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# Newsletter

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## Legal Updates

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## Legal Updates

### 1. SAFE Issues SAFE Circular 37, Which Repeals and Supersedes SAFE Circular 75 (Authors: Yixin LIN, Sheldon CHEN)

On July 14, 2014, the State Administration of Foreign Exchange (“SAFE”) published on its website the *Circular on Relevant Issues Relating to Domestic Residents’ Investment and Financing and Roundtrip Investment through Special Purpose Vehicles* (Hui Fa [2014] No. 37) (“**Circular 37**”) and its appendixes, including the *Operating Rules for Businesses with respect to the Regulation of Foreign Exchange in Roundtrip Investments* (the “**Operating Rules**”) and the *Form of Application for Foreign Exchange Businesses with respect to Direct Investments under the Capital Account*. According to Circular 37, Circular 75, which significantly impacted offshore investments, financings and listings that used the variable interest entity (“**VIE**”) structure, is repealed and superseded by Circular 37 with immediate effect. In addition, the operating instructions for foreign exchange in roundtrip investments in Circular 59, are repealed and superseded by the Operating Rules with immediate effect.

Circular 37 explicitly states that its purpose is to “support the implementation of the ‘Going Out’ strategy, to fully utilize onshore and offshore resources and markets and to further simplify and facilitate cross-border capital transactions arising from domestic residents’ involvement in investment and financing via offshore special purpose vehicles.” Compared to Circular 75, Circular 37 contains many material adjustments that are expected to pave the way for and have a significantly positive and practical effect on, offshore investment and financing and roundtrip investment by domestic residents.

Compared to Circular 75, Circular 37 contains material amendments to the following: i) definitions, ii) scope of special purpose vehicles (“**SPV**”), iii) offshore investments, financings and roundtrip investments by domestic residents, iv) registration of employee stock option plans (“**ESOP**”), and v) procedures for registration, and the basis for and content of punishments.

#### **Material Adjustments of Definitions**

Circular 37 materially adjust the definitions of “SPV”, “Roundtrip Investment”, and “Domestic Resident”. Under Circular 37,

“**SPVs**” means offshore enterprises directly established or indirectly controlled by domestic residents (including domestic institutions and domestic individuals) for the purposes of offshore investment and financing with their legally owned assets or interests in domestic enterprises, or their legally owned offshore assets or interests. Compared to Circular 75, under Circular 37, (a) the purpose for establishing SPVs is not limited to offshore financings, but has been broadened to

include both financings and investments and (b) domestic residents can form SPVs not only with their assets or interests in the domestic enterprise, but also with their legally owned offshore assets or interests.

**“Roundtrip Investment”** means direct investment carried out within the territory of China by domestic residents directly or indirectly via SPVs (i.e., establishing a wholly foreign owned enterprise or project (“**WFOE**”) in the PRC by forming a new entity, through merger or acquisition or other ways, and obtaining ownership, control, operation and management and other rights and interests in a domestic PRC entity). Compared to Circular 75, Circular 37 simplifies and defines what constitutes direct investment.

**“Domestic Residents”** means domestic institutions and domestic individuals. A domestic individual means either a Chinese citizen with a Chinese ID card, military ID card or armed police ID card or a foreign individual, who, while not having any legal identity within the territory of China, nevertheless habitually resides within the territory of China due to business interests / relations.

### **Broadening the Scope of “SPVs”**

Circular 37 broadens the scope of “SPVs” in the following ways:

- (1) SPVs are not only for financing purposes, but also for investment purposes.

According to Circular 75, the purpose of a SPV is limited to offshore financings. However, according to Circular 37 the purpose of a SPV is not only for offshore equity financing purposes, but also for offshore investment purposes.

This minor wording adjustment materially alters what qualifies as a SPV, and establishes the principles by which a domestic resident, especially a domestic individual, is permitted to invest offshore via SPVs for the reasons stated below.

The definition of outbound "investment" by domestic institutions is already provided for in the *Measures for the Administration of Overseas Investments* by the Ministry of Commerce in 2009 and other related regulations. However, prior to Circular 37, except for those regulations under Circular 75 and the principle provisions of the *Administrative Measures for Personal Foreign Exchange* and its implementing rules, there were no specific and practical rules for outbound “investment” by domestic individuals. Therefore, it was uncertain for a long time whether such investments were permitted, and to the extent that they were, the scope of such permitted outbound investment. The definition of SPV and other related provisions in Circular 37 may provide a formal legal avenue for domestic individuals to make outbound investments for the purposes of implementing China’s “Going Out” strategy.” Still, the specific effect of Circular 37 in this regard requires further examination and clarification.

- (2) Domestic residents can establish a SPV not only with their legally owned assets or interests in domestic enterprises, but also with their legally owned offshore assets or interests.

Under Circular 75, domestic residents could only establish a SPV with their legally owned assets or interests in domestic enterprises. Under Circular 37, domestic residents can also establish a SPV with their legally owned offshore assets or interests.

Under Circular 75, the SPV could only be established for offshore financing purposes, and the interests in domestic enterprises had to be injected into the SPV. Practically speaking, this meant that domestic residents were required to own assets or interests in domestic enterprises before establishing a SPV. Now, under Circular 37, SPVs can be established for the purposes of offshore investments without the need to inject any interests in domestic enterprises into the SPV. Therefore, we understand that a domestic resident can establish a SPV and complete registration under Circular 37 as long as he/she/it holds legal interests or assets offshore. In this case, the domestic resident does not need to establish a domestic enterprise or hold equities in a domestic enterprise in order to establish the SPV.

Compared with Circular 75, the definition of SPV and roundtrip investment under Circular 37 may therefore represent a breakthrough for the registration of SPVs who do not aim to secure financing and may efficiently address the SAFE registration issue for roundtrip investments made by "offshore companies for non-financing purposes." Still, the operational practices of Circular 37 in this regard require further examination and clarification.

Notwithstanding the above, given China's long-standing control of foreign exchange, we will need explanations and statements from SAFE defining offshore assets and interests and its legality so we may further understand the scope of these reforms. In this regard, we will also need to sufficiently communicate and confirm these points with SAFE.

### **Domestic Residents Allowed to Fund SPVs**

Under Circular 37, domestic residents are permitted to fund SPVs. Specifically, domestic residents can i) contribute capital to SPVs with legally owned onshore and offshore assets and interests; ii) advance loans to its registered SPVs via domestic enterprises controlled directly or indirectly by them based on real and reasonable demands in compliance with existing regulations; iii) purchase foreign exchange and remit the foreign exchange out of China for the purposes of establishing SPVs, for share repurchases or for delisting based on true and legitimate demands. If these provisions are implemented in accordance with their terms, it will significantly influence outbound investments made by domestic individuals.

Circular 37 solves the issue of SPVs' demand for offshore funding by permitting such funding to occur in certain circumstances, more specifically in the following ways.

(1) Allowing domestic individuals to directly contribute capital to SPVs

According to Circular 37, domestic individuals can contribute capital to SPVs with their legally owned onshore and offshore assets or interests (including but not limited to currency,

negotiable securities, intellectual property or techniques, equity and creditor's rights). These SPVs can then make offshore investments with funds remitted out of China. We need to communicate with SAFE to confirm the specifics of these directives and to understand how non-currency contributions are to be made.

(2) Allowing domestic residents to advance loans to SPVs via the enterprises in China controlled by them

In addition to being able to directly contribute capital to SPVs, according to Circular 37, domestic individuals can also advance loans to its registered SPVs via domestic enterprises controlled directly or indirectly by them based on real and reasonable demands in accordance with the *Circular of the State Administration of Foreign Exchange on Foreign Exchange Control Issues Concerning Overseas Lending by Domestic Enterprises* and other relevant regulations.

