

## **The Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2021 Edition)**

### **Note**

I. The Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (hereinafter referred to as the “Negative List for Foreign Investment Access in Pilot Free Trade Zones”) sets out on a unified basis the special administrative measures for foreign investment access such as equity requirements, senior management personnel requirements, etc., applicable to the Pilot Free Trade Zones. Fields not mentioned in the Negative List for Foreign Investment Access in Pilot Free Trade Zones are administered under the principle of equal treatment for domestic and foreign capitals. Domestic and foreign investors shall uniformly apply the relevant provisions of the Negative List for Market Access.

II. No overseas investor may engage in investment and business activities in the capacity of an individually owned business, an investor in a sole proprietorship enterprise, or a member of a farmers’ cooperative.

III. Foreign-invested enterprises investing in Pilot Free Trade Zones should comply with relevant provisions of the Negative List for Foreign Investment Access in Pilot Free Trade Zones.

IV. When performing duties pursuant to the law, the relevant authorities shall not process relevant matters including application for a permit, enterprise registration, etc. for proposed investments by overseas investors in fields mentioned in the Negative List for Foreign Investment Access in Pilot Free Trade Zones that does not comply with the provisions of the Negative List for Foreign Investment Access in Pilot Free Trade Zones; where approval for a fixed asset investment project is involved, the relevant approval matters shall not be processed. No foreign-invested partnership business may be established in any investment field subject to equity requirements.

V. Upon review by the relevant competent departments of the State Council and approval by the State Council, the provisions of the Negative List for Foreign Investment Access in Pilot Free Trade Zones on the relevant fields may not apply to specific foreign investments.

VI. Domestic enterprises engaged in businesses in fields prohibited from investment mentioned in the Negative List for Foreign Investment Access in Pilot Free Trade Zones shall be examined and approved by the relevant competent authorities of the state for issuing shares abroad and going public for trading; Overseas investors shall not participate in the operation and management of the enterprises, and their equity ratio shall be governed by reference to the relevant regulations on the management of domestic securities investment of overseas investors.

VII. Where domestic companies, enterprises, or natural persons merge or acquire their affiliated domestic companies through a company legally established or controlled overseas thereby, the relevant provisions on foreign investment, overseas investment, foreign exchange administration, etc. shall apply.

VIII. The cultural, financial, and other fields not listed in the Negative List for Foreign Investment Access in Pilot Free Trade Zones and relevant measures for administrative approval, qualifications, and national security shall be subject to the existing provisions.

IX. Where the Mainland and Hong Kong Closer Economic Partnership Arrangement and their follow-up agreements, the Mainland and Macau Closer Economic Partnership Arrangement and their subsequent agreements, the Cross-Straits Economic Cooperation Framework Agreement and their subsequent agreements, or the international treaties or agreements to which China accedes or is a signatory contain more preferential provisions on access treatment for overseas investors, the relevant provisions may apply.

X. The Negative List for Foreign Investment Access in Pilot Free Trade Zone shall be interpreted by the National Development and Reform Commission and the Ministry of Commerce in concert with the relevant authorities.

XI. The Negative List for Foreign Investment Access in Pilot Free Trade Zones (2020 Edition) issued by the National Development and Reform Commission and the Ministry of Commerce on June 23, 2020, will be abolished as of January 1, 2022.

## **The Special Administrative Measures on Access to Foreign Investment in Pilot Free Trade Zones (Negative List) (2021 Edition)**

