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2015 Guidance Catalogue for Foreign Investment Industries Released, Cutting the number of industries with restrictions from 79 to 38

On Mar 13 2015, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly released the “Catalogue for the Guidance of Foreign Investment Industries (2015),”¹ (hereinafter “the Catalogue”) which will take effect on Apr 10 2015. The Catalogue lifts restrictions on foreign investments in various industries, including logistics, e-commerce and finance, marking a greater opening-up to foreign business with lower thresholds. We will be introducing the highlights of the Catalogue in this report.

I Background

The Catalogue, now in its sixth edition, consists of 3 parts and identifies industries where foreign investment is restricted, prohibited and encouraged. The last version of the Catalogue was issued in 2011. The newly released Catalogue not only provides guidance to foreign investment but also demonstrates the priority task on the central government’s agenda this year, which is to streamline administration and delegate government powers. In particular, a negative list approach has gained great attraction after being applied in the China (Shanghai) Pilot Free Trade Zone (hereinafter “PFTZ”) in Sep 2013, making a breakthrough for foreign investment in China with the method of employing lists of only prohibited and restricted industries. The number of sectors in which foreign investment is restricted in PFTZ got further reduced from 190 to 139 in 2013 and is expected to be cut again. As the negative list approach was limited to certain pilot areas in China for now, it is expected that new version of the Catalogue serves as an important reference for the expansion of negative list approach nationwide.

II Highlights

Compared with the previous version, the newly released Catalogue halves the number of industries with restrictions from 79 to 38. Industries in which Chinese investors must hold stakes were reduced from 43 to 15, and those demanding Chinese investors to hold controlling stakes from 44 to 35. Also, foreign investors are prohibited from 36 industries, compared with 38 in the previous version. Industries where foreign investors are encouraged to invest remain largely unchanged.

Notable changes of certain sectors in the Catalogue are illustrated below in details:

Manufacturing

- Previous restrictions on industries including chemicals, beverage, construction machines, and petroleum processing have been lifted, the remaining restrictions on the manufacturing sectors are basically related to national and industry security. For example, processing of edible oil; print of publication; repairing, designing and manufacturing of ship (including subsection) with Chinese partner shall hold the majority of shares, etc.

¹ <http://www.mofcom.gov.cn/article/b/f/201503/20150300911747.shtml>

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Medical and healthcare Industry

- Medical and Pharmaceutical products industry is also witnessing changes. For example, production of chloramphenicol, penicillin G, or analgin, paracetamol, Vitamin B1, Vitamin B2, Vitamin C and Vitamin E are no longer restricted in the Catalogue.
- According to a circular on “Carrying out the Pilot Program of Setting up Wholly Foreign-Owned Hospitals” promulgated by the National Health and Family Planning Commission and the MOFCOM in Jul 2014², foreign investors are allowed to set up wholly foreign-owned hospitals in Beijing, Tianjin, Shanghai, Jiangsu Province, Fujian Province, Guangdong Province, and Hainan Province by means of setup or merger and acquisition. Also, previous version of Catalogue categorized the establishment of hospitals as permitted sector for foreign investors. However, according to the Catalogue, for foreign investors setting up medical institutions in China has been listed not only as restricted industry but also limited to contractual joint ventures.

Automotive Industry

- Unlike the further opening-up in other sectors, the restrictions on automotive industry are actually seeing a tightened trend. Previously, manufacturing of whole automobile, special vehicle and motorcycle were permitted sectors in the 2011 version of Catalogue. However they are listed as restricted industry in the newly released Catalogue and Chinese partner shall hold more than 50% of the shares; also one foreign enterprise can set up no more than 2 joint ventures engaging in manufacturing of the same kind vehicle products including passenger cars, commercial cars and motorcycle. More than 2 joint ventures are allowed to be set up provided they cooperate with Chinese partner in acquiring other domestic car manufacturing companies.

Finance industry

- In the 2011 version of Catalogue, banks, non-bank financial institutions, trust companies, and currency brokerage companies are in the “restricted” category. Only banks will remain in the “restricted” category in the Catalogue. Specifically, the maximum foreign ownership in Chinese bank is capped at 20 percent for any single foreign financial institution investor (including its affiliates) and 25 percent if the investor group includes more than one foreign financial institution.