(3) Allowing domestic residents to purchase foreign exchange and remit the foreign exchange out of China for the purposes of establishing SPVs, for share repurchases or for delisting

According to Circular 37, domestic individuals can fund SPVs not only for outbound investments, but also for the purposes of establishing SPVs, for share repurchases or for delisting.

The provisions in Circular 37 permitting domestic individuals to fund SPVs represent a significant breakthrough and are of great significance. By removing the limitations set forth by Circular 75, these provisions in Circular 37 simplify the procedures for outbound investments made by domestic individuals.

### **Foreign Exchange Registration of ESOP Interests Made by Non-Listed SPVs to Directors, Supervisors, Senior Officers and Employees Allowed**

According to Circular 37, when a non-listed SPV grants equity incentives to the directors, supervisors, senior officers and employees of enterprises in China that it controls, directly or indirectly, through equity or option holdings, these domestic individuals can apply for foreign exchange registration with respect to its interests in the SPV before they exercise their rights.

Circular 37 is the first law that specifies the procedures for and detailed implementation rules of foreign exchange registration of ESOP grants made by non-listed SPVs to directors, supervisors, senior officers and employees, which may reflect the fact that regulators have closely monitored the development of offshore financings and capital markets. Circular 37's concrete provisions will assist in eliminating confusion over the registration and exercise of ESOP interests made by many non-listed SPVs who have a VIE structure. Chinese holders of ESOP interests in non-listed companies using the VIE structure no longer face uncertainty over whether offshore ESOP interests

can be exercised prior to the company's listing. Instead, these employees will have the choice to hold interests in the non-listed SPV when appropriate. This reform, and the removal of prior uncertainty over ESOP grants made by non-listed SPVs to Chinese employees, may positively contribute to the ability of non-listed SPVs to retain and encourage its employees.

However, there are a number of implementation issues that will need to be addressed, given the complexity of ESOP administration and the fact that ESOP grants may be subject to amendment. First, SAFE may face more administrative burdens stemming from increases in the number of registrations. Second, enterprises have to consider when it would be appropriate to assist their employees in applying for the registration of their ESOP interests and how to handle equity interests that are exercised after employees depart. Third, option holders may have to assume some burdens with respect to the completion of the required SAFE registration for their ESOP interests.

It should be noted that Circular 37 does not specify that domestic residents who hold ESOP interests **are required** to apply for foreign registration, but rather that they **may** do so according to Circular 37. If we were to interpret this provision strictly, it would appear that the foreign exchange registration of an ESOP grants by a non-listed SPV is not a legal obligation of any one person or entity, but rather provides a choice for option holders or companies to complete the registration. We will require further communication and confirmation with SAFE with respect to the interpretation of these provisions.

### **Foreign Exchange Registration Procedures for SPVs Adjusted**

Circular 37 and its Operating Rules materially adjust the foreign exchange registration procedures of SPVs in the following ways:

(1) Adjustment of the Initial Registration

According to Circular 37 and its Operating Rules, domestic residents shall apply with SAFE for foreign exchange registration of their offshore investment of their legally owned onshore or offshore assets or interests into SPVs (the "**Initial Registration**"). Domestic individuals are permitted to establish SPVs before conducting the Initial Registration, but prior to the completion of the Initial Registration, they cannot fund the SPVs except for paying for registration costs.

Compared with Circular 75 and its operating rules, Circular 37 and its Operating Rules contain the following uncertainties: (a) Circular 37 and its Operating Rules do not specify whether offshore financings, equity transfers, roundtrip investments or other substantial adjustments of the SPV's assets or equity are allowed to occur prior to the completion of the Initial Registration. Presently we do not know whether offshore financings or other assets or equity adjustments can be completed prior to the completion of Initial Registration. (b) Circular 37 and its Operating Rules specify that domestic individuals only have to apply for foreign exchange registration of the parent SPV established or controlled directly by them.

Presently, we do not know whether domestic individuals have to apply for foreign exchange registration of other SPVs apart from the parent SPVs established or controlled indirectly by them. For example, in a typical VIE structure; the offshore entities would consist of a financing vehicle in the Cayman Islands / British Virgin Islands, which is the 100% owner of a Hong Kong entity. In this scenario, would foreign exchange registration be required for both entities or only for the Cayman Islands / British Virgin Islands entity. We have to communicate and confirm with SAFE about how these rules are implemented in practice.

(2) Adjustment of Amended Registrations

According to Circular 37 and its Operating Rules, domestic residents are required to amend their registrations with SAFE (a) when the domestic individual shareholder, the name, the operation period or other basic information of the registered SPV changes or (b) when the capital contributed by domestic individuals increases or is reduced, or when there is a share transfer or exchange, merger, division or other material event (the “**Amended Registration**”).

Compared with Circular 75 and its operating rules, Circular 37 and its Operating Rules make the following adjustments: (a) not specifying financings or equity transfers relating to the SPV as events that trigger an Amended Registration, (b) abolishing the 30-day time period requirement to complete an Amended Registration, starting from the occurrence of the triggering event, and (c) abolishing the requirement that domestic residents’ profits, dividends and foreign exchange income from capital variation gains of SPVs be transferred back to China within 180 days following the acquisition of such profits, dividends and foreign exchange income.

(3) Further specifying “Supplement Registrations”

Circular 37 provides that domestic residents who, prior to the effectiveness of Circular 37, funded SPVs with legally owned onshore or offshore assets or interests but who failed to apply for foreign exchange registration of its offshore investment, shall issue a cover letter explaining such non-compliance to SAFE. SAFE will then provide a “Supplemental Registration” in accordance with law and reasonableness, while administrative punishments are imposed on the activities that breach prior SAFE provisions. Considering China’s “Going Out” policy, the “Supplemental Registration” may be effective to remedy legacy non-compliance issues at a time when such prior conduct is now legal.

Due to the operational issues surrounding foreign exchange registration procedures for SPVs, we need to communicate and confirm the details of these procedures with SAFE.

### **Concrete Bases for Punishment and Penalties**

Unlike Circular 75, Circular 37 specifies the concrete bases for punishment and penalties, which target unlawful acts that arise in practice. Circular 37 incorporates provisions from the *Regulations*

on *Foreign Exchange Control*, as follows:

- (1) Domestic residents or enterprises directly or in directly controlled by them remit funds out of China into SPVs via false or fabricated transactions.

According to Article 39 of the *Regulations on Foreign Exchange Control*, SAFE shall order the offending party to repatriate the involved foreign exchange back to China within a specified time limit and shall impose a fine of not more than 30% of the involved foreign exchange. In serious cases, the SAFE shall impose a fine of more than 30% and not more than the total amount of involved foreign exchange. The offending party shall also be subject to criminal liability according to law if the act constitutes a criminal offence.

- (2) Domestic residents fail to apply for the required foreign exchange registrations, fail to truthfully disclose information on who actually controls the roundtrip investment enterprises or make fictitious promises.

According to Article 48, Paragraph 5 of the *Regulations on Foreign Exchange Control*, SAFE shall order the offending institution or individual to remediate the non-compliance, issue a warning, and impose a fine of not more than RMB 300,000 in the case of an institution or not more than RMB 50,000 in the case of an individual.

- (3) Funds are remitted out of China when domestic residents fail to apply for the required foreign exchange registrations, fail to truthfully disclose information on who actually controls the roundtrip investment enterprises or make fictitious promises.

