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## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Fast Retailing Co., Ltd.

COUNTRY: Vietnam

ASSESSMENT DATE: 11/27/17

ASSESSOR: One Step Vietnam

PRODUCTS: Apparel

NUMBER OF WORKERS: 1200

## 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: Policies & Procedures (Macro)

##### Finding Explanation

1.The Termination procedure did not state the obligations of the employer when terminating the labor contract as legally required. ER.1  
2.Factory developed a policy on performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, and provides written feedback. However, the evaluation form did not state clearly all the criteria that regulated in performance review policy. Therefore, the team leaders evaluated worker's performance base on their personal judgment. ER.29  
3.The factory conducted the review of the policies and procedures on annual basis. However, there were some HSE policies and procedures were not reflected with the applicable regulation and standard. ER.31.1

##### Local Law or Code Requirement

Article 47 of Vietnam Labor Law 2012; FLA workplace Code (Employment Relationship Benchmarks ER.1, ER.29, ER.31.1; Harassment or Abuse Benchmark H/A.7)

#### COMPANY ACTION PLANS

##### Action Plan no 1.

##### Description

1. Per document reviewing factory already established the termination procedure with the obligations of the employer when terminating the labor contract as legally required since Dec 2017.
2. Per document reviewing and worker's interview, factory already established the evaluation form is stated clearly all the criteria that regulated in performance review policy since Dec 2017.
3. Per document reviewing, factory already reviewed HSE policies and procedures were reflected with the applicable regulation and standard since 01 Dec 2017.

### FINDING NO.2

#### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Industrial Relations

#### Finding Explanation

- 1.The factory and union has signed a Collective Bargaining Agreement (CBA). While the factory meets the legal requirement in informing employees about the CBA, including posting on bulletin boards, worker briefings, and responding to any worker question, this does not meet the FLA requirement. As per FLA requirement, workers should be provided a copy of the CBA. ER.16.2
- 2.The Company Regulation and CBA of Security service had less favorable regulation than law requirement, such as: a) overtime payment on holiday with paid is 300% instead of at least 300% not including the salary of holiday and days-off for employee enjoying daily salary; b) security guards are prohibited to be absent of working location during break time. On the other hand, detail working hours of each shift (3 shift for security guards) did not stated clearly. ER.1; H/A.7
- 3.FLA comments: Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that “the rights of workers to establish organizations of their own choosing implies . . . the effective possibility of forming . . . [trade unions] independent both of those which exist already and of any political party.” Vietnam’s legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association. FOA.2,

#### Local Law or Code Requirement

Article 97 of Vietnam Labor Law 2012; FLA Workplace Code (Freedom of Association Benchmarks FOA. 2, and FOA.18; Employment Relationship Benchmarks ER.1 and ER.16.2; Harassment or Abuse Benchmark H/A.7)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Per reviewing attendance records and worker' interview, factory already informed the copy of CBA to all employees since 23 Apr2018.
2. Per document reviewing, security company already reviewed the CBA and company regulation with the term that security guards will paid overtime payment on holiday as law requirement and they are not prohibited to be absent of working location during break time and 3 shifts for security guards is stated clearly since 19Apr2018.
3. N/A

### FINDING NO.3

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Workplace Conduct & Discipline

#### Finding Explanation

- 1.The factory conducts daily same-sex pat-downs whenever workers leave the factory. H/A.10.2
- 2.The Company Regulation and Discipline policy did not regulate non-permission for the labor discipline for the employee in the special time as required by law. ER.1, ER.27
- 3.Although it was not implemented within the last twelve months, current disciplinary procedures include a wage raise suspension of up to 6 months as a means to discipline. Notes: this practice is in line with local law, it is against FLA benchmarks. ER.27.1
- 4.The factory's disciplinary practice did not comply with local laws. The factory did not hold a meeting to verify violations as required by law. The decision to handle violations of labor discipline to employees was not issued within the statute of limitations of handling violations of labor discipline, as legally required. ER.27

#### Local Law or Code Requirement

Article 123 of Vietnam Labor Law 2012; Article 30 of Decree 05/2015/ND-CP; FLA Workplace Code (Harassment or Abuse Benchmark H/A.10.2; Employment Relationship Benchmarks ER.1 and ER.27)

#### Recommendations for Immediate Action

Immediately cease conducting daily pat-downs on factory workers. Only conduct pat-downs and/or searches when there is evidence of theft and with permission from the relevant authorities.

