

Special Administrative Measures for Access of Foreign Investments (Negative List) (2021 Edition)

Notes

I. The Special Administrative Measures for Access of Foreign Investments (Negative List) (the "Negative List for Access of Foreign Investments") set out in a centralized manner special administrative measures with respect to the access of foreign investments, such as limits on the shareholding ratio of foreign investment and the requirements on senior management. Sectors not specified in the Negative List for Access of Foreign Investments shall be subject to administration under the principle of treating domestic investments and foreign investments equally. The relevant provisions of the Negative List of Market Access are uniformly applicable to both domestic and foreign investors.

II. Foreign investors are forbidden to conduct business activities in China in the forms of individual businesses, investors of sole proprietorship enterprises or members of farmers' professional cooperatives.

III. For their investments in China, foreign-invested enterprises should comply with the relevant provisions of the Negative List for Access of Foreign Investments.

IV. Where a foreign investor intends to invest in any sector falling within the scope of the Negative List for Access of Foreign Investments but fails to meet the requirements thereof, the relevant authorities shall, in the course of performing their duties in accordance with the law, refuse to handle such matters as issuing permits or conducting business registration, and refuse to handle the relevant approval matters if approval for any fixed asset investment project is involved. If foreign investors intend to invest in sectors subject to limits on the shareholding ratio of foreign investment, they are not allowed to establish foreign-invested partnerships.

V. After being examined by the relevant department of the State Council and reported to the State Council for approval, specific foreign investments may not be subject to the provisions set out in the Negative List for Access of Foreign Investments.

VI. For domestic enterprises conducting businesses that are forbidden by the Negative List for Access of Foreign Investments, if said companies would like to issue shares and be listed overseas, they must be approved by relevant government authorities in China. Foreign investors must not take part in the management of such companies, and shareholding ratio of foreign investors in such companies shall be referred to the regulation requirements applicable to foreign investors investing in securities in China.

VII. Where domestic companies, enterprises or natural persons merge with or acquire, via overseas companies legally established or controlled thereby, their affiliated domestic companies, the relevant provisions on foreign investment, overseas investment and foreign exchange administration shall apply.

VIII. In terms of measures concerning administrative approval, qualification requirements, national security, etc. for such sectors as culture and finance, which are not specified in the Negative List for Access of Foreign Investments, the existing provisions shall apply.

IX. If other provisions in the Closer Economic Partnership Arrangement between Mainland China and Hong Kong and its follow-up agreements, the Closer Economic Partnership Arrangement between Mainland China and Macao and its follow-up agreements, the Cross-Strait Economic Cooperation Framework Agreement and its follow-up agreements, and in any international convention or treaty of which China is a contracting state or to which China has acceded, offer more preferential treatment to foreign investors, such provisions shall prevail. Where more preferential measures are offered to eligible investors in special economic zones, such as pilot free trade zones, the relevant provisions shall prevail.

X. The Negative List for Access of Foreign Investments shall be interpreted by the National Development and Reform Commission and the Ministry of Commerce in concert with relevant departments.

XI. The 2020 version of the Negative List for Access of Foreign Investments issued by the National Development and Reform Commission and the Ministry of Commerce on June 23, 2020 shall be repealed since January 1, 2022.

