of HKSS in both Hong Kong and the mainland will be taken into account in relation to qualification assessments. Further, HKSS can employ mainland registered professionals to meet staffing requirements, and HKSS and their mainland partners are not subject to the required proportion of the registered capital. Hong Kong professionals' residency requirements on the mainland are much more relaxed compared to other foreign professionals, with their periods of residence in Hong Kong counted towards their periods of residence on the mainland.

As of the end of December 2011, there were 75 approved HKSS applications for the sector of construction professional services and construction-related services.

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[9] Other producer services refer to producer services other than financial services, trading and logistics, tourism and professional services.

Current scope of access	Access for HKSS under CEPA
	– Hong Kong professionals who have obtained the mainland's class-1 registered architect or structural engineer qualification are allowed to act as partners to set up construction and engineering design offices on the mainland in accordance with the relevant qualification requirements. – For the above enterprises, there is no restriction on the ratio of Hong Kong partners to mainland partners, the ratio of capital respectively contributed by Hong Kong and mainland partners, and Hong Kong partners' residential period on the mainland.
	– Hong Kong professionals who have obtained the mainland's class-1 registered structural engineer or architect qualification by mutual recognition are allowed to register and practise in Guangdong regardless of whether they are registered practitioners in Hong Kong. – *From April 2012*, Hong Kong professionals who have obtained the mainland's class-1 registered architect or structural engineer qualification through mutual recognition will be recognised as registered practitioners for the purpose of declaration of engineering design enterprise qualifications in Guangdong, in accordance with the relevant mainland regulations.* – *From April 2012*, Hong Kong professionals who have obtained the mainland's construction professional qualifications through mutual recognition can register and practise in Guangdong and enjoy the same treatment as mainland professionals with the same professional qualifications.*
– Wholly foreign-owned construction and engineering design enterprises are allowed. – In applying as a wholly owned construction and engineering design enterprise, foreign service providers who have been qualified as certified architects or certified engineers in China shall not be fewer than 1/4 of the total certified professionals required under the qualification grading criteria, and the foreign service providers who have the relevant design experience shall not be fewer than 1/4 of the total key technical personnel required under the qualification grading criteria. – On the application as a joint-venture construction and engineering design enterprise, the foreign service providers who have been qualified as certified architects or certified engineers in China shall not be fewer than 1/8 of the total registered professionals required under the qualification grading criteria, and foreign service providers who have the relevant design experience shall not be fewer than 1/8 of the total key technical staff required under the qualification grading criteria. – The proportion of total capital contributed by mainland partners of JVs should be no less than 1/4	– HKSS can set up wholly owned or joint-venture construction and engineering design enterprises. – In assessing the qualification of construction and engineering design enterprises and urban planning service enterprises set up by HKSS, the performance of the enterprises both in Hong Kong and the mainland will be taken into account. – On the requirements stipulated in Decree No. 114 of MOC's *"Regulations on the Administration of Foreign-invested Construction and Engineering Design Enterprises"*, HKSS can employ mainland registered professionals to fulfill the requirements. – For setting up construction and engineering design enterprises in the form of equity or contractual JVs on the mainland, mainland partners of HKSS are not subject to the required proportion of the registered capital.

of JVs should be no less than 1/4 of the registered capital.	
– Wholly foreign-owned urban planning service enterprises are allowed.	– HKSS are allowed to set up wholly owned urban planning service enterprises. – In assessing the qualification of a joint-venture urban planning service enterprise set up by two or more HKSS, performances of all individual enterprises in both Hong Kong and the mainland will be considered. – Hong Kong professionals who have obtained the mainland's registered urban planner qualification are allowed to register in Guangdong regardless of whether they are registered practitioners in Hong Kong or not.
– Foreign professional and technical staff employed by a foreign-invested construction and engineering design enterprise or urban planning services enterprise must reside on the mainland for a cumulative period of no less than six months in a year.	– Relax the residency requirement for Hong Kong professional and technical staff on the mainland by counting their period of residence in Hong Kong as their period of residence on the mainland.

- Guangdong pilot measure under Supplement VIII to CEPA

Legal services

The Chinese mainland is committed to opening its legal market to Hong Kong above and beyond what is allowed for law firms and lawyers from other places. Currently, foreign law firms on the mainland are not allowed to operate in association with mainland law firms.