No.	Special management measures
I. Agriculture, Forestry, Animal Husbandry, and Fishery	
1	Chinese investors shall hold no less than 34% of share concerning the selection and breeding of new varieties and production of wheat and corn seeds.
2	Investment in research and development, cultivation, and plantation of Chinese rare and unique precious fine varieties, as well as manufacturing of the relevant propagative materials (including excellent genes of planting, husbandry, and aquaculture), shall be prohibited.
3	Investment in breeding genetically modified varieties of crop seeds, livestock and poultry breeds, and aquatic breeds, as well as genetically modified seed (seedling) production, shall be prohibited.
II. Mining	
4	Investment in exploration, mining, and beneficiation of rare earth, radioactive materials, and tungsten shall be prohibited. (Without permission, no person shall be allowed to enter rare earth mines or obtain mine geology information, ore samples, and production technology.)
III. Power, Heat, Gas, and Water Production and Supply	
5	Controlling stake in the construction and operation of nuclear power plants shall be held by Chinese investors.
IV. Wholesale and Retail Industry	
6	Investment in wholesale and retail of tobacco, cigarettes, re-dried leaf tobacco, and other tobacco products shall be prohibited.
V. Transportation, Warehousing, and Mail Services	
7	Controlling stake in domestic water transport companies shall be held by Chinese investors. (Foreign investors shall not operate, or operate through a disguised lease of Chinese vessels or berths, etc., China domestic waterway transport business and auxiliary businesses thereof; water transport business operators shall not use foreign vessel(s) to operate domestic water transport business; however, upon approval by the Chinese government, where there is no Chinese vessel in China which can satisfy the transportation requirements, and the port or the waters where the vessel is docked is opened to foreign vessels, the water transport business operator may use foreign vessel(s) temporarily with the term or voyage stipulated by the Chinese Government to undertake marine transport and towing between Chinese ports.)

No.	Special management measures
8	Controlling stake in public aviation enterprises shall be held by Chinese investors, and the investment ratio of a foreign investor and its associates shall not exceed 25%. The legal representative of a general aviation enterprise shall be a Chinese citizen; the general aviation enterprises serving the agricultural, forestry, and fishery industries shall be limited to the form of equity joint venture; the controlling stake in other general aviation enterprises shall be held by Chinese investors. (Only designated Chinese public aviation enterprises can operate domestic aviation businesses and provide regular and ad hoc international aviation services in the capacity of a Chinese designated carrier.)
9	For the construction and operation of civil airports, a comparative controlling stake shall be held by Chinese investors. Foreign parties may not participate in the construction and operation of airport towers.
10	Investment in postal enterprises (and operation of postal services) and domestic express mail business shall be prohibited.
VI. Information Transmission, Software, and Information Technology Services	
11	Telecommunications companies: limited to telecommunications services opened up pursuant to China's WTO commitments; the foreign investment ratio for value-add telecommunications services (except for ecommerce, domestic multi-party communication, store-and-forward, and call center) shall not exceed 50%; controlling stake in basic telecommunications businesses shall be held by Chinese investors (and the operator shall be a legally established company specializing in basic telecommunications services). The pilot scheme policies of Shanghai Pilot Free Trade Zone's original territory (28.8 square kilometers) shall be extended to all pilot FTZs.
12	Investment in internet news service, internet publishing services, internet audio-visual program service, cyberculture operations (except for music), and internet information dissemination service (except for contents opened up pursuant to China's WTO commitments) shall be prohibited.
VII. Leasing and Business Services	
13	Investment in China legal services shall be prohibited (except for the provision of information which has an impact on the Chinese legal environment), and foreign investors shall not be appointed as a partner of a domestic law firm. (Foreign law firms may only enter China in the form of representative office, and shall not employ Chinese practicing lawyers, and the supporting staff employed by the representative office shall not provide legal services for its clients; establishment of a representative office in China or assignment of representative(s) based in China shall be subject to permission by the Chinese judicial authorities.)
14	Controlling stake in radio and television rating survey shall be held by Chinese investors. Chinese investors in social survey services shall hold no less than 67% of shares and the legal representative shall be a Chinese citizen.
VIII. Scientific Research and Technical Services	

