# China issued new Foreign Investment Negative Lists to further open up the market

July 2020

## Introduction

On 23 June 2020, the National Development and Reform Commission and the Ministry of Commerce jointly issued the Special Measures for Access of Foreign Investment ("**FDI Negative List**") and the Special Measures for Access of Foreign Investment in Free Trade Zones ("**FTZ Negative List**"). Both Negative Lists (collectively as the "**2020 Negative Lists**") will take effect on 23 July 2020 to replace the 2019 Negative Lists.

Compared to the 2019 version, the 2020 Negative Lists have cut back the foreign investment restrictions by approximately 20%, with the restricted and prohibited items being reduced from 37 to 30 in the Free Trade Zones, and from 40 to 33 in the rest of China. In some sectors, foreign ownership restriction has been completely removed. Below is a brief summary of key provisions in the 2020 Negative Lists.

## Key provisions of the 2020 Negative Lists

### FDI Negative List

- Financial

  All foreign investment restrictions for setting up companies in securities, fund management, futures and life insurance sectors have been abolished. Under the 2019 Negative Lists, foreign investors were only allowed to hold up to 49% equity interest in foreign-invested enterprises in these sectors.

- Public utility

  There will be no foreign ownership restriction for construction and operation of urban water supply and drainage pipelines in cities with a population of over 500,000 people.

- Automotive

  Caps on commercial automotive vehicle manufacturing including equity ratio have now been lifted.

- Agriculture

  For the selection of new wheat varieties and seed production, foreign investors will be allowed to hold the maximum equity of 66%, up from 50% in the 2019 version.

- Air traffic control

  There will be no restriction on foreign investment in air traffic control. In the 2019 version, foreign investors were prohibited from making investment in this sector.

- Mining

  Ban on foreign investment in the smelting and processing of radioactive minerals and production of nuclear fuel has now been lifted.

### FTZ Negative List

For foreign-invested enterprises established in the Free Trade Zones in China, they can enjoy additional preferential treatment, in addition to what is provided in the FDI Negative List. Those extra relaxations available in the Free Trade Zones include:

- Education

  Foreign investors will be allowed to run wholly foreign-owned curriculum vocational education institutions and non-curriculum professional training institutions.

- Pharmaceutical

  Restrictions on foreign investment in technology application for prepared slices of traditional Chinese medicine have now been eliminated and foreign investors are also permitted to manufacture prescription prepared products by using traditional Chinese medicine.

## Implications for businesses

Since the implementation of the Foreign Investment Law on 1 January 2020, China has adopted a nation-wide approach of regulating foreign investments by way of pre-entry national treatment and the Negative Lists. This means that foreign investors are not required to seek prior governmental approval for setting up a business presence in China, if there are no express restrictions in the Negative List in relation to the industry in which foreign investors intend to invest.

There have been several versions of the Negative Lists for foreign investment access in the past several years and the 2020 version has significantly or completely abolished foreign investment restrictions for certain sensitive or strategic sectors such as financial, automotive, public utility and air traffic control. For example, foreign investors are now allowed to set up wholly foreign-owned enterprises to offer financial services in the field of life insurance, securities, fund management investment and futures. This presents a tremendous opportunity for foreign investors with strong industry expertise and advanced know-how to tap into China's huge financial market.

The role of the Free Trade Zones as a pioneer to spearhead China's reform and opening-up will be further strengthened. Under the 2019 version of the FTZ Negative List, foreign-invested enterprises set up in the Free Trade Zones are able to enjoy certain flexibilities to engage in business operations in telecom, publication and art performance sectors. Now in the 2020 FTZ Negative List, the industries open to foreign investors are even broader. In the field of medicine, the FTZ Negative List now allows international investors to invest in prepared slices of traditional Chinese medicine. Meanwhile, restrictions on foreign investment on curriculum vocational education institutions and non-curriculum professional training institutions have now been lifted.

The outbreak of COVID-19 pandemics has caused huge disruptions to China's and global economy, but with the effective and robust measures taken by the Chinese Government, the coronavirus spread has been effectively controlled and China's economy has re-gained its growth momentum. The issuance of the 2020 Negative Lists demonstrates Chinese Government's strong commitments to further opening up China's market and promoting globalisation. Foreign investors are advised to closely follow regulatory changes, contemplate and review their China business strategy, and ride the new wave of regulatory relaxations.

## Let's talk

For a deeper discussion of how this impacts your business, please contact:

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