Successive CEPA liberalisation packages have not only brought about association possibilities between Hong Kong and mainland law firms, but also improved on the conditions of association arrangements. There is no geographic restriction under CEPA on the mainland law firms in association with the Hong Kong law firms. There is the added flexibility in operating associations with Guangdong-based law firms that have been set up for one year or more, with at least one person who established the firm having been in legal practice for no less than five years. Supplement VIII states that the Chinese mainland and Hong Kong will further cooperate and explore ways of improving the mode of association of law firms of the two places. Generally, Hong Kong lawyers participating in such association arrangements may not handle matters of mainland law.

While foreign law firms on the mainland are not allowed to practise mainland law, CEPA makes it possible for Hong Kong residents to sit the mainland's National Judicial Examination and acquire the mainland's legal professional qualifications, either through internship in a Hong Kong-based mainland law firm or intensive training of no less than a month offered by mainland lawyers' associations.

For those who have acquired mainland lawyer qualifications or legal professional qualifications and hold a mainland lawyer's practice certificate to engage in activities, they are presently allowed to act as agents on the mainland in matrimonial and succession cases relating to Hong Kong in the capacity of mainland lawyers. In addition, Hong Kong barristers can act as agents in civil litigation cases on the mainland in the capacity of citizens. As provided by Supplement VIII, the mainland will consider widening the business scope for Hong Kong residents who have acquired mainland legal professional qualifications and hold a mainland lawyer's practice certificate, with a view to allowing them to act as agents in civil litigation cases on the mainland relating to Hong Kong residents and juridical persons.

The newly added CEPA measures could lead to better business prospects of Hong Kong law firms and lawyers tapping the mainland's legal service market. As of the end of December 2011, there were 18 approved HKSS applications for the sector of legal services. Meanwhile, six Hong Kong law firms have entered into association arrangements with their mainland counterparts.

<table>
<tr><th>Current scope of access</th><th>Access for HKSS under CEPA</th></tr>
<tr><td>– Foreign law firms cannot operate in association with mainland law firms.</td><td>– To operate in association with mainland law firms, <u>Hong Kong law firms</u> must meet the following four conditions:
1. have its own name, premises and its articles of association;
2. have assets of RMB 100,000 or more;
3. have 3 or more partners [to be eligible as a partner of a law firm on the mainland, a person must possess lawyer qualification and have been in practice for 3 years; and
4. have a partnership agreement in writing.

– For <u>mainland law firms</u> to operate in association with Hong Kong law firms, they must have been set up for 3 years. There is no required number of full-time lawyers employed by mainland law firms to operate in association with Hong Kong law firms.

– A <u>Hong Kong law firm</u> with a representative office on the mainland is allowed to operate in association with one mainland law firm:
– Without no geographic restriction
– In association with a Guangdong-based law firm established for 1 year or more, at least one of the persons who established the firm must have been in legal practice for 5 years or more.[10]

– Supplement VIII states that the Chinese mainland and Hong Kong will further cooperate and explore ways of improving the mode of association of law firms of the two places.</td></tr>
<tr><td>– Foreign lawyers cannot practise Chinese law.</td><td>– Hong Kong residents with Chinese citizenship can sit the mainland's National Judicial Examination.

– Hong Kong residents who have acquired mainland legal professional qualifications to undergo 1-year internship in a mainland law firm may apply to practice as lawyers.*

– Internship can be carried out in the branch office of a mainland law firm in Hong Kong.
* In accordance with the "Outline for Practical Training and the Guidelines on Practical Training"

– Hong Kong lawyers who have no less than 5 years of legal practice experience and have passed the National Judicial Examination can undergo intensive training of no less than one month offered by the mainland's lawyers associations; they can apply to practise as lawyers on the mainland upon completion of the training and passing the assessment.**
**In accordance with the "Law of the People's Republic of China on Lawyers" and the provisions of the "Rules on Management of Internship for Application for Legal Practice (Provisional)" by the All-China Lawyers Association.</td></tr>
<tr><td></td><td>– Hong Kong <u>barristers</u> can act as <u>agents</u> in civil litigation cases on the mainland in the capacity of citizens (mainland authorities are working on the necessary implementation rules and regulations).