According to Article 39 of the *Regulations on Foreign Exchange Control*, SAFE shall order the offending party to repatriate the involved foreign exchange back to China within a specified time limit and shall impose a fine of not more than 30% of the amount of the involved foreign exchange. In serious cases, the SAFE shall impose a fine of more than 30% and not more than the total amount of the involved foreign exchange. The offending party shall also be subject to criminal liability according to law if the act constitutes a criminal offence.

- (4) Funds are remitted into China or foreign exchange is settled when domestic residents fail to apply for the required foreign exchange registrations, fail to truthfully disclose information on who actually controls the roundtrip investment enterprises or make fictitious promises.

According to Article 41 of the *Regulations on Foreign Exchange Control*, if anyone remits foreign exchange into China in violation of relevant law, SAFE shall order the offending party to remediate the non-compliance and shall impose a fine of not more than 30% of the illegal remittance amount. In serious cases, the SAFE shall impose a fine of more than 30% and not more than the total illegal remittance amount. If anyone illegally settles foreign exchange, SAFE shall order the offending party to convert the funds from the illegal settlement and shall impose a fine of not more than 30% of the illegal foreign exchange settlement amount.

- (5) Where cross-border balance of payments occurs between domestic residents and SPVs, domestic residents fail to declare the international receipts and payments or conduct statistics registration according to law.

According to Article 48, Paragraph 1 of the *Regulations on Foreign Exchange Control*, SAFE shall order the institution or individual to remediate the non-compliance, issue a warning and impose a fine of not more than RMB 300,000 in the case of an institution or not more than RMB 50,000 in the case of an individual.

## **2. Interpretation of the Shanghai Pilot Free Trade Zone's 2014 Negative List (Authors: Kelvin GAO, Li ZHANG, Charles WU)**

On June 30<sup>th</sup>, 2014, the Shanghai government promulgated the *Special Management Measures for the Market Entry of Foreign Investment in the China (Shanghai) Pilot Free Trade Zone (Negative List) (2014 Revision)* (the "**Negative List**"). Compared with the 2013 version, the Negative List reduced the number of items subject to special management measures from 193 to 139. Among the 139 special management measures, there are 110 restrictive measures and 29 prohibitive measures. Amongst the three macroeconomic industrial denominations, there are 6 measures in the first industry, 66 measures in the second industry (including 46 measures in the manufacturing industry) and 67 measures in the third industry.

The Negative List is formulated in accordance with relevant laws and regulations, namely the *Overall Plan for the China (Shanghai) Pilot Free Trade Zone* approved by the State Council, the *Measures of the China (Shanghai) Pilot Free Trade Zone for Further Liberalization and the Catalogue for the Guidance of Foreign Investment Industries (2011 Revision)*. It specifies market entry measures with respect to foreign investment projects and the establishment of foreign-invested enterprises adopted within the China (Shanghai) Pilot Free Trade Zone ("**FTZ**") that are inconsistent with national treatment of such items. The Negative List is prepared based on the classifications in the *Industrial Classification and Codes for National Economic Activities (2011 Edition)*, and comprises of 18 industrial categories. The Negative List does not apply to two industrial categories, namely the S category (public administration, social security and social organizations) and the T category (international organizations).

### **Overview of the New Changes**

The Negative List contains the following changes:

- (1) **In light of the further opening of the market**, the Negative List, compared with the 2013 list, cancels 14 management measures (7 measures in the service industry and 7 measures in the manufacturing industry) and relaxes 19 management measures (9 measures in the manufacturing industry, 1 measure in the infrastructure industry, 1 measure in the real estate

industry, 4 measures in the commerce and trade services industry, 2 measures in the shipping industry, 1 measure in the professional services industry and 1 measure in the social services industry).

- (2) **In light of enhanced regulatory transparency**, the Negative List, compared with the 2013 list, reduces the number of management measures that contain no specific restrictive conditions from 55 to 25. Requirements have been imposed on the measures that previously contained no restrictive conditions. For example, with respect to direct sales investment, investors are required to have three years of direct sales experience outside of China, and the paid-in registered capital of the company shall not be lower than RMB 80 million. With respect to investment in the basic telecommunication service, the proportion of foreign investment shall not exceed 49%.
- (3) **In view of the global trends**, and according to the internationally prevailing rules, 14 measures on the 2013 list that restricted or prohibited foreign investment mainly in the manufacturing industry and other industries with high energy consumption and high pollution are not on the Negative List.
- (4) **With respect to wording and expression changes**, the most important changes are:
  - (a) The Negative List's name is modified. The Negative List is called the *Special Management Measures for the Market Entry of Foreign Investment in the China (Shanghai) Pilot Free Trade Zone (Negative List) (2014 Revision)*, which will be amended from time to time in accordance with laws and regulations and the development of the FTZ in the future, and such amendments will be marked with the year the revisions are made.
  - (b) The structure of the Negative List has been adjusted. To help investors understand the management measures more clearly, the Negative list places the industry classification code behind the management measures in accordance with the custom to highlight the restrictive measures and unified explanations are now given for different code measures in the same industry. For example, investment in the design, manufacture and maintenance of vessels (including sections) and investment in the design, manufacture and maintenance of utility aircrafts, which were previously described in the two separate articles, have been combined into one. To make public consultations more convenient, serial numbers have been added before the management measures.
  - (c) The instructions in the Negative List have been amended. The Negative List is amended based on *the Measures of the China (Shanghai) Pilot Free Trade Zone for Further Liberalization*. Also, the instructions relating to the establishment, alteration and management of foreign companies has been amended as follows: "*Fields not covered by the Negative List shall be governed by the management principle of equal treatment of*

*domestic and foreign investment. Specifically, foreign investment projects shall be subject to record-filing (except where verification and approval of domestic investment projects has been retained as prescribed by the State Council), while the establishment and alteration of foreign-invested enterprises shall also be managed by record-filing. With respect to fields covered by the Negative List, foreign investment projects shall be subject to verification and approval (except where record-filing for foreign investment projects applies as prescribed by the State Council), while the establishment and alteration of foreign-invested enterprises shall be managed by examination and approval.”*

### **Further Market Access Measures in Each Industry**

#### **(1) Market Access Measures in the Service Industry**

With respect to market access measures in the services industry, the Negative List provides 6 measures in the shipping industry, 3 measures in the commerce and trading industry, 4 measures in the professional services industry and 1 measure in the social services industry, as well as further market access to the commercial logistics, auditing, medical and other fields. For example, in the commerce and trading industry, the Negative List abolished restrictions on foreign investment in the mail-order and general online commodities sales industries. In the logistics industry, the Negative List permits foreign investors to, using a sole proprietorship, handle international shipping, international container shipping and storage businesses, and permits wholly-foreign owned companies to work as sales agents in the air transportation business. In the auditing industry, professionals in Hong Kong and Macao who are accredited as certified public accountants can assume the position of partner in an accounting firm. In the medical field, restrictions on the minimum investment amount and the prior operational experience requirements for medical institutions have been cancelled. These market access measures in the services industry will promote the services function of FTZ.

#### **(2) Market Access Measures in the Manufacturing and Construction Industries.**

5of the 14 measures relating to the manufacturing industry have focused on the study, invention and design of products. For example, foreign investors are permitted, using a sole proprietorship, to manufacture and develop automotive electronic bus networking technology, electrical power steering systems and electrical controllers; to design luxury cruise ships and yachts and ship cabins; to design, manufacture and repair aero engine components; to study, design and manufacture passenger service facilities and equipment for high speed railways, passenger dedicated railway lines, inter-city railways and urban rail transit, which will continuously benefit the promotion of productivity. With respect to the construction industry, the Negative List provides market access to foreign investors in the infrastructure industry and provides market access to allow foreign investors to apply new technology in the mining

industry.

