

China Issues the New Foreign Investment Catalogue

China releases revised industry-based guidance for foreign investment, indicating a shift toward advanced technology, energy saving, and environment protection.

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On December 29, 2011, China's National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) released the Foreign Investment Industrial Guidance Catalogue, Amended in 2011 (2011 Catalogue), which will become effective on January 30, 2012.

First published in 1995 (and revised in 1997, 2002, 2004, and 2007), the Foreign Investment Catalogue has been the principal policy guidance regarding investment by foreign companies in China. It sets out in detail the industrial sectors where foreign investment is (i) encouraged, (ii) restricted, or (iii) prohibited. Industrial sectors not listed in the Foreign Investment Catalogue are generally considered to be "permitted," i.e., fully open to foreign investment but not benefiting from specific advantages such as tax incentives. In April 2011, a draft revised version of the catalogue was issued to solicit public comments. NDRC and MOFCOM finalized the 2011 Catalogue in December 2011 partly based on the comments they had received. The 2011 Catalogue clearly shows the Chinese government's increasing desire to encourage foreign investment in high technology, high-end manufacturing, clean energy and energy saving, environmental protection, and modern services, among other sectors.

Highlights of the 2011 Catalogue include the following:

Newly Added Encouraged Sectors

- Manufacturing of key components and parts for new-energy automobiles (investment in certain subsectors are subject to a cap of 50% of foreign equity)
- Design and manufacturing of batteries used in automobiles
- Manufacturing of touch systems (such as touch screens)
- Manufacturing of functional and environmentally friendly clothes
- Manufacturing of oil pollution cleaning equipment
- Manufacturing of water pollution prevention and cure equipment
- Manufacturing of solid wastes disposal equipment

- Construction waste regeneration and utilization equipment
- Establishment and operation of charging stations for electric vehicles
- Manufacturing of new vaccines such as cervical carcinoma vaccine, malaria vaccine, and hand-foot-mouth disease vaccine
- Venture capital enterprises
- Intellectual property services
- Household services
- Vocational skills training

Removed from “Restricted” or “Prohibited” Category

- Financial leasing enterprises
- Medical institutions
- Auction services
- Manufacturing of carbonated soft drinks
- Franchise, commission business, or business management companies
- General distribution and import of books, newspapers, and magazines and import of audio and visual products and electronic publications
- Internet music services

Newly Adjusted Permitted Sectors – Downgraded from “Encouraged” to “Permitted” Category

- Manufacturing of complete automobiles
- Research and development related to the construction of automobiles
- Design and manufacturing of carrier rocket for civil use
- Polycrystalline silicon industry
- Manufacturing of new, efficient, and economic contraception medicine and utilities
- Large-scale production of coal chemicals

Newly Adjusted Restricted or Prohibited Sectors

- Manufacturing of alkaline zinc manganate batteries containing mercury
- Mail courier services within China (from “permitted” to “prohibited” category)
- Construction of villas (from “restricted” to “prohibited” category)
- Grain collection (from “permitted” to “restricted” category)

- Construction and operation of large-scale wholesale markets of agricultural products (from “permitted” to “restricted” category)

Conclusion

The 2011 Catalogue reflects China’s responsibilities as a member of the World Trade Organization to further open up to foreign investors. It also clearly signals that China’s foreign investment open policy is shifting from traditional industries to those related to advanced technology, energy saving, and environment protection. Although it is not clear what specific preferential treatments may be issued by the Chinese government to encourage such investment, we expect that more and more foreign companies will invest in those new sectors in the future.

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