– Supplement VIII states that the mainland will consider broadening the scope of businesses of Hong Kong residents who have acquired mainland legal professional qualifications and hold a mainland lawyer's practice certificate in acting as <u>agents</u> in <u>civil litigation cases</u> on the mainland relating to Hong Kong residents and juridical persons.</td></tr>
<tr><td>– Foreign law firm's representative office: residency period of 6 months each year</td><td>– Hong Kong law firm's representatives in their mainland representative offices are exempt from residency requirements.</td></tr>
</table>

[10] Hong Kong legal practitioners include both solicitors and barristers. Their years of practice are calculated in accordance with the actual number of years for which the solicitor or barrister has practised in Hong Kong, as shown on the relevant certificate respectively issued by the Law Society of Hong Kong or the Hong Kong Bar Association.

Job referral agencies and job intermediaries services

Compared to other foreign job placement agencies on the Chinese mainland, Hong Kong companies have gained enhanced flexibility in tapping the huge mainland market due to CEPA provisions. They can form wholly owned job referral and intermediary agencies on the mainland. For setting up job placement agencies in Guangdong, HKSS are given national treatment in that the required minimum registered capita has been lowered since January 2009 to RMB 100,000 from US$125,000 that would otherwise apply to other foreign-invested job placement agencies.

Thanks to Supplement VIII, HKSS will be given national treatment from April 2012 in respect of the minimum registered capital required for setting up human resources service providers in the human resources service industrial parks approved by the Ministry of Human Resources and Social Security. This should help HKSS in hastening their inroads to the mainland market.

In essence, job referral agencies and job intermediaries services have seen rapid growth in the number of approved HKSS certificate applications in recent years, thanks in no small measure to the much lower entry thresholds and national treatment accorded to HKSS. As of end-December 2011, there were 71 approved HKSS certificate applications in the sector of job referral agencies and job intermediaries services, ranking sixth in terms of the number of approved applications after transport and logistics, distribution, air transport, advertising, and construction professional services.

To support the development of services as a growth driver, China began its first national human resources service industry park in Shanghai in November 2010, followed by the building of another park in Chongqing in November 2011. These human resource service industry parks, jointly developed by the Ministry of Human Resources and Social Security and concerned municipalities, are expected to provide stronger supportive platforms for human resources development for the services sector, including executive search, human resources outsourcing, talent assessment, while helping create clusters, expand continuing professional and technical education, as well as incubate new businesses. With the new CEPA provision giving them national treatment in respect of the minimum registered capital, HKSS will face lower thresholds in entering the mainland's human resources sector.

Current access for foreign firms	Access for HKSS under CEPA
– Foreign companies are not allowed to form wholly owned job referral agencies on the mainland. – For setting up JV job referral agencies and job intermediaries on the mainland, the required minimum registered capital is US$300,000. – For JV job intermediaries, foreign investor holdings should not be less than 25% or more than 49%.	– HKSS are allowed to set up wholly owned job referral agencies and job intermediaries on the mainland. – The required minimum registered capital is US$125,000.
	– In Guangdong, HKSS are allowed to set up wholly owned job referral and job intermediary agencies with the same required minimum registered capital set at RMB 100,000 as applicable to mainland enterprises in Guangdong.
	– *From April 2012*, the minimum registered capital required for HKSS to set up human resources service providers in the human resources service industrial parks approved by the Ministry of Human Resources and Social Security follows the requirements applicable to mainland enterprises in the municipality where the industrial park is located.

Individually owned stores

When China joined the WTO one decade ago, it made no commitments in its accession protocol to allow foreign nationals to operate individually owned stores (IOS). CEPA's IOS provision is a significant step to promoting entrepreneurship and relocation for Hong Kong people. In setting up an IOS, the procedures are much more streamlined, with IOS not subject to the approval procedures otherwise applicable to foreign investments. Since its inception in 2004, the allowable IOS scope for Hong Kong permanent residents has been progressively expanding in line with the development of the mainland market, so as to give better investment opportunities for Hong Kong people.