Communication industry

- The Catalogue scrapped the ratio limit restrictions on e-commerce of value-added tele communication services.

Another remarkable progress lies in the removal of a clause that empowered the State Council to issue special or industrial policies to regulate foreign investment. Instead, the Catalogue makes it clear that the country can impose bans that are not listed in the Catalogue only under existing laws and regulations.

² <http://www.nhfpc.gov.cn/yzygj/s3577/201408/73f1ec5b56304347aa3436a08e39ddfa.shtml>

III Comments

In his annual report on Mar 5 2015, Premier Li Keqiang claimed that China will take steps to enhance foreign investment and create a “stable, fair, transparent and predictable” environment for business to thrive in the country. The Catalogue shows the government’s strong commitment to opening up and improving the investment environment for foreign investors, also greater competitions will boost domestic companies to strengthen their abilities.

Earlier last year, a proposed revised draft of the 2011 version of Catalogue³ (“Draft”) had been released by NDRC and MOFCOM for public comments on Nov 21 2014. The Catalogue is largely consistent with the Draft, save for some changes in publication, education, and medical institution sectors. For example, in the 2011 version of Catalogue, the “printing of publications” were provisionally placed in the “restricted” categories. Following in the Draft, the restriction was lifted and the “printing of publications” became “permitted”. In the Catalogue, however, the “printing of publications” remains in the “restricted” category again.

The interpretation and actual implementation of the Catalogue should be worthy of attention. The up-to-date information will be provided continuously by our bank.

*For a comparison of the 2015 version Catalogue vs 2011 version of **Catalogue of Restricted Foreign investment industries**, please refer to the table below.

Catalogue of Restricted Foreign investment industries	
2011 version	2015 version
I. Farming, Forestry, Animal Husbandry and Fishery Industries	
1.Breeding and seeds developing production of new train crop breed (Chinese party shall hold the majority of shares) 2.Processing of the logs of precious varieties of trees (limited to equity joint ventures or contractual joint ventures) 3.Cotton (raw cotton) processing	1.Breeding and seeds developing production of new train crop breed (Chinese party shall hold the majority of shares)
II. Mining Industries	
1.Exploring and mining of special and scarce coals (Chinese partner shall hold the majority of shares) 2.Exploring and mining of barite (limited to equity joint ventures or contractual joint ventures) 3.Exploring and mining of precious metals (gold, silver, platinum families) 4.Exploring and mining of precious non-metals such as diamond 5.Mining and mine selection of phosphorus mines, lithium mines and iron sulfur mines,	1.Exploring and mining of special and scarce coals (Chinese partner shall hold the majority of shares) 2.Exploring and mining of precious metals (gold, silver, platinum families) 3.Exploring and mining of graphite 4.Exploring and cradling of lithium mineral

