

China Issues 2020 Negative List for Foreign Direct Investment

On 24 June 2020, the Ministry of Commerce (“**MofCom**”) and the National Development and Reform Commission (“**NDRC**”) of the People’s Republic of China (“**PRC**”), with approval from the State Council, published the Negative List for Foreign Direct Investment Industry (2020 version) (“**2020 Negative List**”). The 2020 Negative List will repeal the Negative List for Foreign Direct Investment Industry (2019 version) promulgated on 30 June 2019 (“**2019 Negative List**”) and will come into force on 23 July 2020. This update briefly summarises the key differences between the 2019 Negative List and the 2020 Negative List.

Negative List for FDI

Foreign direct investment (“**FDI**”) in the PRC is subject to a Negative List which “prohibits” or “restricts” certain industries for foreign investment purposes. Foreign companies/foreigners are not allowed to invest in “prohibited” industries. Foreign investments in “restricted” industries are subject to more scrutiny, a higher authority approval and will generally take more time to obtain approval (as compared to industries which are not on the Negative List). Foreign investment in any industry not listed as “prohibited” or “restricted” on the Negative List will be granted equal access and equal treatment as compared to domestic investment. The latest version of the Negative List currently in force is the 2019 Negative List with 40 industries listed as either “prohibited” or “restricted” for FDI purposes.

Major Changes in 2020 Negative List

The 2020 Negative List further shortens the list and only includes 33 industries which are either “restricted” or “prohibited” for FDI purposes. The main changes are summarised as follows:

2019 Negative List	2020 Negative List
Wheat new type seeds selection and production (majority controlled by PRC shareholders)	Wheat new type seeds selection and production (PRC shareholding above 34%)
Refinery, processing and production of radioactive mines, nuclear fuels (prohibited)	Deleted
Business vehicle manufacturing (majority ownership by PRC shareholders before end of 2020)	Deleted
Urban water supply and drainage system for cities with population of more than 500,000 (majority ownership by PRC shareholders)	Deleted
Civil airport construction and operation (single largest shareholder being a PRC shareholder)	Civil airport construction and operation (single largest shareholder being a PRC shareholder), no foreign investment in construction and operation of airport traffic control tower
Air traffic control (prohibited)	Deleted

2019 Negative List	2020 Negative List
Postal company, engaging in domestic postal service, courier of letters within PRC (prohibited)	Postal company, courier of letters within PRC (prohibited)
Foreign shareholding in securities companies and securities fund management company (51% or less)	Deleted
Foreign shareholding in future trade companies (51% or less)	Deleted
Foreign shareholding in life insurance company (51% or less)	Deleted
Medical institutions (equity joint venture or cooperative joint venture only)	Medical institutions (equity joint venture only)

On 24 June 2020, MofCom and NDRC also promulgated a Decree 33, being a new version of Negative List for FDI in Free Trade Pilot Zones (“**2020 FTPZ Negative List**”). The 2020 FTPZ Negative List includes two (2) additional changes which are presently not addressed in the 2020 Negative List:

- prohibition of investment in traditional Chinese herb slices (中药饮片) is removed; and
- 100% foreign shareholding in professional training institution for mandatory education (学制类职业教育机构) is allowed.

It is widely expected that the two (2) changes mentioned above will be incorporated in future versions of Negative List after a certain trial period in the Free Trade Pilot Zones.

If you would like information or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:



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