With three new areas added under Supplement VIII to CEPA, namely, packaging services, office services, and craft activities (mainly for the purpose of leisure and entertainment, such as pottery and sewing), CEPA allows Hong Kong permanent residents with Chinese citizenship to set up IOS on the Chinese mainland in a total of 34 areas. In addition, two other IOS areas are also applicable in Guangdong, covering trade brokerage and commission agency services (excluding auctions), as well as renting and leasing services (excluding the renting and leasing of housing premises).

Supplement VIII to CEPA also relaxes the restrictions on the number of persons engaged in IOS operation from eight to 10, also relaxing the business area of certain types of services from not exceeding 300 sqm to not exceeding 500 sqm. The relaxation in these IOS operation conditions is expected to help more Hong Kong entrepreneurs to benefit from CEPA.

Current scope of access	Access for HK under CEPA
– There is no WTO commitment to allow people from overseas to operate individually owned stores on the Chinese mainland.	– Under CEPA, Hong Kong permanent residents with Chinese citizenship exclusively are allowed to set up <u>individually owned stores in any mainland province or city</u>, without being subject to the approval procedures applicable to foreign investments, to provide the following services* (excluding franchising operation): – (1) retailing; (2) food and catering; (3) hair dressing; (4) beauty treatment and health-care services: (5) bathing services; (6) repair services of home electrical appliances and other goods of daily use; (7) import and export of goods and technologies; (8) photo processing service; (9) laundry and dyeing services; (10) car repair and maintenance services; (11) crop cultivation; (12) animal husbandry; (13) aquaculture; (14) computer repair services; (15) technology exchange and promotion services; (16) computer service; (17) software services; (18) road transport goods handling services; (19) other transport services except international freight forwarding and courier service; (20) storage and warehousing services; (21) translation and interpretation services to business activities; (22) building cleaning services; (23) advertising production services; (24) solo clinic; (25) economic and trade consulting services; (26) company management consulting services; (27) wholesale services (only limited to wholesale of textiles products, clothing, daily commodities, stationery, sporting items and other cultural related commodities); (28) marriage services under residents services (excluding match-making services); (29) renting and leasing services of comic books and electronic animation game products; (30) renting and leasing services of animation audio-visual products; (31) veterinary services: pet clinic (to be operated in cities only). – *From April 2012, three new areas, namely:* (32) packaging services including goods assorting, sub-packing and packaging, labelling, gift wrapping, etc.; (33) office services including design and production of signs, trophies, plaques, medals, silk banners, etc.; (34) craft activities for the purpose of leisure and entertainment. – The scope of business covered by individually owned stores set up in Guangdong covers the following: 1. Trade brokerage and commission agency (excluding auction) 2. Renting and leasing services (excluding the renting and leasing of housing premises)

** No more than 10 persons should be engaged in the operation of individually owned stores, and the business area should not exceed 300 sqm or 500 sqm as specified in Supplement VIII to CEPA (with the exception of crop cultivation, animal husbandry and aquaculture)*

*** Applicants must hold a "Licence for Operating Audio and Video Products" for applying for business registration.*

****Applicants must hold a "Licence for Diagnosis and Treatment of Animals" for applying for business registration.*

Distribution services

CEPA has helped remove the remaining hurdles for Hong Kong companies to participate in the mainland's distribution business, which is already very open. In observing its WTO accession commitments, China removed all restrictions on foreign participation in distribution services in December 2006, except one. For a single foreign enterprise that opens more than 30 stores cumulatively on the Chinese mainland, and if the commodities for sale include pharmaceutical products, pesticides, mulching films, chemical fertilisers, vegetable oil, edible sugar and cotton, the proportion of capital contribution by its foreign shareholders cannot exceed 49%.

In comparison, CEPA allows HKSS to supply the aforementioned commodities on a wholly owned basis, if these commodities are of different brands and come from different suppliers. In addition, Supplement VIII incorporates a Guangdong pilot measure to allow HKSS which open more than 30 stores accumulatively on the mainland while selling different types and brands of commodities (including staple food) from multiple suppliers to operate in Guangdong Province on a wholly owned basis. These measures provide greater flexibility and incentives for Hong Kong's large retailers to mount more aggressive expansion in the mainland market, including especially Guangdong, amid the Chinese government's economic strategy to stimulate private consumption demand in the 12th Five-year Plan.