## **Management of Foreign Investment Revolutionized**

The Negative List reflects one of the FTZ's most important highlights, which is its revolutionary and innovative management of foreign investment.

### **(1) Expanding the Scope of Projects that Merely Require a Record-Filing**

Certain investment areas have been removed from the Negative List through further market access reform and the implementation of unified management for both domestic and foreign investment. This means that another batch of foreign-invested projects can merely be recorded in the same way as domestic investments, thereby expanding the scope of record-filings. At the same time, for investment areas in the Negative List, all foreign-invested projects that are permitted by the *Catalogue of Investment Projects Subject to Government Verification and Approval (2013 Version)*, can merely be recorded. Currently, there are 33 such project kinds in the Negative List.

### **(2) Transparency in Market Entry Requirements for Foreign Investment**

During the process of forming the Negative List, these new reforms and innovations were introduced: with respect to permitted resource allocations in the market, any restrictions on joint ventures shall be released to the furthest extent possible; with respect to foreign investments that can be managed the same way as domestic investments, the special restrictions on entry shall be cancelled; with respect to foreign investment projects that require environmental protection approval, energy conservation approval, licenses or other entry items, special restrictions shall be reduced.

### **(3) Management System for Foreign Investment Improved**

The establishment of a management model for the Negative List will improve the security review procedures for foreign investment.

## **Changes in Major Industries**

Below is an analysis of new changes in some key areas of the Negative List.

### **(1) Service Providers from Hong Kong and Macao can Establish a Sole Proprietorship to Release Chinese Films**

With respect to the film industry, while the 2013 negative list provided that "[i]nvestment in the construction and operation of cinemas shall be restricted (with Chinese parties being the controlling shareholders)," the Negative List states that "[e]xcept for service providers from Hong Kong and Macao, investment in the construction and operation of cinemas shall be restricted (with Chinese parties being the controlling shareholders)." This means that

following approval by the competent domestic regulatory departments, service providers from Hong Kong and Macao can establish a sole proprietorship to release Chinese films.

(2) Reducing Restrictions on the Financial and Real Estate Industries

With respect to the financial industry, investment in the banking industry only requires compliance with currently effective regulations. Restrictions on investment in small loan and financing guarantee companies have been removed. With respect to the real estate industry, restrictions on foreign investment in the development of plots of land have been abolished. In the entertainment industry, only the restrictions on investment in the construction and operation of large theme parks still remain.

(3) Further Market Access for Foreign Investors in the Paper Industry

The following prior restriction that was in the 2013 negative list has been removed from the Negative List, “[s]ingle production lines that mainly utilize overseas timber resources for chemical wood pulp with an annual production capacity of 300,000 tons or more, single production lines for chemi-mechanical wood pulp with an annual production capacity of 100,000 tons or more, and production lines for high-grade paper or paperboard simultaneously built (limited to Sino-foreign equity/cooperative joint venture operations).” This means that foreign investors can for a sole proprietorship and invest in this area now.

(4) Wholly-foreign Owned Companies can Develop and Apply Oil Recovery Technologies

By not specifying restrictions on petroleum and natural gas extraction, the Negative List indicates that foreign investors are permitted to engage in such businesses using a sole proprietorship. Wholly-foreign owned companies are also permitted to study and apply technologies relating to geophysical prospecting, drilling, well logging, mud logging, borehole operations as well as technologies relating to petroleum exploration and development, which provide increased market access for foreign investors in the field of oil and natural gas.

(5) Expanding the Scope of Investment for Air-transportation Service Providers

With respect to the air-transportation industry, the Negative List stipulates that “[e]xcept for service providers from World Trade Organization member countries who are allowed to establish, together with mainland Chinese computer reservation systems service providers, joint ventures where the Chinese parties shall be the controlling shareholders according to the free trade zone agreements signed between China and such World Trade Organization member countries, investment by investors from other countries or regions in civil aviation computer reservation systems shall be prohibited and the relevant investment shall be subject to testing for economic demand.” Compared with the 2013 negative list, the Negative List expands the range of service providers from “the companies where the Chinese parties shall be the controlling shareholders” to “any service providers from World Trade

Organization member countries.”

**Exhibit: Special Management Measures for the Market Entry of Foreign Investment in the China (Shanghai) Pilot Free Trade Zone  
(Negative List) (2014 Revision)**

Industry	Category	No.	Special Management Measures	Code <sup>1</sup>
A Agricultural, Forestry, Livestock, and Fishing Industries	A01 Agriculture	1	Investment in the planting and cultivation of traditional Chinese medicinal herbs shall be limited to Sino-foreign equity/cooperative joint venture operations.	A01
	A02 Forestry	2	Investment in the selection and cultivation of new varieties of crops, and the production of seeds shall be restricted (with Chinese parties as the controlling shareholders).	A01
	A03 Livestock			
	A04 Fishing	3	Investment in crop seeds shall be limited to Sino-foreign equity/cooperative joint venture operations with registered capital of not less than USD 500,000, and the proportion of Chinese investment in grain seed, cotton and vegetable oil crop enterprises shall be no less than 50% and the corresponding registered capital shall be no less than USD 2 million.	A01
	A05 Service Industries for the Agricultural, Forestry, Livestock, and Fishing Industries			
	4	Investment in the processing of lumber derived from precious varieties of trees shall be limited to Sino-foreign equity/cooperative joint venture operations.	A02	
	5	Investment in research and development, breeding and planting of China's rare and special varieties, and the production of relevant breeding materials (including quality genes in the planting industry, husbandry and aquaculture) and research and development of transgenic organisms, and the production of transgenic crop seeds, breeding of livestock and poultry, and aquatic fingerlings, shall be prohibited.	A	
	6	Investment in fishing in sea areas and inland waters within China's jurisdiction shall be prohibited.	A04	
B Mining	B06 Coal Mining and Dressing	7	Investment in the exploration and mining of special and rare kinds of coal shall be restricted (with Chinese parties as the controlling shareholders).	B06 M747

<sup>1</sup> “代码” 是国民经济行业分类代码。The “Code” is the National Economic Industrial Classification Code.

Industry	B07 Oil and Gas Mining	8	Investment in the exploration and exploitation of coal-bed gas and utilization of mine gas shall be limited to Sino-foreign equity/cooperative joint venture operations.	B07 M747
		9	Investment in risk exploration and exploitation of oil and natural gas shall be limited to Sino-foreign equity/cooperative joint venture operations.	B07 M747
		10	Investment in the exploitation of low permeability oil/gas reservoirs (fields) shall be limited to Sino-foreign equity/cooperative joint venture operations.	B07
		11	Investment in the exploitation of low permeability oil/gas reservoirs (fields) shall be limited to Sino-foreign equity/cooperative joint venture operations.	B07 M747
		12	Investment in the exploration and exploitation of unconventional oil resources, including shale oil, oil sands, heavy crude oil, and extra-heavy crude oil shall be limited to Sino-foreign equity/cooperative joint venture operations.	B07 M747
	B08 Mining and Selection of Ferrous Metal Mines	13	Investment in the mining and the mining selection of iron sulfur mines and the mining of ludwigite shall be restricted.	B08
	B09 Mining and Selection of Non-ferrous Metal Mines	14	Investment in the mining of szaibelyite, the mining and mining selection of lithium mines, and the exploration and mining of noble metals (gold, silver and platinum group) shall be restricted.	B09 M747
		15	Investment in the exploration and mining of tungsten, molybdenum, tin, and stibonium and the exploration, mining and selection of rare earth and radioactive minerals shall be prohibited.	B09 M747
	B10 Mining and Selection of Non-metal Mines	16	Investment in the exploration and mining of barites shall be limited to Sino-foreign equity/cooperative joint venture operations.	B10 M747
		17	Investment in the exploration and mining of diamonds, high-aluminum fireclay, wollastonite, graphite, and other important nonmetallic metals, the mining and mining selection of phosphorus mines, the extraction of brine resources from salt lakes, and the mining of celestite shall be restricted.	B10 M747