### COMPANY ACTION PLANS

#### Action Plan no 1.

#### Description

1. Per worker 's interview, factory checked the bags of the workers only and stopped checking worker' body since 01 Dec 2017.
2. Per document reviewing , factory already updated Company Regulation and Discipline policy and regulated non-permission for the labor discipline for the employee in the special time as required by law since 26 Mar 2018.
3. Per document reviewing, factory have not apply a wage raise suspension of up to 6 months and did not violate the law requirement.
4. Per document reviewing and worker 's interview, factory hold a meeting to verify violations with employees and worker's representative and got the confirmation of employees also as law's requirement since 01 Dec 2017.

## FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

#### Finding Explanation

1. The security service (factory's sub-contractor) did not pay sufficient overtime and night shift payment on the working time of weekly rest day, night shift on public holiday with pay, night shift on regular day for eight Security guards. For instance:
  - a. Overtime on regular day: security service only paid 100% instead of 150%
  - b. Weekly rest day: security service only paid 100% instead of 200%
  - c. Night shift on regular day: security service only paid VND 12,000/8 hours instead of at least 30% of the salary calculated in actual salary paid for the work of normal working days.
  - d. Overtime on public holiday with pay: security service only paid VND 29,000/hour instead of at least 300% which is not included in public holiday pays. C.1; C.7
2. The security contractor does not correctly calculate and pay the minimum wage for the eight security guards as required by law, in detail: The contract wage is VND 4,012,500/person which is equal to VND 19,290/hour (contract wage/26/8). However, these eight security guards were only paid VND 14,300/hour. C.2
3. Vietnamese law requires that the OT rate per hour is based on the monthly basic salary divided by the actual working hours in a month (but not more than 26 days' work month). The factory calculates overtime payments based on the basic salary divided by 208 hours (26 working days) instead of the actual working hours in a given month, Feb 2017 (192 hours). C.1; C.7.2

#### Local Law or Code Requirement

Article 97 of Vietnam Labor Law 2012; Decree 49/2013/ND-CP, Article 14 of Circular 47/2-15/TT-BLĐTBXH and FLA Workplace Code (Compensation Benchmarks C.1, C.2, C.7, C.7.2)

#### Recommendations for Immediate Action

1. Ensure that overtime for the security guards is accurately calculated and paid.
2. Ensure that security guards are paid the correct minimum wage.
3. Ensure the overtime payment is calculated accurately.

### COMPANY ACTION PLANS

#### Action Plan no 1.

#### Description

1. "Per documents reviewing, security service (factory's sub-contractor) did not pay sufficient overtime and night shift payment on the working time of weekly rest day, night shift on public holiday with pay, night shift on regular day for eight Security guards. Security company committed to improve this finding from 1 May 2018. "
2. "Per document reviewing, security contractor does not correctly calculate and pay the minimum wage for the eight security guards as required by law  
Security company committed to improve this finding from 1 May 2018. "
3. Per reviewing payroll records from Feb 2018 to Apr 2018, factory already paid overtime payments based on the basic salary divided actual working hours in a given month since 01 Dec 2017.

## FINDING NO.5

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Hours of Work

#### Finding Explanation

- 1.The time records from November 2016 to October 2017 noted that 70% of the workforce had averaged 30.5 overtime working hours with maximum to 56 hours per month & 350 – 500 overtime per year in 2016. There were 951 workers who worked overtime up to 400 hours in 2017 by the time of assessment. This exceeded the legal requirement on overtime which only permits 30 hours of overtime per month and 300 hours of overtime per year. HOW.1.1
- 2.Based on time records from November 2016 to October 2017, 50% of the workforce averaged 60.5 working hours per week, with maximum to 65.5 hours per week. HOW.1.3, HOW.8.3
- 3.Six of the eight security guards worked 30 – 31 days per month (including Sundays) during past 12 months. However, these persons did not receive compensatory days-off. Additionally, they did not receive at least 12 hours before starting another shift. Overall these security guards worked almost everyday for the past year without a full 12 hours rest between their shifts. HOW.2
- 4.Factory did set production plan at such a level that workers need to work beyond regular working hours (60 hours per week, including 12 overtime hours). It is against FLA benchmarks. ER.24
- 5.Although, factory maintains records of disciplinary actions and in line with local law. However, it did not meet FLA Benchmarks requirement, these records should be placed to employee files. ER.27.3.4

#### Local Law or Code Requirement

Article 16, 109, 110 of Vietnam Labor Law 2012 and FLA Workplace Code (Hours of Work Benchmarks HOW.1, HOW.1.3, HOW.2 and HOW.8.3; Employment Relations Benchmarks ER.24 and ER.27)

