



COMPANIES: The Bradford Exchange

COUNTRY: China

ASSESSMENT DATE: 08/05/16

ASSESSOR: FLA China

PRODUCTS: Apparel

NUMBER OF WORKERS: 100

FLA Comments

FLA Comment: The FLA conducted a review of the corrective action plan for this assessment. Despite deadline reminders and extensions for submission of a revised corrective action plan, the FLA has not received a response to its recommended revisions. Therefore, the report is posted in its current state and will be updated once a revised corrective action plan has been submitted to the FLA. Upon receipt (and acceptance) of the CAP for this factory, the comment will be removed and the report will be published with the accepted CAP.

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. Adequate training is not provided for any Employment Functions; this includes orientation training, supervisor training, and on-going training.
2. Orientation training does not cover the following Employment Functions: Industrial Relations & Freedom of Association, Grievance System, Termination & Retrenchment, and Environmental Protection.
3. Workers do not receive written documentation that includes any of the issues covered during orientation.
4. The factory does not train any of the supervisors on national law, regulation, or the FLA Workplace Code in any of the Employment Functions except for Health & Safety and Environmental Protection.
5. The factory does not update the training module on a regular basis for any Employment Functions, except for the Health & Safety training.
6. The factory does not provide any ongoing training to regular workers and managerial staff on updated factory policies, procedures, or legal requirements.
7. The factory does not provide any ongoing training to workers to raise or broaden their skills for career advancement.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15.1, ER.15.2, ER.15.3, ER.17.1, ER.17.3, and ER.28)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory agrees it does not currently have a process and procedure to train new employees. We have provided the factory with the FLA template for an employee manual which details all the areas a manual needs to cover and will be working with the vendor to create a new manual.

Planned Completion Date
07/08/17

Planned completion date
11/17/16

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. There are no written policies and procedures regulating Personnel Development.
2. The training policies and procedures do not include steps to encourage ongoing training to raise or broaden skills for career advancement.
3. There are no procedures to determine termination payout; however the termination payout is paid as per legal requirements as corroborated by factory records.
4. The policies and procedures on Environment Protection do not include a commitment to minimize environmental impacts with respect to energy, air emissions, water, waste, hazardous materials, and other significant environmental risks.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.19.1, ER.28.1, ER.29, ER.31.3, and ER.32.1; Health, Safety & Environment Benchmark HSE.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

#2-1 through #2-7

The factory agrees it does not currently have updated policy and procedures. We have provided the factory with the FLA template for an employee manual which details all the areas a manual needs to cover and will be working with the vendor to create a new manual.

I will also be visiting this factory in March at which time I can work one on one with them as they build their employee manual.

Planned Completion Date

07/08/17

Planned completion date

11/17/16

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory does not hire any disabled workers as per local legal requirements which state that at least 1.5% of the total workforce should be disabled, nor does the factory contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law since 2015. This practice carries the risk of discrimination.

Local Law or Code Requirement

The Regulations of Employment for Disability Person article 8; FLA Workplace Code (Employment Relationship Benchmark ER.3; Nondiscrimination Benchmarks ND.1, and ND.2.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

#3-1 The factory does have one disabled worker. ID is attached. They also provided documents for the government funding along with their bank slip.

Planned Completion Date

12/31/16

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not fully provide workers with the five types of legally mandated social insurance. According to social insurance receipts from June 2016, only 50 out of 89 (56%) workers were provided with all five insurances, these being pension, work-related injury, medical, maternity and unemployment insurance. The other 49 workers were not provided with any type of insurance. Additionally, the factory does not provide social insurance based on workers' actual wages. For all workers whose monthly wages range from CNY2500 (USD373.10) to CNY5500 (USD820.90), their social insurance was paid based on the local minimum contribution base of CNY2408 (USD359.40), rather than their actual monthly wages.
2. The factory does not contribute to the legally required Housing Provident Fund for any of the workers.
3. The factory calculates paid annual leave on the number of years workers have worked in the factory rather than by their cumulative years of working experience prior to and including the factory, which is required by law. The factory currently gives workers five or ten days of annual leave; however, some workers are eligible for up to 20 days of annual leave based on their cumulative work experience.
4. The factory does not pay the legally defined premium rates for overtime hours to any of the piece-rate workers. The production workers (54 out of 89) are paid with piece-rated wage, while non-production workers (35 out of 89) are paid with monthly-rated wages. The overtime wages for monthly-rated workers are paid according to legal law requirements. However, the factory has only paid 100% of the normal wage rate to all piece-rated workers for weekday and weekend overtime hours throughout past year (from July 2015 to June 2016), which is less than the legally required 150% and 200% of the normal wage rate for weekday and weekend overtime respectively.
5. The factory does not pay the normal wage, which is equivalent to eight hours' piece-rated wage, to any of the piece-rated workers for statutory holidays when they enjoy rest as per legal law requirements.