Mutual recognition of professional qualifications and professional examinations

CEPA broadens not only the mainland's services sectors for Hong Kong companies, but also enhances the latitude of Hong Kong professionals and residents participating in the mainland's services market, by way of encouraging mutual recognition of professional qualifications and allowing them to sit the mainland's professional qualification examinations.

Under Supplement VIII to CEPA, the Chinese mainland and Hong Kong have agreed to let eligible Hong Kong permanent residents take the mainland's qualification examination for land surveyor, with those passing the examination to be issued a certificate. Existing CEPA provisions also allow Hong Kong permanent residents to sit a wide range of qualification examinations for professionals and technicians on the mainland (e.g. medical, pharmacist, legal, insurance, engineering, real estate valuation, accounting sectors).[11]

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[11] These qualification examinations include, but are not limited to, examinations for registered architect, registered structural engineer, registered civil engineer (geotechnical), construction supervising engineer, cost engineer, registered town planner, land surveyor, estate agent, registered safety engineer, registered nuclear safety engineer, builder, registered facility engineer, registered chemical engineer, registered civil engineer (harbour and waterway), registered facility supervising engineer, environmental impact assessment engineer, real estate appraiser, real estate valuer, registered electrical engineer, accounting technician, assistant accountant, accountant professional qualification (professional title), certified tax accountant, certified asset appraiser, prosthetist and orthotist, mining rights assessor, registered consulting engineer, international business personnel, land registration agent, gemstone quality examiner, translator and computing technology and software.

Trade in goods

Recent developments

The Chinese mainland has granted all products of Hong Kong origin tariff-free treatment under Supplement II to CEPA, which took effect from January 2006, except for prohibited items such as used electrical machinery and medical products, chemical residual, municipal waste, tiger bone and rhinoceros horn. However, eligible products must fulfil the CEPA rules of origin to enjoy tariff-free treatment. For products which have no agreed CEPA rules of origin, Hong Kong will initiate discussions with the mainland twice a year upon request by local manufacturers.

For now, a number of Hong Kong products need to meet the value-added content requirement in order to fulfill the CEPA rules of origin. With effect from April 2012, Supplement VIII to CEPA allows exporters to take into account the value of raw materials and component parts originated from the mainland when calculating the value-added content. The allowable value to be included in the calculation can be up to half of the value-added content (i.e. 15%). This new measure should facilitate manufacturers in making use of the zero-tariff preferential treatment granted to Hong Kong products under CEPA.

From the implementation of CEPA in 2004 until the end of 2011, the mainland and Hong Kong have reached agreement on the rules of origin for a total of 1,630 products. Effective from January 2012, three new products have been included in the list of goods eligible for tariff-free treatment under CEPA. As a result, the number of products with agreed CEPA rules of origin, and hence which are eligible for zero-duty access to the mainland market, has increased from 1,630 to 1,633.

These new products cover olive oil and its fractions, plastic tableware and kitchenware, and aluminium wire bonders. In 2010, Hong Kong's domestic exports of these three products to the mainland only amounted to around HK$227 million. But now with zero-duty access, Hong Kong's domestic exports of these products to the Chinese mainland are expected to go from strength to strength in the years ahead. Without tariff-free treatment, the applicable tariff rates for these three products range from 4% to 10%.

Particulars of three new tariff-free Hong Kong-origin products

Mainland 2011 tariff code	Product description	Current applied tariff rates (%)	2010 Hong Kong's domestic exports to mainland (HK$mn)
1509 9000	Olive oil and its fractions (except virgin olive oil and its fractions), whether or not refined, but not chemically modified	10	0.06
3924 1000	Tableware and kitchenware, of plastics	10	30
8486 4022	Automatic aluminium wire bonders	4, 8	197

Source: China Customs; Hong Kong Trade Statistics, Census and Statistics Department

Cost savings for Hong Kong products

The immediate benefit of tariff-free access is cost savings for Hong Kong's domestic export items being sold to the Chinese mainland. From January 2004 to November 2011, a total of 76,730 Certificates of Hong Kong-origin (CEPA) were approved under different phases of CEPA, incurring a total value of over HK$36 billion. Food and beverages was the largest beneficiary, closely followed by textiles and clothing products. Other beneficiaries included plastics and plastic articles, pharmaceutical products, chemical products, base metal products, colouring matters, and paper and printed articles.