No.	Special management measures
15	Investment in the development and application of human stem cells, genetic diagnosis, and treatment technology shall be prohibited.
16	Investment in humanities and social sciences research institutes shall be prohibited.
17	Investment in geodetic surveying, ocean mapping, mapping aerial photography, ground motion measurement, administrative boundary mapping; compilation of topographic map, world administrative map, China administrative map, administrative maps of provincial level and below, nationwide teaching maps, local teaching maps, real 3-D maps, and electronic navigation map; regional geological mapping, surveying of mineral geology, geophysics, earth geochemistry, earth hydrogeology, environmental geology, geological disasters, geological remote sensing, etc., shall be prohibited. (Mining owners shall not be subject to this special management measure in carrying out their work within the scope of their mining rights.)
IX. Education	
18	Pre-school education, normal high schools, and higher education institutions shall be limited to the form of Sino-foreign cooperative education and led by Chinese investors (the principal or the key person-in-charge of administration shall be a Chinese national (and reside in China); Chinese members shall comprise not less than half of the Council, board of directors or joint administrative committee). (Foreign education institutions, other organizations, or individuals shall not solely establish schools or any other educational institutions whose enrolment targets are mainly Chinese citizens (excluding non-academic vocational training institutions, and academic vocational training institutes); however, foreign educational institutions may cooperate with a Chinese educational institution to jointly establish educational institutions whose enrolment targets are mainly Chinese citizens.)
19	Investment in compulsory education institutions and religious education institutions shall be prohibited.
X. Health and Social Work	
20	Investment in medical institutions shall be limited to the form of equity joint venture.
21	Investment in the establishment of news organizations (including but not limited to news agencies) shall be prohibited. (Establishment of a resident news agency in China and assignment of permanent correspondents to China by foreign news organizations shall be subject to approval by the Chinese Government. The provision of news services by foreign news agencies in China shall be subject to examination and approval by the Chinese Government. Business cooperation between Chinese and foreign new organizations shall be led by Chinese investors, and shall be subject to approval by the Chinese Government.)

No.	Special management measures
22	Investment and operation of editing, publication, and production of books, newspapers, periodicals, audio-visual products, and electronic publications shall be prohibited. (However, subject to approval by the Chinese Government, and provided that the Chinese cooperative investors hold the operating dominance rights and the rights to the final examination of the content and that the parties satisfy other criteria such as compliant with approval reply of the Chinese Government, a Sino-foreign publisher may engage in Sino-foreign cooperative news publishing projects. Without approval by the Chinese Government, provision of financial information in China shall be prohibited.)
23	Investment in establishment and operation of all levels of radio stations, television stations, radio, and television channel (frequency), and radio and television transmission coverage networks (including transmitters and relay stations, radio and television satellites, satellite up-stations, satellite transmission stations, microwave stations, monitoring stations, cable radio, and television transmission coverage networks etc.) shall be prohibited, and engaging in radio and television video on demand services and satellite television ground receiving facilities installation services shall be prohibited. (Landing of overseas satellite channels shall be subject to examination and approval.)
24	Investment in radio and television program production and operation (including introduction of business) enterprises shall be prohibited. (Introduction of overseas television programs and introduction of other overseas television programs via satellite transmission shall be declared by units designated by the State Administration of Press, Publication, Radio, Film, and Television. Sino-foreign cooperative production of television series, including television animation, shall be subject to licensing.)
25	Investment in film production companies, distribution companies, and cinema companies, as well as film introduction businesses, shall be prohibited. (However, upon approval, foreign enterprises are allowed to produce films with Chinese enterprises.)
26	Investment in auction companies, cultural relics stores, and state-owned cultural relics museums that engage in the auction of cultural relics shall be prohibited. (Transfer, mortgage, and renting of immovable cultural relics and cultural relics prohibited to be brought out of China to foreigners shall be prohibited. The establishment and operation of intangible cultural heritage investigation organizations shall be prohibited; intangible cultural heritage surveys and archaeological investigation, exploration, and excavation in China by overseas organizations or individuals shall adopt the form of cooperation with China and be subject to special examination and approval and licensing.)
27	Controlling stake in performing arts groups shall be held by Chinese investors.