



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Russell Brands/Fruit of the Loom

COUNTRY: China

ASSESSMENT DATE: 10/20/20

ASSESSOR: Openview

PRODUCTS: Balls

NUMBER OF WORKERS: 563

## 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.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	4
Employment Relationship	3
Health, Safety, and Environment	3
Nondiscrimination	1

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. According to the compensation procedure and worker and management interviews, the factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6]

2. There are total of 533 workers in the factory, including 19 retired but re-recruited workers and three new hires. The factory provides five types of social insurance to all 511 eligible workers, including pension, medical, work-related injury, unemployment and maternity insurances. However, the factory contributes to unemployment and pension insurances based on the local minimum requirement of CNY 2,500 (USD 373.7) per month, medical and maternity insurances based on CNY 3,488.4 (USD 521.4) per month, and work-related injury insurance based on CNY 3,325 (USD 497) per month, which is not in line with the legal requirement of contribution based on a worker's average monthly wage of the previous year. About 40% of workers' average monthly wages of the previous year were higher than current contribution bases, ranging from CNY 3,489 (USD 521.5) to CNY 9,963 (USD 1,489). [C.10.1, ER.22]

3. The factory does not contribute to the Housing Provident Fund for any of the 511 eligible workers. [ER.22.1]

##### Local Law or Code Requirement

The Implementation Measures for Employee Paid Annual Leave, Article 4; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.6 and C.10; Employment Relationship Benchmark ER.22)

##### Recommendations for Immediate Action

1. <!--[endif]-->Calculate annual leave based on worker's cumulative working experience (working age).

2. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of the previous year.

3. <!--[endif]-->Provide all workers with the legally required Housing Provident Fund.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1a. The factory will revise to develop policies of its annual leave procedure to include workers' previous job experience (working age) when calculating annual leave. 1b. The factory will conduct communication and training schedule to all workers and supervisors/management. 1c. The revise annual leave procedure will further be included at the yearly training plan for employees onboarding SOP. 1d. Supervisors will monitor and ensure that workers at its Dept are trained on the revised annual leave procedure at a monthly basis. The HR manager will evaluate the training performance.

2a. The factory will communicate to employees of their responsibility and provide training of its benefits of the insurances based on the contribution being at the actual workers' average monthly wage during 2021. 2b. The factory management staff will provide the training at monthly meeting & post the relevant training document for workers information. 2c. The revise social insurance contribution policy will be used for new employees training material and also included at the factory yearly training plan. 2d. Supervisors will monitor to ensure that workers are trained on the revise insurance policies monthly. 2e. The HR manager will evaluate the training performance and the factory management further review it in 2022.

3a. The factory will communicate & promote the relevant information to employees of their responsibilities to participate housing provident funds in 2021. 3b. The factory management staff will provide training at monthly meeting and post the training document for information. 3c. The training material will be used for new employees onboarding and also included at the factory yearly training plan. 3d. Supervisors will monitor to ensure workers are trained on the housing provident funds at monthly basis. 3e. The factory will evaluate the training performance in 2022.

## FINDING NO.2

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

1. Overtime hours exceed the legal limit of three overtime hours per day and 36 overtime hours per month. Time records for the period from October 2019 to September 2020 indicate that the daily overtime for about 76% of workers exceeded three hours and up to 4.5 hours on about 30% of workdays during the reviewed period, and monthly overtime for 85% of workers exceeded 36 hours in all reviewed months, with a maximum of 200 overtime hours in May 2020. [HOW.1.1]

2. The factory does not always provide workers with one day off for every seven-day work period. Time records for the period from October 2019 to October 19, 2020 indicate that about 76% of workers worked seven to 54 consecutive days for one to four times per

month in all reviewed months, with a maximum of 54 consecutive days from May 2 to June 24, 2020. [HOW.2]

3. The factory production plan is based on 60 hours per week. Factory management sets production targets and the production system at a level that workers need to work 20 overtime hours per week. [ER.24]

4. Total working hours regularly exceed 60 hours in a week. Time records for the period from October 2019 to October 19, 2020 indicate that the weekly working hours for about 76% of workers exceeded 60 hours in two to four weeks per month in all reviewed months, with a maximum of 85.5 hours in the week of July 27 to August 2, 2020. [HOW.1.3]

#### Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.2)

#### Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed the legal limit of three hours per day and 36 hours per month.
2. <!--[endif]-->Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
3. <!--[endif]-->Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
4. <!--[endif]-->Ensure total working hours do not exceed 60 hours in a week.
5. <!--[endif]-->Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
  - 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
  - 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
    - a. How to provide better order forecasts to the factories;
    - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
    - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
    - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
    - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

- f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

## FINDING NO.3

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Industrial Relations

##### Finding Explanation

1. The Collective Bargaining Agreement (CBA) was created by the factory management based on the agreement between worker representatives and management and provides additional benefits to workers. However, none of workers are provided with a copy of the CBA. [ER.16.2]

2. FLA Comments: 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. [FOA.2, FOA.10]

##### Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10; Employment Relationship Benchmark ER.16)

##### Recommendations for Immediate Action

1. <!--[endif]-->Provide workers with a copy of the CBA.

## FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory provides rubber gloves, earplugs, masks and aprons to a total of four internal mixer operators in Production Building #1. However, one of them was not wearing the apron when operating the internal mixer during the assessment. [HSE.8]

2. The factory outsources a certified institution to conduct an occupational hazards (noise, dust and volatile organic compounds) test every year. The latest test was conducted on September 8, 2020 and the test result complies with legal requirements. However, the factory does not post the occupational hazards test report in the workshops for workers' information. [HSE.1]

3. All 12 chemicals' Material Safety Data Sheets are missing CAS (Chemical Abstracts Service) Registry Number. [HSE.10.1]

##### Local Law or Code Requirement

Law of the China on Work Safety, Article 42; Law of the PRC on the Prevention and Control of Occupational Diseases Article 24; Safety Data Sheet for Chemical Products-Content and Order of Sections (GB16483-2008), Appendix A.4. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.8 and HSE.10)

##### Recommendations for Immediate Action

1. <!--[endif]-->Train and supervise all workers to use personal protective equipment (PPE) consistently during working hours.

2. <!--[endif]-->Post the annual occupational hazards test report in the workshops for workers' information.
  
3. <!--[endif]-->Obtain complete MSDS with CAS Registry Number for all chemicals from the chemical suppliers.