		18	Investment in the mining of marine manganese nodules and sea sands shall be restricted (with Chinese parties as the controlling shareholders).	B10
		19	Investment in the exploration and mining of fluorite shall be prohibited.	B10 M747
	B11 Mining Support Activities	20	Investment in the processing of ludwigite shall be restricted.	B11
C Manufacturing Industry	C13 Agricultural Products, Byproducts, and Food Processing Industries	21	Investment in rice and flour processing shall be restricted.	C131
		22	Investment in edible oil and fat processing from soybeans, rapeseeds, peanuts, cottonseeds, camellia seeds, sunflower seeds, and palms shall be restricted (with Chinese parties as the controlling shareholders).	C133
		23	Investment in the production of biological liquid fuels (fuel ethanol and biodiesel) shall be restricted (with Chinese parties as the controlling shareholders).	C136
		24	Investment in the deep processing of corn shall be restricted.	C139
	C15 Wine, Beverage, and Refined Tea Manufacturing Industries	25	Investment in the production rice wine and famous-branded spirits shall be restricted (with Chinese parties as the controlling shareholders).	C151
		26	Chinese parties shall be the controlling shareholders in investments relating to green tea processing with Chinese traditional techniques; investment in special tea processing with Chinese traditional techniques (white tea, yellow tea, oolong tea, black tea and compressed tea) shall be prohibited.  <b>*2013 Version: Investment in green tea and special tea processing was prohibited</b>	C153
	C16 Tobacco Products Industry	27	Investment in the processing and production of threshed and redried tobacco leaves shall be restricted.	C161
		28	Investment in the processing of cellulose diacetate and tow shall be limited to Sino-foreign	C169

			equity/cooperative joint venture operations.	
C 23 Industries Relating to Printing and Reproduction of Recorded Media	29	Investment in the printing of publications shall be restricted (with Chinese parties as the controlling shareholders),with the corresponding registered capital shall not be lower than RMB 10 million.		C231
	30	Investment in the production of read-only disks shall be limited to Sino-foreign equity/cooperative joint venture operations, with the Chinese parties being the controlling shareholders or assuming a dominant position.		C233
C 24 Industries Relating to Cultural and Educational Products, Crafts, Sports, and Entertainment Products Manufacturing	31	Investment in ivory carving, tiger bone processing, the production of bodiless lacquer ware, the production of enamel products, and the production of Xuan paper and Chinese ink ingot shall be prohibited.		C243
C25 Petroleum Processing, Coking, and Nuclear Fuel Processing Industries	32	Investment in the smelting and processing of radioactive minerals shall be prohibited.		C253
C 26 Industries Relating Chemical Raw Materials and Chemical Products Manufacturing	33	Investment in the production of PVC through the acetylene method, the production of a limited output of ethane and post-processing products, and the production of calcined soda and caustic soda, as well as sulfuric acid, potassium carbonate, and inorganic salt, shall be restricted.		C261
	34	Investment in the production of butadiene rubber (excluding high cis-butadiene rubber), emulsion polymerized styrene butadiene rubber (E-SBR), and thermoplastic styrene-butadiene-styrene		C265

			(SBS) rubber, shall be restricted.	
		35	Investment in the production of precursor chemicals (ephedrine, 3,4-methylenedioxyphenyl-2-propanone, phenylacetic acid, 1-phenyl-2-propanone, piperonal, safrole, iso-safrole and acetic oxide), hydrogen fluoride, and other low-end chlorofluorocarbons or chlorofluoro-compounds and photosensitive materials, shall be restricted.	C266
		36	Investment in weapons and ammunition manufacturing shall be prohibited.	C267
	C27 Industries Relating to Medical and Pharmaceutical Products Manufacturing	37	Investment in the production of active pharmaceutical ingredients (APIs) for anesthetics and Category I psychotropic drugs shall be restricted (with Chinese parties as the controlling shareholders).	C271
		38	Investment in the processing of traditional Chinese medicinal materials listed in the <i>Regulations for the Protection of Wild Medicinal Resources</i> and the <i>Catalogue of China's Rare, Precious, and Endangered Plants under Protection</i> , shall be prohibited.	C273 C274
		39	Investment in the application of processing techniques such as steaming, stir-frying, moxibustion, and calcination for the purposes of producing small pieces of ready-to-use traditional Chinese medicines, and the production of traditional Chinese patented medicine with secret prescriptions, shall be prohibited.	C273 C274
		40	Investment in the production of blood products and varieties of vaccines that have been incorporated into the nation's immunity planning shall be restricted.	C276
C Manufacturing Industry	C32 Industries Relating to the Smelting and Rolling of Nonferrous Metals	41	Investment in the smelting and separation of rare earth elements shall be limited to Sino-foreign equity/cooperative joint venture operations.	C323
	C34 General Equipment Manufacturing	42	Investment in the manufacturing of wheeled, caterpillar hoisting machinery with a lifting capacity of less than 400 tons shall be limited to Sino-foreign equity/cooperative joint venture operations.	C343

	Industry			
	C35 Special-Purpose Equipment Manufacturing Industry	43	Investment in deepwater (3,000 meters or more) marine engineering equipment design shall be limited to Sino-foreign equity/cooperative joint venture operations.	C351
		44	Investment in the manufacturing of bulldozers with horsepower of 320 or less, hydraulic excavators above 15 tons and less than 30 tons, wheeled loaders above 3 tons and less than 6 tons, graders, road rollers, and forklifts with horsepower of 220 or less, electrically driven off-highway dump trucks that are 135 tons or less, hydro-mechanically driven off-highway dump trucks that are 60 tons or less, asphalt concrete mixing and paving equipment and high-altitude operational machinery, garden machinery and tools, and ready-mixed concrete machinery (pilot pumps, agitating lorries, mixing stations and pump trucks), shall be restricted.	C351
		45	Investment in the manufacturing of complete sets of large coal chemical equipment shall be limited to Sino-foreign equity/cooperative joint venture operations.	C352
		46	Investment in the manufacturing of equipment for air traffic control systems shall be limited to Sino-foreign equity/cooperative joint venture operations.	C359
	C36 Automobile Industry	47	Investment in the manufacturing of vehicles, special purpose automobiles, and agricultural vehicles shall be limited to Sino-foreign equity joint venture operations, with the shareholding percentage of Chinese parties at no less than 50%; when selling legal persons' shares in a vehicle joint stock company, special purpose automobiles, and agricultural vehicles that have been listed, one of the Chinese legal persons thereof shall hold the majority of shares and its shareholding shall be more than the total shareholding held by foreign legal persons; one foreign investor may establish two (inclusive) or fewer joint ventures in China to manufacture vehicle products in the same category (passenger vehicles or commercial vehicles), but such limitation may be lifted in the case of joint mergers by and between other domestic automobile manufacturers and the Chinese partners.	C36
		48	Investment in research and development of automobiles' embedded electronic integrated	C366

