China Issues 2018 Negative List for Foreign Direct Investment


This update sets out a short summary of the key differences between the 2017 Catalogue and the 2018 Negative List.

Foreign Investment Industrial Guidance Catalogue

Foreign investment in China is subject to the Foreign Investment Industrial Guidance Catalogue in terms of whether certain industries are “prohibited”, “permitted”, “restricted” or “encouraged” for foreign investment purpose. Foreign companies/foreigners are not allowed to invest in a “prohibited” industry and are encouraged to invest in an “encouraged” industry. For foreign investment in a “restricted” industry, it is subject to more scrutiny, approval from a higher authority and will generally involve a longer approval period (as compared to “encouraged” or “permitted” industries). Any investment not listed as “prohibited”, “restricted” or “encouraged” in the Catalogue are considered “permitted”. The first such Catalogue was released in 1995 and the PRC authorities update the Catalogue from time to time. The latest version was the 2017 Catalogue which was effective from 28 July 2017. The 2017 Catalogue has 63 industries which are either “restricted” or “prohibited” for foreign investment purpose.

Major Changes in 2018 Negative List

The 2018 Negative List further shortened the list and only includes 48 industries which are either “restricted” or “prohibited” for foreign investment purpose. The main changes are summarised as follows:

Service industry:

- Foreign investors are allowed to own up to 51% in securities companies, fund management companies, future trade companies and life insurance companies; the 51% threshold will be increased to 100% with effect from 2021;
- There will be no foreign shareholding restrictions in railway main lines and power grid companies;
- There will be no foreign shareholding restrictions in railway passenger transportation companies, international shipping and agency companies;
- There will be no foreign shareholding restrictions in petrol stations, and grain purchase and distribution companies;
- The investment in Internet surfing service spaces (互联网上网服务营业场所) is no longer prohibited.

Manufacturing Industry:

- There will be no foreign shareholding restrictions in companies engaging in special vehicle and new energy vehicle manufacturing;
• There will be no foreign shareholding restrictions in companies engaging in commercial vehicle manufacturing from 2020;
• There will be no foreign shareholding restrictions in companies engaging in passenger car manufacturing from 2022, and the number of invested companies engaging in passenger car manufacturing will no longer be limited to a maximum of 2;
• There will be no foreign shareholding restrictions in companies engaging in vessel design, manufacturing and repair;
• There will be no foreign shareholding restrictions in aeroplane industry.

Agricultural and Energy industry:
• There will be no foreign shareholding restrictions in companies engaging in seed production, except corn and wheat;
• There will be no foreign shareholding restrictions in companies engaging in exploration and exploitation of rare and special coals;
• There will be no foreign shareholding restrictions in companies engaging in the exploitation of graphite, separation and metallurgy of rare earth (稀土) and metallurgy of tungsten (钨).

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or any of the following partners:

Joseph HE
Head – China Practice
d: +65 6416 8218
e: joseph.he@wongpartnership.com
Click here to view Joseph's CV.

MIAO Miao
Partner – China Practice
d: +86 21 3306 4990
e: miao.miao@wongpartnership.com
Click here to view Miao's CV.
WPG MEMBERS AND OFFICES

- contactus@wongpartnership.com

SINGAPORE
- WongPartnership LLP
  12 Marina Boulevard Level 28
  Marina Bay Financial Centre Tower 3
  Singapore 018982
  t +65 6416 8000
  f +65 6532 5711/5722

CHINA
- WongPartnership LLP
  Beijing Representative Office
  Unit 3111 China World Office 2
  1 Jianguomenwai Avenue, Chaoyang District
  Beijing 100004, PRC
  t +86 10 6505 6900
  f +86 10 6505 2562
- WongPartnership LLP
  Shanghai Representative Office
  Unit 1015 Link Square
  222 Hubin Road
  Shanghai 200021, PRC
  t +86 21 6340 3131
  f +86 21 6340 3315

MYANMAR
- WongPartnership Myanmar Ltd.
  Junction City Tower, #09-03
  Bogyoke Aung San Road
  Pabedan Township, Yangon
  Myanmar
  t +95 1 925 3737
  f +95 1 925 3742

INDONESIA
- Makes & Partners Law Firm
  Menara Batavia, 7th Floor
  Jl. KH. Mas Mansyur Kav. 126
  Jakarta 10220, Indonesia
  t +62 21 574 7181
  f +62 21 574 7180
  w makeslaw.com

MALAYSIA
- Foong & Partners
  Advocates & Solicitors
  13-1, Menara 1MK, Kompleks 1 Mont’ Kiara
  No 1 Jalan Kiara, Mont’ Kiara
  50480 Kuala Lumpur, Malaysia
  t +60 3 6419 0822
  f +60 3 6419 0823
  w foongpartners.com

MIDDLE EAST
- Al Aidarous Advocates and Legal Consultants
  Abdullah Al Mulla Building, Mezzanine Suite 02
  39 Hameem Street (side street of Al Murroor Street)
  Al Nahyan Camp Area
  P.O. Box No. 71284
  Abu Dhabi, UAE
  t +971 2 6439 222
  f +971 2 6349 229
  w aidarous.com
- Al Aidarous Advocates and Legal Consultants
  Zalfa Building, Suite 101 - 102
  Sh. Rashid Road
  Garhoud
  P.O. Box No. 33299
  Dubai, UAE
  t +971 4 2828 000
  f +971 4 2828 011

PHILIPPINES
- ZGLaw
  27/F 88 Corporate Center
  141 Sedeño Street, Salcedo Village
  Makati City 1227, Philippines
  t +63 2 889 6060
  f +63 2 889 6066
  w zglaw.com/~zglaw

wongpartnership.com