Local Law or Code Requirement

The PRC Labor Law, Articles 44, 51, 72 and 73; The Housing Fund Management Regulation, Articles 15 and 17; The Employee Paid Annual Leave Regulation, Article 2; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Hours of Work Benchmarks HOW.11, and HOW.14; Compensation Benchmarks C.1, C.6, and C.7)

Recommendations for Immediate Action

1. Provide legally mandated insurance to all workers.
2. Provide annual leave to all workers based on their cumulative working experience, as stated by local law.
3. Pay overtime wages to all piece-rated workers according to legal law.
4. Pay basic wage to all piece-rated workers for statutory holidays.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 4-1 The factory reports, of the 39 workers not insured at the time of the audit, 3 have since joined, 8 are rural and have rural endowment insurance, 6 are over age, 7 have quit and 15 are not sure if they are staying employed with them long enough to take insurance. I have asked the factory to submit the evidence for all of the above except the 15 which I have asked the factory to hold a meeting with to explain the importance of joining.
- 4-2 I sent the factory information on the Housing fund as their local official told them they didn't have to contribute.
- 4-3 The factory reports that the workers cited could not provide proof of the cumulative years. If the workers can provide the evidence it is the factories policy to pay accordingly.

Planned Completion Date
04/04/17

Planned completion date
11/17/16

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The daily and monthly overtime hours exceed the legally required limit of three hours of overtime per day and 36 hours per month. The daily overtime hours for 60% of the general workforce (workers in all departments) exceeded the legal limit of three hours per day, ranging from 3.5 to five hours in the past year (from July 2015 to June 2016). The monthly overtime hours for 90% of the general workforce (workers in all departments) exceeded the legal limit of 36 hours per month, ranging from 70 to 183 hours in the past year except for February 2016 (when the Chinese New Year holidays fell).
2. The weekly working hours of 80% of the general workforce (workers in all departments) exceeded 60 hours, ranging from 61 to 86 hours per week for every week from July 2015 to June 2016, with the exception of three weeks in February 2016.
3. The workers do not receive at least one day off (24 consecutive hours of rest) for every 7-day period. The consecutive working days for 60% general workforce (workers in all departments) exceed 6 days, ranging from seven to 30 consecutive days during the peak seasons (from July to Oct 2015 and from March to June 2016).
4. The factory's production target requires workers to work 60 hours per week on a regular basis.

Local Law or Code Requirement

The PRC Labor Law Articles 38 and 41; FLA Workplace Code (Hours of Work Benchmarks HOW.1.1, HOW.1.3, HOW.2, HOW.8.1, and HOW.8.3)

Recommendations for Immediate Action

1. Ensure that workers do not work more overtime than the legal limit of three hours per day and 36 hours per month.
2. Ensure that workers do not work more than 60 hours per week.
3. Ensure that workers receive at least one day off (24 consecutive hours of rest) for every 7-day working period.
4. Ensure that production planning is based on 40 hours of work per week and does not include overtime.
5. FLA affiliate Company's Sourcing and Social Compliance teams should implement FLA Principles of Fair Labor and Responsible Sourcing and, to help the factory address its excessive hours issue, accordingly coordinate on the following topics: how to provide better order forecasts to the factories; possible workshops/consultancy for the factory on how to improve productivity/quality; clear guidelines on how to extend shipment deadlines in case of contingencies; steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams); clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks; and clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

COMPANY ACTION PLANS

Action Plan no 1.

Description

#1-2-4-5 My March trip will address these issues. By then we will have rolled out our new COC which is aligned with the FLA and will also participate in the development of the factories policy and procedure development.

#3 To ensure workers have at least one day off is critical and we have informed the factory they must implement this immediately and send in supporting documentation that this policy is in place and has been communicated to all employees.

Planned Completion Date

04/04/17

Planned completion date

11/17/16

Company Action Plan Update

#3 we are working towards a completion date of /12/31

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The factory does not formally communicate its policies and procedures to the general workforce and management staff for any of the Employment Functions.
2. The methods that the factory uses to communicate to the workers are not effective or comprehensive; this includes an introduction to factory rules and practices for workers during orientation training and policies and procedures postings on site.
3. All interviewed supervisors and general workers roughly understood some policies and procedures; however, they are not fully aware of all policies and procedures such as the hiring procedure, overtime limitation, compensation package, rights of freedom of association and collective bargaining, grievance procedure and tracking system, disciplinary rules, health and safety emergency response plan, and payout for termination. There are no follow-ups planned to communicate updates and legal revisions.
4. The worker integration component is missing for all Employment Functions. The factory has not established procedures to receive worker input or feedback on the creation, implementation, and revision of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making processes.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.1.3, ER.16.1 ER.25.1, ER.25.2, and ER.27.3; Compensation Benchmark C.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

#1 -4 We believe the factory needs to build an employee manual that addresses all of the areas listed as well as the method of training and frequency.