			systems shall be limited to Sino-foreign equity/cooperative joint venture operations.	
		49	The proportion of foreign investment in an investment in the manufacturing of high energy power batteries of new energy automobiles (energy density $\geq 110\text{Wh/kg}$ , cycle life $\geq 2000$ times) shall not exceed 50%.	C366
	C37 Industries Relating to Railway, Vessel, Aviation, and Other Transportation Equipment Manufacturing	50	Investment in track transportation equipment shall be limited to Sino-foreign equity/cooperative joint venture operations: research and development, design and manufacturing of vehicles and key parts and components (traction drive systems, control systems and brake systems) for high-speed railway transportation equipment, special lines for railway passenger transportation, intercity railways, trunk railways and urban track transportation; research and development, design and manufacturing of passenger services facilities and equipment for urban track transportation; design and research and development of relevant information systems in the informationization construction of high-speed railways, special lines for railway passenger transportation, intercity railways and urban track transportation; research and development, design and manufacturing of track transportation signal systems; railway noise and vibration control technology and research and development thereof, and the manufacturing of safety monitoring equipment for railway transportation.	C371 C372
		51	Investment in the design of low- and medium-speed diesel engines of vessels and parts and components thereof and the manufacturing of yachts shall be limited to Sino-foreign equity/cooperative joint venture operations.	C373
		52	Chinese parties shall be the controlling shareholdings in investment in the manufacturing of low and medium-speed diesel engines of vessels and bent axles.	C373
		53	Chinese parties shall hold the relative majority of shares in the manufacturing of cabin machinery of vessels.	C373
		54	Investment in the design, manufacturing and maintenance of vessels (including sections) shall be restricted (with Chinese parties as the controlling shareholders); Chinese parties shall be the	C373 C351

			controlling shareholdings in an investment in the manufacturing and maintenance of marine engineering equipment (including modules).	C433
		55	Investment in the design, manufacturing and maintenance of utility aircrafts shall be limited to Sino-foreign equity/cooperative joint venture operations.	C374 C433
C Manufacturing Industry	C37 Industries Relating to Railway, Vessel, Aviation, and Other Transportation Equipment Manufacturing	56	Investment in the design, manufacturing and maintenance of aircraft engines and aircraft auxiliary power systems shall be limited to Sino-foreign equity/cooperative joint venture operations; and investment in the design and manufacturing of airborne equipment for civil aviation shall be limited to Sino-foreign equity/cooperative joint venture operations.	C374 C433
		57	Investment in the design and manufacturing of civil helicopters less than three tons shall be limited to Sino-foreign equity/cooperative joint venture operations; for those that are three tons or more, Chinese parties shall be the controlling shareholders.	C374
		58	Chinese parties shall be the controlling shareholders in an investment in the design, manufacturing and maintenance of civil aircraft for trunk lines and regional aircrafts.	C374 C433 C563
		59	Chinese parties shall be the controlling shareholders in an investment in the manufacturing of ground-effect and water-effect aircrafts and the design and manufacturing of unmanned aircraft and aerostats.	C374
		60	The shareholding percentage of Chinese parties in a Sino-foreign equity joint venture that manufactures high-emission (>250ml) motorcycles shall be no less than 50%; when selling legal persons' shares in an aforementioned high-emission (>250ml) motorcycle joint stock company, one of the Chinese legal persons thereof shall hold the majority of shares and its shareholding shall be more than the total shareholding of foreign legal person; one foreign investor may establish two (inclusive) or fewer joint ventures in China to manufacture motorcycle vehicle products, and such limitation may be lifted in the case of joint merger by and between other domestic automobile manufacturers and the Chinese partners.	C375

			<p><b><u>*2013 version: The shareholding percentage of Chinese parties in Sino-foreign equity joint venture that manufactures high-emission motorcycles shall be no less than 50%; when selling legal persons' shares in an aforementioned high-emission motorcycle joint stock company, one of the Chinese legal persons thereof shall hold the majority of shares and its shareholding shall be more than the total shareholding of foreign legal persons; one foreign investor may establish two (inclusive) or fewer joint ventures in China to manufacture motorcycle vehicle products, and such limitation may be lifted in the case of a joint merger by and between other domestic automobile manufacturers and the Chinese partners.</u></b></p>	
C38 Industries Relating to Electrical Machinery and Equipment Manufacturing	61	Investment in the manufacturing of key auxiliary equipment used for one million-kilowatt ultra-supercritical thermal power units shall be limited to Sino-foreign equity/cooperative joint venture operations: safety valves, control valves.	C381	
	62	Investment in the manufacturing of power transmission and transformation equipment shall be limited to Sino-foreign equity/cooperative joint venture operations: amorphous alloy transformers, operating gears for high-voltage switches with 500 kilowatts or more, arc-control devices, large disc insulators (1,000 KV, 50 KA or more), outlet devices, sleeves used for transformers with 500 KV or more (500, 750, 1,000 KV AC, all the specifications for DC), voltage regulating switches (on-load, no-load voltage regulating switches with 500, 750, 1,000 KV AC), dry-type smoothing reactors for direct current transmissions, and converter valves for ±800 KV direct current transmissions (water coolers, DC field equipment).	C381	
	63	Investment in the manufacturing of large pumped power storage units with rated power of 350MW or more shall be limited to Sino-foreign equity/cooperative joint venture operations: pump-turbines and speed controllers, large variable speed reversible pump-turbine units, generator-motors and excitation, starters, and other ancillary equipment.	C381	
	64	Investment in the manufacturing of open (i.e., acid mist directly releasing) lead-acid batteries,	C384	

			mercury-containing silver oxide button batteries, mercury-containing alkaline zinc-manganese button batteries, pasted zinc-manganese batteries and nickel-cadmium batteries, shall be prohibited.	
	C39 Industries Relating to Computer, Telecommunications , and Other Electronic Equipment Manufacturing	65	Chinese parties shall be the controlling shareholdings an investment in the design and manufacturing of civil satellites and the manufacturing of civil satellite payloads.	C392
		66	Investment in the production of satellite telecasting ground receiving facilities and key components shall be restricted.	C393
D Power, Heating Production, and Supplies Industries	D44 Power, Heating Production, and Supplies Industries	67	Chinese parties shall be the controlling shareholders in an investment in the construction and operation of nuclear power stations.	D44
		68	Investment in the construction and operation of grids shall be restricted (with Chinese parties as the controlling shareholders); investment in construction and operation of pipeline networks for gas, heat, water supply, and sewage in cities with a population over 500,000 shall be restricted (with Chinese parties as the controlling shareholders).	D44 D45 D46
E Construction Industry	E48 Civil Engineering and Construction Industries	69	Investment in the construction and operation of branch railway lines, local railway lines, and related bridges, tunnels, ferries, and station facilities shall be limited to Sino-foreign equity/cooperative joint venture operations.	E481
		70	Chinese parties shall be the controlling shareholders in an investment in the construction and operation of network of trunk railway lines.	E481
		71	Chinese parties shall be the controlling shareholders in an investment in the comprehensive maintenance of high-speed railway line infrastructure, passenger railway lines, and intercity railways.	E481