³ <http://images.chinalaw.gov.cn/www/201411/2014110514104256.pdf>



<p>extraction of brine resources from salt lake 6. Mining of szaibelyite and ludwigite 7. Mining of celestine ore 8. Mining of oceanic manganese nodule and marine sand (Chinese partner shall hold the majority of shares)</p>	
III. Manufacturing Industries	
<p>1. Farming Subsidiary Foodstuff Industry (1) Processing of edible oil of soybean, rapeseed, peanut, cottonseed, tea seed, sunflower seed and palm (Chinese partner shall hold the majority of shares), processing of rice and flour, and deep-processing of corn (2) Manufacturing of biology liquid fuel (fuel ethanol and bio-diesel) (Chinese partner shall hold the majority of shares) 2. Beverage Manufacturing Industries (1) Manufacturing of rice wine and quality liquor (Chinese partner shall hold the majority of shares) 3. Tobacco Industries (1) Manufacturing of threshing and curl tobacco leaf 4. Printing and Copy of Recording Vehicle (1) Print of publication (Chinese partner shall hold the majority of shares) 5. Petroleum Processing, Coking and nuclear fuel processing Industries (1) Oil refining of not more than 10 million tons per year under the normal pressure, catalytic cracking of not more than 1.50 million tons per year, continuous reforming of not more than 1 million tons per year (including aromatics extraction) and hydrocracking manufacturing of not more than 1.5 million tons per year 6. Chemical Raw Material Products Manufacturing Industry (1) Manufacturing of sodium carbonate and caustic soda as well as sulfuric acid, hydrogen acid and potash below the designated size or with the backward technology (2) Production of sensitive materials (3) Production of benzidine (4) Production of chemical products from which narcotics are easily made (ephedrine, 3, 4-idene dihydro phenyl-2-acetone, phenylacetic acid, 1-phenyl-2-acetone, heliotropin, safrole, isosafrole, acetic oxide) (5) Manufacturing of low-end HCFC of hydrogen fluoride (6) Production of divinyl rubber (except cis-rich poly butadiener rubber), emulsion polymerization</p>	<p>1. Processing of edible oil of soybean, rapeseed, peanut, cottonseed, tea seed, sunflower seed and palm (Chinese partner shall hold the majority of shares), processing of rice and flour, and deep-processing of corn 2. Manufacturing of biology liquid fuel (fuel ethanol and bio-diesel) (Chinese partner shall hold the majority of shares) 3. Print of publication (Chinese partner shall hold the majority of shares) 4. Non-ferrous metal refining of tungsten, molybdenum, stannum (except tin compounds), antimony (including antimony oxide and antimony sulphide) 5. Smelting and separation of rare earth metal (limited to equity joint ventures or contractual joint ventures) 6. Manufacturing of whole automobile, special vehicle and motorcycle (Chinese partner shall hold more than 50% of the shares); one foreign enterprise can set up no more than 2 joint ventures engaging in manufacturing of the same kind vehicle products including passenger cars, commercial cars and motorcycle. More than 2 joint ventures are allowed to be set up provided they cooperate with Chinese partner in acquiring other domestic car manufacturing companies 7. Repairing, designing and manufacturing of ship (including subsection) (Chinese partner shall hold the majority of shares) 8. Production of satellite television receivers and key parts</p>

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buna S, thermoplastics buna S
(7)Production of PVC with the acetylene method, ethene below the designated scale and post-processing products
(8)Production of paints and coatings with harmful matter and backward technology and below the designated scale
(9)Processing of ludwigite
(10)Production of inorganic salt characterized by large occupation of resource, serious environmental pollution and application of backward technology
7. Medical and Pharmaceutical Products Industry
(1)Production of chloramphenicol, penicillin G, lincomycin, gentamicin, dihydrostreptomycin, amikacin, tetracycline hydrochloride, oxytetracycline, medemycin, kitasamycin, ilotylin, ciprofloxacin and ofloxacin
(2)Production of analgin, paracetamol, Vitamin B1, Vitamin B2, Vitamin C, Vitamin E
(3)Production of vaccine varieties included in the state immunization program
(4)Production of material medicines for addiction narcotic and A class psychoactive drug (Chinese partner shall hold the majority of shares)
(5)Production of blood products
8. Chemical Fiber Production Industry
(1)Production of chemical fiber drawnwork of conventional chipper
(2)Production of rayon staple viscose fiber
9. Non-Ferrous Metal Smelting and Rolling Processing Industry
(1)Non-ferrous metal refining of tungsten, molybdenum, stannum (except tin compounds), antimony (including antimony oxide and antimony sulphide)
(2)Non-ferrous metal refining of electrolytic aluminium, copper, lead, zinc and another non-ferrous metal
(3)Smelting and separation of rare earth metal (limited to equity joint ventures or contractual joint ventures)
10. Common Purpose Equipment Manufacturing Industry
(1)Manufacturing of all kinds of general (p0) axletree and accessory (steel ball, cage), rough
(2)Manufacturing of wheeled model, crawler crane of less than 400 tons (limited to equity joint ventures or contractual joint ventures)
11. Special Purpose Equipment Manufacturing Industry

