

China Insight



New Negative List 2024 - China abolishes all restrictions on foreign investment in the manufacturing sector

On 8 September 2024, the National Development and Reform Commission and the Ministry of Commerce jointly issued the *Special Administrative Measures (Negative List) for Foreign Investment Market Access, 2024 Version* (“**Negative List 2024**”). The Negative List 2024 will enter into effect on 1 November 2024. Simultaneously with the entering into effect of the Negative List 2024, the previous version which entered into effect on 1 January 2022 will cease to be effective.

It is noteworthy that the *Special Administrative Measures (Negative List) for Foreign Investment Market Access to Pilot Free Trade Zones* (“**FTZ Negative List**”) which exclusively applies to foreign investments within pilot free trade zones has not been updated concurrently with the Negative List 2024. I.e., the version of the FTZ Negative List which entered into effect on 1 January 2022 still remains applicable for the time being.

The People’s Republic of China (“**PRC**”) manages and restricts market access by foreign investors via a nationwide negative list approach since 28 July 2017. Such negative list approach means that foreign investment in the PRC is, generally, permitted, unless the respective project or entity falls within a negative list. Foreign investment in areas falling under a negative list is still subject to restrictions or prohibitions.

Compared to the previous version, the Negative List 2024 reduces the total number of restricted items from 31 to 29. Namely, in the Negative List 2024 the following two restrictions in the manufacturing sector have been abolished:

- “for the printing of publications, the controlling stake must be held by the Chinese party”; and
- “investment in the application of steaming, stir-frying, moxibustion, calcination and other processing techniques for Chinese herbal medicines, as well as the production of confidential prescription products of proprietary Chinese medicines shall be prohibited”.

Consequently, restrictions on access to the manufacturing sector have now been completely removed in the Negative List 2024. In the manufacturing sector, there is now equal national treatment of domestic and foreign investments, which is a very positive development.

In addition to the Negative List 2024, on 8 September 2024, China’s Ministry of Commerce, the National Health Commission and the National Medical Products Administration have issued a joint circular on pilot programs to further open up the PRC’s healthcare sector to foreign investment. In particular, the circular allows the establishment of wholly foreign-owned hospitals in selected regions (i.e., Beijing, Tianjin, Shanghai, Nanjing, Suzhou, Fuzhou, Guangzhou, Shenzhen, and Hainan), and the engagement of foreign-invested enterprises in biotechnology within designated free trade zones.

Through the Negative List 2024 and the above-mentioned circular, restrictions and prohibitions on foreign investments have been further reduced.

However, in certain key areas, restrictions still apply. Examples are

- Foreign investments in (i) the exploration, mining, and beneficiation of rare earths, radioactive minerals, and tungsten, (ii) news agencies, (iii) editing, publishing and production of books, newspapers, periodicals, audio-visual products and electronic publications, (iv) all levels of broadcasting stations, television stations, radio and television channel and frequency, radio and television transmission networks and the engagement in the video on demand business of radio and TV, (v) radio and television program production and operation as well as (vi) film production companies, distribution companies, cinema companies and the introduction of films are still prohibited.
- Foreign investments in industries, such as (i) domestic water transport, public aviation transport, general aviation, (ii) telecommunications companies and value-added telecommunication services, (iii) construction or operation of nuclear power plants, (iv) construction and operation of civilian airports, (v) market surveys, (vi) pre-school institutions, high schools and institutions of higher learning, (vii) medical institutions and (viii) breeding of new wheat and corn varieties and seed production are still restricted.

In conclusion, the continuing trend to further open up and to reduce restrictions and prohibitions of foreign investment in the PRC is, without a doubt, positive and may bring along new and extended possibilities for foreign investors in the PRC. However, as long as the system of negative lists still exists in general, national treatment of foreign investment will not be completely achieved. Therefore, it is to be hoped that there will be further reductions of the still existing restrictions and prohibitions on foreign investment in the near future.

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