		72	Chinese parties shall be the controlling shareholders in an investment in the construction and operation of urban subways, light railways, and other track transport.	E481
F Wholesale and Retail Industries	F51 Wholesale Industry F52 Retail Industry	73	Investment in the purchase of grains shall be restricted; grain enterprises that manage grain reserves and supply grain for military use shall be controlled by state-owned shares; investment in the wholesale of grain and cotton shall be restricted and investment in the construction and operation of the wholesale market for large-scale agricultural products shall be restricted.	F511
		74	Investment in the wholesale, retail, and distribution of tobacco shall be restricted.	F512 F522
		75	Except for Hong Kong and Macao service providers, who may distribute audio-video products (including post-movie products) using a sole proprietorship, equity joint venture or cooperative joint venture, investors from other countries and regions shall be restricted from investing in the distribution of audio-video products (except for movies) (Sino-foreign cooperative joint venture operations only).	F514 F524 L712
		76	Investment in the wholesale and distribution of agricultural chemicals, agricultural plastic film, and bonded oil shall be restricted.	F516
		77	Investment in cultural relic auctions and cultural shops shall be prohibited.	F518 F524
		78	Investment in the retail and distribution of agricultural chemicals and agricultural plastic film shall be restricted (in the case of chain stores who have established more than 30 stores and who sell a variety of different products and product brands from multiple suppliers, the Chinese parties shall be the controlling shareholders).	F521
		79	Except for capital contributions made by one Hong Kong or Macao service provider, with respect to the operation of chains relating to books, newspaper, and periodicals, investment shall not exceed 65%, an investor from other countries or regions who invest in the operation of chains relating to books, newspaper, and periodicals and who have established more than 30 chain	F524 L712

			stores shall not be the controlling shareholder.	
		80	Investment in the construction and operation of gas stations shall be restricted (in the case of those who have established more than 30 chain gas stations funded by the same foreign investors and who sell different varieties and brands of oil products from multiple suppliers, the Chinese parties shall be the controlling shareholders).	F526
		81	Investment in direct sales shall be restricted: investors shall have over three years of experience in outside of China, and the paid-in registered capital of the company shall not be lower than RMB 80 million; investment in online sales shall be restricted (except for online sales of general commodities).  <b><u>*2013 Version: Investment in direct sales, mail sales and online sales was prohibited.</u></b>	F529
G Transportation , Storage and Warehousing, and Postal Services Industries	G53 Railway Transportation Industry	82	Investment in railway passenger transport companies shall be restricted (with Chinese parties as the controlling shareholders).	G531
	G 54 Road Transportation Industry	83	Investment in highway passenger transport companies shall be limited to Sin-foreign equity joint venture operation; the foreign investment percentage in line passenger transport, tourism passenger transport and chartered passenger transport shall not exceed 49% with at least one of the main investors being an enterprise engaging in road passenger transport service for more than five years in China; investment in operation of road passenger stations shall be limited to Sino-foreign equity/cooperative joint venture operations (with foreign investment percentage no more than 49%).  <b><u>*2013 Version: Investment in highway passenger transport companies shall be limited to Sin-foreign equity joint venture operation (with foreign investment percentage no more than 49%) with at least one of the main investors being an enterprise engaging in road passenger transport service for more than five years in China</u></b>	G542

		84	Investment in cross-boundary automobile transport companies shall be restricted.	G543
G55 Waterway Transportation Industry		85	Investment in domestic waterway transport operations shall be restricted (with Chinese parties as the controlling shareholders); investment in scheduled or non-scheduled international marine transportation services shall be limited to Sino-foreign equity/cooperative joint venture operations.  <b><u>*2013 Version: Investment in domestic waterway transport operations shall be restricted (with Chinese parties as the controlling shareholders); investment in scheduled or non-scheduled international marine transportation services shall be restricted (with Chinese parties as the controlling shareholders).</u></b>	G551 G552
		86	Except where the foreign investment percentage in a public international vessel agency operation does not exceed 50%, investment in vessel agencies shall be restricted (with Chinese parties as the controlling shareholders).  <b><u>*2013 Version: Investment in vessel agencies shall be restricted (with Chinese parties as the controlling shareholders).</u></b>	G553
		87	Investment in ocean shipping tally companies shall be limited to Sino-foreign equity/cooperative joint venture operations.	G553
G56 Air Transportation Industry		88	Chinese parties shall be the controlling shareholdings in an investment in air transportation companies; the legal representative shall be Chinese citizen; the operational term shall not be over 30 years; for investment in public aviation transportation operations, the investment percentage of a single foreign party (including its affiliates) shall not exceed 25%.	G561
		89	Investment in general airline companies for agriculture, forestry, and fishing shall be limited to Sino-foreign equity/cooperative joint venture operations; the legal representative shall be a Chinese citizen; the operational term shall not exceed 30 years.	G562
		90	Chinese parties shall be the controlling shareholders in an investment in general aviation	G562

			enterprises engaged in business flight and aerial sightseeing; investment in general aviation companies for photography, prospecting, and industrial purposes shall be restricted (with Chinese parties as the controlling shareholders); the legal representative shall be a Chinese citizen; the operational term shall not exceed 30 years.	
G Transportation , Storage and Warehousing, and Postal Services Industries	G56 Air Transportation Industry	91	Except for Hong Kong and Macao service suppliers, who are permitted to provide, using a sole proprietorship, the following seven types of air transport ground services in mainland China: agency services; loading and unloading control, communications, and departure control systems; unit load device management; passenger and baggage services; cargo and mail services; ramp services; and aircraft services, investment by investors from other countries or regions in air transport ground services shall be limited to Sino-foreign equity/cooperative joint venture operations.  <b><u>*2013 Version: Except for Hong Kong and Macao service suppliers, investment by investors from other countries or regions shall comply with the percentage requirements relating to foreign investment and the operation of the business shall not exceed 30 years.</u></b>	G563
		92	Chinese parties shall be the controlling shareholders in an investment in aviation oil projects.	G563
		93	Except for service providers from World Trade Organization member countries who are allowed to establish, together with mainland Chinese computer reservation systems service providers, joint ventures where the Chinese parties shall be the controlling shareholders according to the free trade zone agreements signed between China and such World Trade Organization member country, investment by investors from other countries or regions in civil aviation computer reservation systems shall be prohibited and the relevant investment shall be subject to economic demand testing.  <b><u>*2013 Version: Except for service providers from Hong Kong and Macao who invest in civil aviation computer reservation systems (with domestic companies as the controlling shareholders), investment by investors from other countries or regions in civil aviation</u></b>	G563

			<b><u>computer reservation systems shall be prohibited</u></b>	
		94	Chinese parties shall hold a relative majority of the shares in an investment in the construction and operation of civil airports.	G563
		95	Investment in air traffic control companies shall be prohibited.	G563
	G60 Postal Service Industry	96	Investment in domestic express delivery mail businesses and in postal companies shall be prohibited.	G601 G602
I Information Transmission, Software, and Information Technology Services Industries	I63 Telecommunications , Broadcasting and Television, and Satellite Transmission Services Industries	97	Investment in basic telecommunications services shall be restricted (with the proportion of foreign investment not exceeding 49%).  <b><u>*2013 Version: Investment in telecommunications, broadcasting, and television transmission and satellite services is restricted.</u></b>	I63
		98	Investment in all radio stations, television stations, radio and television channels (frequencies), radio and television transmission, and coverage networks (transmitting stations, relay stations, radio and television satellites, satellite uplink stations, satellite receiving and transmitting stations, microwave stations, monitoring stations, and cable radio and television transmission and coverage networks), shall be prohibited.	I63
	I64 Internet and Relevant Services Industries	99	Except for application stores, foreign investment in other information services operations shall not exceed 50%.	I64
		100	Foreign investment in domestic Internet virtual private network operations shall not exceed 50%.	I64
		101	Investment in the provision of news websites and online audio and video programs, the operation of business premises for Internet-access services, and the operation of Internet cultural businesses (excluding music), shall be prohibited.	I64
		102	Direct or indirect engagement and participation in online gaming operational services shall be	I64