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<p>(1)Manufacturing of equipment for producing long Dacron thread and short fiber</p> <p>(2)Manufacturing of crawler dozers of not more than 320 horsepower, hydraulic excavator of not more than 30 tons, wheel loader of not more than 6tons, grader of not more than 220 horsepower, road roller, fork-lift truck, electric-driving non-calzada dumper truck at the level of 135 tons or below, hydromechanical transmission non-calzada dumper truck at the level of 60 tons or below, asphalt concrete stirring and paving equipment and aerial work machinery, garden machine and tools, production of commodity concrete machinery (pump, agitating lorry, mixing plant, and pump vehicle)</p> <p>12. Manufacturing of transport and communication facilities</p> <p>(1)Repairing, designing and manufacturing of ship (including subsection) (Chinese partner shall hold the majority of shares)</p> <p>13. Manufacturing of Communication Apparatus, Computers and another Electric Installation</p> <p>(1)Production of satellite television receivers and key parts</p>	
IV. Production and Supply of Power, Gas and Water	
<p>1.Construction and management of conventional coal-fired power of condensing steam plants whose unit installed capacity is 300,000kW or below, and coal-fired power of condensing-extracted steam plants with dual use unit cogeneration whose unit capacity is 100,000kW within the small power grid</p> <p>2.Construction and management of power network (Chinese partner shall hold the majority of shares)</p> <p>3.Construction and management of urban gas, heating power and water supply and drainage pipe network with a population of 500,000 or more (Chinese partner shall hold the majority of shares)</p>	<p>1.Construction and management of conventional coal-fired power of condensing steam plants whose unit installed capacity is 300,000kW or below, and coal-fired power of condensing-extracted steam plants with dual use unit cogeneration whose unit capacity is 100,000kW within the small power grid</p> <p>2.Construction and management of urban gas, heating power and water supply and drainage pipe network with a population of 500,000 or more (Chinese partner shall hold the majority of shares)</p>
V. Communication and Transportation, Storage, Post and Telecommunication Services	
<p>1.Railway freight transportation companies</p> <p>2.Railway passenger transportation companies (Chinese partner shall hold the majority of shares)</p> <p>3.Highway passenger transport companies</p> <p>4.Enter-leave country fleet operation companies</p> <p>5.Water transportation companies (Chinese partner shall hold the majority of shares)</p> <p>6.General aviation companies engaging in photographing, prospecting and industry (Chinese partner shall hold the majority of shares)</p> <p>7.Tele communication companies: value-added</p>	<p>1.Railway freight transportation companies</p> <p>2. Highway passenger transport companies</p> <p>3.Water transportation companies (Chinese partner shall hold the majority of shares)</p> <p>4. General aviation companies engaging in business flights, aerial touring, photographing, prospecting and industry (Chinese partner shall hold the majority of shares)</p>