#### Recommendations for Immediate Action

- 1.Ensure that monthly and yearly overtime hours are kept within 30 hour and 300 hour legal limits.
- 2.Ensure that weekly hours (including regular work hours plus overtime) are kept within the 60-hour FLA Benchmarks requirement.
- 3.Provide security guards with one day off in every seven-day period and ensure that guards always receive 12 hours off between shifts.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Per reviewing attendance records from Feb 2018 to Apr 2018 and worker' s interview, 25 out of 25 selected production employees still worked overtime more than 30 hours per months.
2. Per reviewing attendance records from Feb 2018 to Apr 2018 and worker' s interview, 25 out of 25 selected production employees did not worked overtime more than 60 hours per week.
3. "Per document reviewing,security guards of security company did not receive compensatory days-off and d not receive at least 12 hours before starting another shift.  
Security company committed to improve this finding from 1 May 2018. "
4. Per document reviewing, factory already set up the production plan not included overtime hour since 01 Dec 2017.
5. Per reviewing document, factory already kept in file records of disciplinary actions in employee profiles since 01 Dec 2017.

## FINDING NO.6

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

- 1.One of the automatic fire alarm control panels, located in the security room, was displayed an error indicator. The fire alarm control panel showed the fire was happening. However, there was no any fire happening in the factory. 2.There was a fake signal sent to the fire alarm control panel. The factory corrected this issue on the day of the assessment. HSE.5
- 3.The factory has an automatic fire-fighting system (Sprinkler system); however, there is no water supplied to this system. The fire pumps are turned off and there is no water pressure in the water pipe system. HSE.6  
One fire hose was not fully functional due to leakage. HSE.6
- 4.The factory did not have procedures to ensure that pregnant workers, visitors, contractors, service providers safely evacuated. ER.31
- 5.According to the Inspection Report of the Fire Police Department on September 18, 2017, the factory was required to equip clothing

and equipment for the fire-fighting team. Currently, as reported by the factory management, the factory only had one set of clothing and equipment. HSE.6

#### Local Law or Code Requirement

Article 6 of Vietnam Standard 5738:2001; Article 7, 8 of Vietnam Standard 3890:2009; Circular 56/2014/TT-BCA; Circular 48/2015/TT-BCA and FLA Workplace Code (Employment Relationship Benchmark, ER.31;Health, Safety & Environment Benchmarks HSE.5 and HSE.6)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Per factory walkthrough, factory already fixed the fire alarm control panel which displayed correct indicator during testing since 27 Nov 2017.
2. Per factory walkthrough, factory already turn on the fire pump and there is water pressure in water pipe system since 28 Nov 2017.
3. Per factory walkthrough, factory already fixed the fire hose which is fully functional since 01 Dec 2017.
4. Per document reviewing, factory already established the procedures to ensure that pregnant workers, visitors, contractors, service providers safely evacuated.since 01 Dec 2017.
5. Per factory walkthrough, factory already provided clothing and equipment for the fire-fighting team.since 15 Dec2017

## FINDING NO.7

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

The factory does not outsource the authorized service provider to inspect the automatic fire-fighting system once time per year. HSE.6

#### Local Law or Code Requirement

Article 7 of Vietnam Standard 3890:2009 and FLA Workplace Code (Health, safety & Environment Benchmark HSE.6)

#### Recommendations for Immediate Action

Ensure fire-fighting system is inspected by authorized service provider periodically, as legally required.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Per document reviewing , factory already conducted the inspection for the automatic fire-fighting system by e authorized service provider since 11Apr2018.

## FINDING NO.8

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Environmental Protection

#### Finding Explanation

1.Hazardous waste is not collected and stored properly. Several of chemical containers were not stored in the hazardous waste, instead they were left in the maintenance area. HSE.1, HSE.9

2.The non-hazardous wastes were not classified and separated as recyclable and non-recyclable. HSE.1

#### Local Law or Code Requirement

Article 7 of Circular No. 36/2015/TT-BTNMT on Management of Hazardous Wastes (2015); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, and HSE.9)

#### Recommendations for Immediate Action

Ensure that all hazardous waste is stored in the designated area.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Per factory walkthrough, hazardous wastes was collected, labelled properly and removed chemical containers in maintenance area to hazardous waste storage area already since 01Dec 2017.
2. Per factory walkthrough, non-hazardous wastes are classified and separated as recyclable and non-recyclabl since 01 Dec 2017.