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No.	Special Administrative Measures
A. Agriculture, Forestry, Animal Husbandry and Fishery	
1	The Chinese party shall hold at least 34% of the shares of a company undertaking the selection and cultivation of new varieties of, and production of the seeds of, wheat; selection and cultivation of new varieties of, and production of seeds of, corn, must be undertaken by a company controlled by the Chinese party.
2	Investment in the research, development, breeding and planting of China's rare and unique precious quality varieties as well as the production of relevant breeding materials (including quality genes of planting, animal husbandry and aquaculture) is banned.
3	Investment in the selection of genetically modified varieties and the production of genetically modified seeds (fingerlings) in respect of crops, breeding stock and poultry, and aquatic fingerlings is prohibited.
4	Investment in fishing for aquatic products in sea areas under Chinese jurisdiction and in inland waters is prohibited.
B. Mining	
5	Investment in rare earths, and the reconnaissance, mining and beneficiation of radioactive minerals and tungsten are prohibited.
C. Manufacturing	
6	Investment in the printing of publications must be controlled by the Chinese party.
7	Investment in the smelting and processing of radioactive minerals and the production of nuclear fuels is prohibited.
D. Production and Supply of Electric Power, Heating Power, Gas and Water	
8	Investment in the construction and operation of nuclear power plant must be controlled by the Chinese party.
E. Wholesale and Retail Industry	
9	Investment in the wholesale and retail of leaf tobacco, cigarettes, re-dried leaf tobacco and other tobacco products is banned.
F. Communication and Transportation, Storage and Mail	
10	Domestic water transportation companies must be controlled by Chinese parties.
11	A public airline transportation company must be controlled by the Chinese party, and the investment made by a single foreign investor together with its related-party enterprises in such company shall not exceed 25%, and such company's legal representative must be a Chinese citizen. Legal representatives of general aviation companies must be Chinese citizens, of which, those for the agriculture, forestry and fishery industries are limited to joint ventures only, while others shall be controlled by Chinese parties.
12	Investment in the construction and operation of civil airports must be relatively controlled by the Chinese party. Foreign parties are not allowed to participate in the construction and operation of airport towers.
13	Investment in postal service companies and the business of delivery mail domestically is prohibited.
G. Information Transmission, Software and Information Technology Services	
14	Telecommunications companies are limited to investment in the telecommunications business opened according to China's WTO accession commitments; the shareholding ratio of foreign investment in a value-added telecommunications business (excluding e-commerce business, domestic multi-party communications, store-and-forward and call centers) shall not exceed 50%; the basic telecommunication business must be controlled by the Chinese party.
15	Investment in internet news services, online publishing services, online audio-visual program services, internet culture operation (excluding music), and internet public-oriented information releasing services (excluding content of the abovementioned services that is permitted under China's WTO accession commitments) is prohibited.

H. Leasing and Business Services	
16	Engagement in Chinese legal affairs (except for the provision of information relating to the impacts of China's legal environment) is prohibited; becoming the partner of a domestic law office is prohibited.
17	Investment in market surveys is limited to joint ventures; specifically, investment in broadcasting and television listening and rating surveys must be controlled by the Chinese party.
18	Investment in social surveys is banned.
I. Scientific Research and Technical Services	
19	Investment in the development and application of technologies of human stem cell and gene diagnosis and treatment is prohibited.
20	Investment in humanistic and social science research institutions is prohibited.
21	Investment in geodetic surveying, hydrographic surveying and charting, surveying and mapping via aerial photography, ground mobile surveying, surveying and mapping of administrative area borders, compiling of topographical maps, world administrative maps, national administrative maps, administrative maps at the provincial level or below, national school maps, local school maps and true three-dimensional maps, compiling of navigation electronic maps and regional investigations in terms of geological mapping, mineral geology, geophysics, geochemistry, hydrogeology, environmental geology, geological disasters and remote sensing geology is prohibited (Mining right owners working within the scope of their mining rights will not be subject to this special administrative measure).
J. Education	
22	Investment in pre-school institutions, senior high schools and institutions of higher education is limited to schools jointly run by Sino-foreign entities; such schools must be dominated by the Chinese parties (principals or major administration heads in charge of such schools shall be of Chinese nationality, and Chinese members shall account for at least half of the council, board of directors or joint management committee).
23	Investment in compulsory education institutions and religious education institutions is prohibited.
K. Health and Social Work	
24	Investment in medical institutions is limited to joint ventures.
L. Culture, Sports and Entertainment	
25	Investment in news agencies (including but not limited to press agencies) is prohibited.
26	Investment in editing, publishing and production of books, newspapers, periodicals, audio-visual products and electronic publications is prohibited.
27	Investment in all levels of broadcasting stations, television stations, radio and television channel and frequency, radio and television transmission networks (including radiating stations, rebroadcasting stations, broadcasting and TV satellites, satellite uplink stations, satellite signal receiving and rebroadcasting stations, microwave stations, monitoring stations and cable broadcasting and television transmission network, etc.) and engagement in the video on demand business of radio and TV and in the provision of services of installation of the ground receiving facilities for satellite television broadcasting is prohibited.
28	Investment in radio and television program production and operation (including introduction) companies is prohibited.
29	Investment in film production companies, distribution companies, cinema companies and the introduction of films is prohibited.
30	Investment in enterprises selling cultural relics by auction, cultural relic stores and state-owned cultural relic museums is prohibited.
31	Investment in cultural and artistic performance groups is prohibited.