Planned Completion Date
04/04/17

Planned completion date
11/17/16

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory has a trade union under the ACFTU (All-China Federation of Trade Unions) that was established in year 2013. However, there are neither records on file that indicate that any elections have been held nor any written operational procedures that pertain to such elections.
2. Factory management automatically enrolls all workers as trade union members without workers' consent. About 90% of the interviewed workers do not know whether they are members of the trade union or not. Factory management pays the union dues rather than the workers themselves.
3. Instead of being elected by workers directly, the factory management nominates a union representative.
4. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, and FOA.11)

COMPANY ACTION PLANS

Action Plan no 1.

Description

#1 Factory agrees they have not updated any files for some time. We have instructed the factory to develop a process and procedure that addresses the Trade Union, details when elections are held, who is involved from the work force, take attendance.
#2
The factory says they will no longer automatically enroll workers, instead they will allow workers to join if they choose to do so.
#3 Factory will allow workers to elect their own representative.

In addition we have added this to the ever growing list to be reviewed when we visit the factory in March. We have also requested this be added to the employee manual.

Planned Completion Date

04/04/17

Planned completion date

11/17/16

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The disciplinary system does not include a third party witness during the imposition of disciplinary action and the appeal process.
2. The factory does not maintain any records of disciplinary actions in workers' personnel files or anywhere else.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.27.3.4 and ER.27.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

#1 The factory has agreed to allow a union rep attend disciplinary meetings.
#2 The factory is changing their employee record to include an area for disciplinary action.
Planned Completion Date
12/31/16

Planned completion date

11/17/16

Company Action Plan Update

New employee form is being created.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

Hazardous waste, such as waste ink and oily rags, are stored in an opened carton without a protective cover in the assembly workshop rather than in a confined container.

Local Law or Code Requirement

The Standard for Pollution Control on Hazardous Waste Storage (GB 18597-2001) article 6.2.4; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.9.1)

Recommendations for Immediate Action

Store hazardous waste in a confined container with a protective cover.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory has stopped storing rags, oil etc in uncovered containers.

I have asked for proof.

Planned Completion Date

12/10/16

Planned completion date

11/17/16

Company Action Plan Update

We have requested proof of the change.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The chairs for seated workers are not adjustable and have no backrests to minimize workers' injuries. The factory does not provide anti-fatigue mats to standing workers.
2. There is no training provided for loading workers on lifting techniques. Lifting belts are not provided.
3. The factory has not installed pulley guards for any of the three rotational molding machines in the rotational molding workshop.
4. The factory has not installed any backup batteries for the centralized fire alarm in the production and dormitory areas.
5. The factory did not obtain an occupational disease hazard assessment report before operating in 2004. It has not conducted an assessment of the current conditions of occupational disease hazards, as legally required.
6. The factory does not provide occupational health checks to any of the workers who are exposed to dust and noise in rotational molding workshop and are in contact with hazardous chemicals in the assembly workshop, before they take or leave their posts. Currently, the factory only provides annual health checks for these workers.

Local Law or Code Requirement

The Code of Design of Manufacturing Equipment Safety and Hygiene (GB5083-1999), Article 6.1.6; The PRC Law of Prevention and Control of Occupational Diseases Articles 17, Article 20 and Article 36; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5.1, HSE.7, HSE.14.1, HSE.17.1, and HSE.17.2)

Recommendations for Immediate Action

1. Provide lifting belts to all loading workers and train all relevant workers on safe lifting techniques.
2. Install pulley guards for all the rotation molding machines.
3. Install backup battery for the centralized fire alarm.
4. Arrange for a licensed service provider to conduct an assessment of the current conditions of occupational disease hazards.
5. Provide occupational health checks to all workers who are exposed to dust and noise and are in contact with hazardous chemicals, before they take or leave their posts.

COMPANY ACTION PLANS

Action Plan no 1.

Description

#1-We have shared the chair information previously received from the FLA and the factory is looking for a supplier.

#2 The factory did begin training on proper lifting. Belts are on order.

#3 Pulley guards have been added.

#4 The factory has installed back up batteries

#5 Factory agrees to start to give health check ups. We have asked for their action plan.

#6 The factory reports that they are conducting health checks as advised by a local hospital. I have asked them to advise why the hospital is determining who can receive an examination.

Planned Completion Date

12/31/16

Planned completion date

11/17/16

Company Action Plan Update

Again the factory has no process and procedures in place so we will have to be sure this is addressed when we work with them in March

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory has not developed policies and procedures on the review process to ensure updates are made according to local law and FLA Workplace Code requirements. As a result, they have not conducted internal reviews for the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations & Freedom of Association, Workplace Conduct & Discipline, Grievance System, Environmental Protection, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.29.1.1, ER.30.2, and ER 31.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory admittedly does not have any current policies and procedures in place. They are willing to start to create them. I have instructed them to pull all current documentation that they may have even if it is outdated for our review.

I also sent them the FLA template for a manual so that they are clear on the areas it needs to address. We will get them started prior to my visit in March at which time we expect to spend some days at the factory assisting them as they build their manual.

Planned Completion Date

06/01/17

Planned completion date

11/17/16