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telecom service (the foreign capital shall not exceed 50 percent), basic telecom business (the foreign capital shall not exceed 49 percent)	
VI. Wholesale and Retail Trade Industries	VI. Information communication, software and IT service
1. Commodity direct selling, mail order selling, and on-line selling 2. Purchase of grain, and wholesale, retail and logistic distribution of grain, cotton, vegetable oil, sugar, medicines, tobaccos, automobiles, crude oil, capital goods for agricultural production (Chinese should hold the majority of shares of the multiple shops which have more than 30 branch stores and sell different kinds and brands of commodities from multi-suppliers) 3. Construction and operation of large wholesale market of agricultural products 4. Distributing and selling of audiovisual products (except movies) (limited to joint ventures) 5. Ship agent (Chinese should hold the majority of shares), tally for foreign vessels (limited to equity joint ventures or contractual joint ventures) 6. Wholesaling product oil and construction and operation of gasoline stations (Chinese should hold the majority of shares of the multiple shops which have more than 30 branch stores and sell different kinds and brands of commodities from multi-suppliers)	1. Telecom company, value-added telecom service (the foreign capital shall not exceed 50 percent except for e-commerce); Basic telecom business (the foreign capital shall not exceed 49 percent)
	VII. Wholesale and Retail Trade Industries
	1. Purchase of grain, and wholesale, retail and logistic distribution of grain, cotton; Construction and operation of large wholesale market of agricultural products 2. Ship agent (Chinese should hold the majority of shares), tally for foreign vessels (limited to equity joint ventures or contractual joint ventures) 3. Construction and operation of gasoline stations (Chinese should hold the majority of shares of the multiple shops which have more than 30 branch stores and sell different kinds and brands of commodities from multi-suppliers)
VII. Banking and Insurance Industries	VIII. Banking and Insurance Industries
1. Banks, finance companies, trust investment companies, currency brokerage companies 2. Insurance companies (the share of life-insurance companies shall not exceed 50%) 3. Security companies (confined to A share underwriting, B share, H share and government and company bonds underwriting and transaction, the foreign-capital shall not exceed one-third), security investment fund management companies (the foreign-capital shall not exceed 49%) 4. Insurance brokerage companies 5. Futures companies (Chinese should hold the majority of shares)	1. Banks (the share of one overseas financial institution and its controlled or jointly controlled counterparty as founder or strategic investor to invest in a Chinese commercial bank shall not exceed 20 percent; for multiple financial institutions of the same circumstance the jointly shares shall not exceed 25 percent; Only overseas banking financial institutions are allowed to invest in rural small and medium financial institutions) 2. Insurance companies (the share of life-insurance companies shall not exceed 50%) 3. Security companies (business scope confined to underwriting and sponsorship of RMB common stocks, foreign stocks, government bonds, and corporate bonds, brokerage of foreign bonds, brokerage and proprietary of government bonds)

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	and corporate bonds; qualified companies can apply for expanding the scope of business following 2 years of setting up), security investment fund management companies (the foreign-capital shall not exceed 49%) 4.Futures companies (Chinese should hold the majority of shares)
VIII. Real Estate Industry	
1.Development of pieces of land (limited to equity joint ventures or contractual joint ventures) 2.Construction and operation of high-ranking hotels, high-class office buildings and international exhibition centers 3.Real estate transaction in secondary market and broking and brokerage companies	
IX. Leasing and Commercial Service Industry	
1.Legal consulting 2.Market Research (limited to equity joint ventures or contractual joint ventures) 3.Status enquiry and rating companies	1.Market Research (limited to equity joint ventures or contractual joint ventures; confined to Chinese partner only for broadcasting and audience rating survey) 2.Status enquiry and rating companies
X. Scientific Research and technical Services Industries, Geological Prospecting	
1.Mapping companies (Chinese partner shall hold the majority of shares) 2.Inspection, verification and attestation companies for imported and exported goods 3.Photography service (including trick photography like air photograph, except mapping aerial photography, limited to equity joint ventures)	1.Mapping companies (Chinese partner shall hold the majority of shares)
XI. Education	
1. Common high school education institution (limited to contractual joint ventures)	1. High school education institution (limited to contractual joint ventures and controlled by Chinese partner*) 2. Common high school education institution (limited to contractual joint ventures and controlled by Chinese partner) 3. Pre-school education institution (limited to contractual joint ventures and controlled by Chinese partner) * Note: “Controlled by Chinese partner” hereby means principle or major administrative personnel shall have Chinese nationality; the number of Chinese members consisting of the council, the Board of directors or the Joint Management Committee shall be not less than 1/2
XII. Art, Sports and Entertainment Industries	
XII. Healthcare and social work	
1. Production and publication of broadcasting and	1.Medical institutions (limited to equity and

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TV programs and film-making (limited to contractual joint ventures) 2. Construction and operation of cinemas (Chinese partner shall hold the majority of shares) 3. Construction and operation of large theme park 4. Brokering agency of stage performances 5. Operation of entertainment occupancies (limited to equity joint ventures or contractual joint ventures)	contractual joint ventures)
	XIII. Art, Sports and Entertainment Industries
	1. Production and publication of broadcasting and TV programs and film-making (limited to contractual joint ventures) 2. Construction and operation of cinemas (Chinese partner shall hold the majority of shares) 3. Construction and operation of large theme park 4. Brokering agency of stage performances (Chinese partner shall hold the majority of shares)
*Other industries restricted by the State or international treaties that China has concluded or taken part in	

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