Distribution of products with approved Hong Kong-origin (as at 30 November 2011)

Product types	No. of CO approved
Food and beverages	19,185
Textiles and clothing	18,452
Plastics and plastic articles	14,042
Pharmaceutical products	8,850
Chemical products	4,561
Base metal products	3,603
Colouring matters	2,698
Paper and printed articles	2,422
Electrical and electronic products	1,404
Jewellery and precious metals	593
Clocks and watches and parts thereof	584
Optical, photographic and cinematographic instruments & parts	346
Leather and furskin articles	245
Food residues and animal fodder	153
Cosmetics	129
Machinery and mechanical appliances	96
Measuring and checking instruments and parts	36
Furniture	1
Toys and games or sports requisites	1
Miscellaneous	5
Total	**76,730**

Note: The total figure is smaller than the sum of all product types as one Certificate of Origin can cover products of more than one type.
Source: Hong Kong Trade and Industry Department

Indeed, spurred by the growing number of products eligible for tariff-free treatment, which has surged from 374 in 2004 to 1,633 in January 2012, the share of Hong Kong exports benefiting from CEPA in Hong Kong's domestic exports to the mainland has increased from 3% to more than 28% accordingly.

Export value of goods benefiting from CEPA and their shares in Hong Kong's domestic exports

Year	Value (HK$mn)	% share in domestic exports to China	% share in total domestic exports
2004	1,150	3.0	0.9
2005	2,366	5.3	1.9
2006	3,254	8.1	2.4
2007	4,430	10.9	4.1
2008	4,819	13.9	5.3
2009	5,447	20.4	9.4
2010	7,158	22.9	10.3
2011 (Jan-Oct)	7,329	28.2	13.1

Source: Hong Kong Trade and Industry Department; Hong Kong Trade Statistics, Census and Statistics Department

CEPA Supplement VIII measures - implications and prospects

CEPA has proven an effective mechanism to allow Hong Kong to engage the mainland authorities in liberalising the trade in goods and services with the mainland, while strengthening cooperation between the two places with a spate of trade and investment facilitation measures.

In line with the previous Supplements, Supplement VIII to CEPA announced in December 2011 is a package aimed at deepening liberalisation of trade in services, lowering entry thresholds, while creating more conducive and flexible conditions for Hong Kong services suppliers, professionals and residents to tap the mainland market, whether they come from the four traditional pillar industries or the six new industries in which Hong Kong enjoys comparative advantages. Not only will CEPA continue contributing to the sustainable development of these industries, but also accelerating the economic and trade integration between Hong Kong and the mainland, as well as professional exchanges between the two places. On top of the 23 liberalisation measures in trade in services, Supplement VIII calls for closer cooperation in areas such as finance, tourism, innovation and technology through nine trade and investment facilitation measures.

CEPA has always had an eye for Hong Kong's SMEs, and the revision in HKSS definition under Supplement VIII will give them greater flexibility and expanded business scope on the mainland. In respect of individually owned store (IOS) operators, who are Hong Kong residents with Chinese nationality, their allowable business scope will be widened under Supplement VIII and the restrictions on the store area and the number of persons engaged in a store will also be relaxed.

Needless to say, the implementation of Guangdong pilot measures has always been a boon to Hong Kong, helping it proactively target Guangdong as its immediate market for Hong Kong services. The significance of Guangdong pilot measures is best captured by the emphasis underlined in the dedicated Hong Kong Chapter of the 12th Five-year Plan in respect of further liberalising the PRD and reinforcing Guangdong's cooperation with Hong Kong. This should also fit in nicely with the indication by Vice Premier Li Keqiang in August 2011 that trade in services between the mainland and Hong Kong should be basically free by the end of the 12th Five-year Plan period.

On trade in goods, the zero import tariff preference enriches Hong Kong's appeal in attracting more investment and production targeting goods with higher-value added content, in terms of brand, design, quality, technology, etc., or substantial intellectual property input. The revision in value-added content requirements under Supplement VIII, along with the bi-yearly discussions between Hong Kong and the mainland on origin rules, will provide further flexibility to potential investors planning to manufacture products that are not currently produced in Hong Kong.

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