### FINDING NO.9

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. Some electrical wiring is spliced using electrical tape. HSE.13
2. The shelves that are used at the material warehouse do not have posted height limits, some materials have been stacked over 2 meters. HSE.1
3. The factory has not conducted an ergonomic assessment. Sewing workers and other workers who sit during working hours are not provided with height-adjustable chairs with back support. HSE.17
4. The factory has not provided safety information, such as health and safety training for contractors. HSE.1
5. The factory does not have a breastfeeding room for lactating workers. ND.8.1
6. The canteen does not have a gas detector for the gas cylinder storage area. HSE.1
7. There is no eyewash station at the chemical storage area. HSE.7

#### Local Law or Code Requirement

Article 24 of Law No. 27/2001/QH10, Article 138 of Vietnam Labor Law 2012 and FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, HSE.13, and HSE.17; Non Discrimination Benchmark ND.8.1)

#### Recommendations for Immediate Action

Install a gas detector in the gas cylinder storage area.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Per factory walkthrough, factory already replaced new electrical wire and stopped using electrical tape since 01 Dec 2017.
2. Per factory walkthrough, factory already posted height limits on the shelves at material warehouse and did not stack over 2 meters since 01 Dec2017.
3. "Per factory walkthrough, factory already equipped height adjustable table and chair with the back support to sewing worker and other worker who sit during working hour since 28Apr 2018.  
Per document reviewing, factory has not conducted an ergonomic assessment. "
4. "Per document reviewing, factory already provided safety information to health and safety training for contractors since 15 dec2017.  
"
5. Per factory walkthrough, factory already provided breastfeeding room for lactating workers since 05 Jan2018.
6. Per factory walkthrough, factory already equiped the gas detector for the gas cylinder storage areasince 05 Jan 2018.



7. Per factory walkthrough, factory already eyewash station at the chemical storage area since 05 Jan 2018.

## FINDING NO.10

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

- 1.Only one of the two boiler operators has an operator's license. In addition, the forklift operators do not have operators licenses. HSE.4
- 2.Two (2) medical personnel (as defined as Group 5) have not been trained on health and safety. Factory management stated that the training would be conducted in December 2017. HSE.18

##### Local Law or Code Requirement

Article 5 of Vietnam Standard 01/2008/BLDTBXH; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.4 and HSE.18)

##### Recommendations for Immediate Action

- 1.Ensure that relevant machines and equipment are operated by certified personnel.
- 2.Ensure all medical personnel are provided with Health and Safety training by competent authority.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Per document revealing, factory already got the license for boiler operator and forklift operator since 18 Dec 2017.
2. Per document reviewing, factory already organized the health and safety training to 2 medical personnel and got the certification since 18 Dec 2017.

## FINDING NO.11

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. There was no procedure and mechanism to keep the temperature for the medication stored at the clinic rooms below 30 degrees Celsius. HSE.18.3
2. The food samples are not kept for at least 72 hours, instead they are only kept for 24 hours. While this complies with legal requirements, it does not meet international standards. In addition, there is no mechanism to maintain the temperature at 4 degrees Celsius for storing the food samples. HSE.22.1
3. The factory conducted annual health checkup on June 10, 2017 for all workers. However, female workers (approx. 80% total of workforce) did not check receive a gynecological examination. The factory explained that the female workers did not register to have gynecological examination because workers did not want to have gynecological test. HSE.1

##### Local Law or Code Requirement

Article 7 of Decree 85/2015/ND-CP and FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.18.3, and HSE.22.1)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Per document reviewing, factory already established the procedure and mechanism to keep the temperature for the medication stored at the clinic rooms below 30 degrees Celsius since 25 Dec 2017.



2. Per factory walkthrough and document reviewing, foods samples are kept for at least 72 hours since 01 Mar2018.
3. Per document reviewing and worker's interview, factory already conducted the gynecological examination for female worker. In case, female worker doesn't need to check the gynecological examination, she will give her opinion with her confirmation since 13 Jan 2018.

## FINDING NO.12

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

It was noted that the factory had 2 elderly employees, however these employees do not have reduced working hours per day as legally required. They still worked 8 hours plus overtime (one hour per day). HOW.1

##### Local Law or Code Requirement

Article 166 of Vietnam Labor Law 2012; FLA Workplace Code (Hours of Work Benchmark HOW.1)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

Per reviewing attendance recors in Dec 2017 to April 2018, 2 elderly employees are reduced working hours per day and did not work overtime as law requirement since 09 Dec 2017.