			prohibited.	
	I65 Software and Information Technology Services Industries	103	Except where foreign investment does not exceed 55% for investment in for-profit-commerce operations, foreign investment shall not exceed 50% for investments in other online data processing or trade processing operations.	I65
		104	Investment in Internet data center operations shall be prohibited.	I65
J Financial Industry	J66 Monetary Financial Services Industry J67 Capital Markets Services Industry J68 Insurance Industry J69 Other Financial Industries	105	Investment in financial banking institutions shall comply with the prevailing provisions.  <b><u>*2013 Version: Investment in investment banks, finance companies, trust companies, and currency brokerage companies is restricted.</u></b>	J66
		106	Investment in insurance companies (including group companies; with respect to life insurance companies, the foreign investment shall not exceed 50%), insurance intermediaries (including insurance brokerages, agencies and assessment companies) and insurance asset management companies shall be restricted.	J68
		107	Investment in securities companies shall be restricted: the proportion of shares held by foreign parties shall not exceed 49%; when initially established, the business scope of the company shall be limited to underwriting and sponsoring stocks (including common stocks denominated in RMB and foreign stocks) and bonds (including government bonds and corporate bonds); being a brokerage for foreign stock; being a brokerage for bonds (including government bonds and corporate bonds) and self-operations; and after operating continuously for more than two years and meeting the relevant conditions, the company may apply to expands its business scope; investment in securities investment fund management companies shall be restricted: the	J67

			proportion of shares held by foreign parties shall not exceed 49%; investment in securities investment consulting institutions shall be restricted: only Hong Kong and Macao securities companies are permitted to invest, and the proportion of shares held by them shall not exceed 49%; investment in futures companies shall be restricted: only Hong Kong and Macao service providers are permitted to invest, and the proportion of shares held by them shall not exceed 49%.	
		108	The total assets of a foreign investor in an investment in a finance leasing company shall not be lower than USD 5 million; the registered capital of the company shall not be lower than USD 10 million; and the senior management shall possess at least three years of practice experience and possess the corresponding professional qualifications.	J69
K Real Estate Industry	K70 Real Estate Industry	109	Investment in high-class hotels, high-class office buildings, and international exhibition centers shall be limited to project companies.  <b><u>*2013 Version: Investment in high-class hotels, high-class office buildings, and international exhibition centers is restricted</u></b>	K701
		110	Investment in the construction and operation of villas shall be prohibited.	K701
		111	Investment in real estate secondary market trading shall be limited to project companies.  <b><u>*2013 Version: Investment in real estate secondary market trading, real estate agency, and real estate brokerage is restricted.</u></b>	K704
L Leasing and Commercial Services Industries	L72 Commercial Services Industry	112	Investment in the establishment of investment companies shall consist of the registered capital not lower than USD30 million; the foreign investor shall be a foreign company, enterprise, or economic organization; its total assets shall not be lower than USD400 million in the year prior to the application, it has established a foreign-invested enterprise in China and that enterprise's actual paid-up capital contribution to registered capital exceeds USD10 million, or it has established ten or more foreign-invested enterprises in China and its actual paid-up capital	L721

			contribution to registered capital exceeds USD30 million.	
		113	Investment in legal consulting shall be restricted: foreign law firms shall only provide legal services in using representative offices.	L722
		114	Investment in accounting firms shall be limited to Sino-foreign partnerships.	L723
		115	Investment in market investigation firms shall be limited to Sino-foreign equity/cooperative joint venture operations.	L723
		116	Investment in social investigation firms shall be prohibited.	L723
		117	Except for Hong Kong and Macao service providers, who are allowed to establish talent intermediary institutions in the form of a sole proprietorship, investors from other countries or regions shall only establish talent intermediary institutions in the form of a Sino-foreign equity joint venture, with the proportion of foreign investment not exceeding 70%; the minimum registered capital shall be USD 125,000; the foreign investor shall be a foreign company, enterprise, or other economic organization who has engaged in talent intermediary services for at least three years.	L726
		118	Investment in travel agencies engaged in outbound tourism operations shall be limited to Sino-foreign equity joint venture operations (travel business to Taiwan cannot be done).	L727
		119	Investment in security services companies engaged in armed guarding and escorting services, shall not have foreign investment exceeding 49%.	L728
		120	Investment in rating services companies shall be restricted.	L729
M Science, Research and Technology Services Industries	M73 Research and Trial Development Industries	121	Investment in the development and application of human stem cell technology shall be prohibited.	M731
		122	Investment in the development and application of genetic diagnosis and treatment technology shall be prohibited.	M734
	M74 Professional Technology Services Industry	123	Investment in surveying and mapping companies shall be restricted (with Chinese parties as the controlling shareholders); investment in the following activities shall be prohibited: geodetic surveying, marine charting, aerial photography for surveying and mapping purposes,	M744

			<p>administrative boundary surveying and mapping, compilation of topographic maps, world political division maps, national administrative division maps, administrative division maps at the provincial or level or below, national maps and regional maps for educational purposes, and true 3D maps; compilation of electronic maps for navigational purposes and other surveying and mapping activities provided by the surveying and mapping administrative competent departments of the State Council.</p> <p><b><u>*2013 Version: Investment in the following activities shall be prohibited: geodetic surveying, marine charting, aerial photography for surveying and mapping purposes, administrative boundary surveying and mapping, compilation of topographic maps, compilation of general maps and compilation of electronic maps for navigational purposes.</u></b></p>	
		124	Investment in aerial photography and other imaginary photography services shall be limited to Sino-foreign equity joint venture operations.	M749
N Water Conservation, Environmental, and Public Facilities Management Industries	N76 Water Control Industry	125	Chinese parties shall be the controlling shareholders in an investment in the construction and operation of comprehensive water control projects.	N762 N763
	N77 Ecological Protection and Environmental Treatment Industries	126	Investment in the construction and operation of natural reserves and internationally important wetlands shall be prohibited.	N771
		127	Investment in the development of wild animal and plant resources originating in and protected by China shall be prohibited.	N771
P Education Industry	P82 Education Industry	128	Investment in for-profit educational and training organizations and occupational skills training organizations shall be limited to Sino-foreign cooperative joint venture operations.	P82
		129	Investment in non-profit pre-school education, secondary vocational education, common high school education, and higher learning and other educational organizations, as well as non-profit	P82

			educational and training organizations and occupational skills training organizations, shall be limited to Sino-foreign cooperative joint venture operations; divisions for such activities shall not be established.	
		130	Investment in compulsory education and educational institutions relating to military affairs, police, politics and other special fields, and Party schools shall be prohibited; investment in for-profit pre-school education, secondary vocational education, common high school education, higher learning educational organizations etc. shall be prohibited.	P82
Q Health and Social Work Industries	Q83 Health Industry	131	Invested medical institutions shall not establish divisions.  <b><u>*2013 Version: The investment amount for medical institutions shall not be less than RMB 20 million and such institutions shall not establish divisions. The operational term of the business shall not exceed 20 years.</u></b>	Q83
R Culture, Sports, and Entertainment Industries	R85 News and Publishing Industry	132	Investment in news agencies shall be prohibited.	R851
		133	Investment in the publishing of books, newspapers, and periodicals shall be prohibited.	R852
		134	Investment in the publishing and production of audio-video products and electronic publications shall be prohibited.	R852
	Q86 Radio, Television, Movie and Television, and Movie Recording and Manufacturing Industries	135	Except for Hong Kong and Macao service providers, investment in the construction and operation of cinemas shall be restricted (with Chinese parties as the controlling shareholders).  <b><u>*2013 Version: The investment amount for the construction and operation of cinemas shall be restricted (with Chinese parties as the controlling shareholders).</u></b>	R86
		136	Investment in the production of radio and television programs and movies shall be limited to Sino-foreign cooperative joint venture operations.	R86
		137	Investment in radio and television programming production and operating companies, movie production companies, distribution companies, and theater companies shall be prohibited.	R86

	R88 Sports Industry	138	Investment in the construction and operation of golf courses shall be prohibited.	R882
	R89 Entertainment Industry	139	Investment in the construction and operation of large theme parks shall be restricted.	R892

## **Important Announcement**

This Newsletter has been prepared for clients and professional associates of Han Kun Law Offices. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.

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