

## 2018 Negative Lists Released (Nationwide, Pilot Free Trade Zone Versions)

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The National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOC) released the “Special Administrative Measures on Foreign Investment Access (Negative List, 2018 version)” (NDRC and MOC issue 18, hereinafter “2018 nationwide negative list”) on June 28, 2018 and the “Special Administrative Measures on Foreign Investment Access to Pilot Free Trade Zones (Negative List, 2018 version)” (NDRC and MOC issue 19, hereinafter “2018 FTZ negative list”) on June 30, 2018. The new negative lists took effect on July 28 and 30, 2018 respectively.

### 1. Background of the Policies

In China, restrictions are imposed on investment and business by foreign enterprises depending on the sector, and negative lists are used to control foreign investment access. If a business run by a foreign investor in China is in a sector on the negative list, the enterprise is required to follow the corresponding rules.

In China, the negative list system was first introduced in the Shanghai Pilot Free Trade Zone in 2013, when 190 administrative measures were listed. The list was later revised, with the number of administrative measures decreasing to 95 in the 2017 version.

The nationwide negative list was published for the first time in 2017. Restrictions for each sector and type listed on the previous Catalogue for the Guidance of Foreign Investment Industries were reviewed and 63 administrative measures were unveiled.

Improvements have been made to the screening and approval procedures for foreign investors along with the improvements to the negative list system. Meanwhile, enterprises in sectors that are not included on the negative list are managed through record filing.

In this context, Chinese authorities have revised the previous negative list and released the 2018 version, seeking to open up industries and attract foreign investors.

### 2. Details of the Policies

#### (1) Main Points of the 2018 Nationwide Negative List

Compared to the previous version, the 2018 nationwide negative list has launched 22 items to open up sectors including finance, transportation, and manufacturing. Besides, it allows a transition period prior to opening up for enterprises in automobile and financial sectors by setting the roadmap and timeline clearly for the first time.

[Fig. 1] Opening-up measures on the 2018 Nationwide Negative List (excerpt)

Sector		Measures
Services	Finance	✓ Lift restrictions on foreign equity ratio in banking sector
		✓ Relax restrictions on foreign investment in securities companies, fund management companies, futures trading companies, and life insurance companies, increasing the equity ratio allowed to up to 51%

		✓ Lift restrictions on foreign equity ratio in above-mentioned companies by 2021
	Infrastructure	Lift restrictions on the construction and operation of power grids and mainline railroads
	Transportation	Lift restrictions on railroad companies, international ocean transport, and international shipping agencies
	Logistics	Lift restrictions on gas stations and on the purchase and wholesale of grain
	Culture	Lift the ban on foreign investment in business premises for internet service
Manufacturing	Automobiles	<ul style="list-style-type: none"> <li>✓ Lift restrictions on foreign equity ratio in the production of special vehicles and new energy vehicles</li> <li>✓ Lift restrictions on foreign equity ratio in the production of commercial vehicles by 2020</li> <li>✓ Lift restrictions on foreign equity ratio in the production of passenger vehicles by 2022</li> <li>✓ By 2022, lift restrictions on the number of joint ventures that a foreign business may establish to manufacture finished cars of the same vehicle type (currently, the maximum is two joint ventures)</li> </ul>
	Shipbuilding	✓ Lift restrictions on businesses such as design, manufacturing and repair
	Aircraft	✓ Lift restrictions on aircraft, including main or branch line airplanes, general-purpose airplanes, helicopters, unmanned airplanes and aerostats
Agriculture and Energy	Agriculture	✓ Lift restrictions on production of crop seeds excluding wheat and corn
	Energy	✓ Lift restrictions on the mining of special and rare types of coal
	Resources	✓ Lift restrictions on graphite mining, the smelting and separation of rare earth and the smelting of tungsten

Even after the 2018 nationwide negative list takes effect, the types of investment encouraged in the Catalogue for the Guidance of Foreign Investment Industries (2017 version) continue to be valid.

## (2) Main Points of the 2018 FTZ Negative List

The number of special administrative measures on the 2018 FTZ negative list has decreased from 95 to 45 as some items were deleted or consolidated.

[Fig. 2] Opening-up measures on the 2018 FTZ Negative List (excerpt)

Sector		Measures
Agri-culture	Seed production	✓ Raise the limit of foreign investment from 49% to 66% in selecting and growing new types of wheat and corn and in seed production
Mining	Extraction of oil and natural gas	<ul style="list-style-type: none"> <li>✓ Lift restrictions on limiting oil and natural gas exploration and development to joint ventures or collaborations</li> <li>✓ Lift the ban on foreign investment in the smelting and processing of radioactive minerals and the production of nuclear fuel</li> </ul>
Cultural	Culture and entertainment	<ul style="list-style-type: none"> <li>✓ Lift restrictions on foreign equity ratio in stage performances and event organizers</li> <li>✓ Ease restrictions on foreign investment in literary and art troupe by allowing foreign investment if a Chinese company is the major stakeholder</li> </ul>

### **3. Impact on Enterprises**

Both negative lists announced lately ease restrictions on foreign investment in the service, manufacturing, agriculture, resources and other sectors. Compared with the nationwide negative list, the FTZ negative list is notable for the introduction of new measures to open up certain sectors, highlighting the FTZs' function as pilot zones. The announcement of the roadmap and timeline for opening up the automobile and financial sectors, among others, will benefit relevant enterprises in formulating development decisions on business strategies in China.

We will continue to follow up on any developments and provide information as necessary.

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