



China Regulatory Updates

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- › Standardization
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- › Professionalism
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- › Constant Self-Improvement Towards Perfection



■ FOREIGN INVESTMENT

Revised *Catalogue for Guidance of Foreign Investment Industries (Draft)* Released for Public Comments

■ INDUSTRIAL POLICY

NDRC Revises *Catalogue for Guidance of Industrial Restructuring*

Market Access Threshold for Coal Chemical Industry Raised

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FOREIGN INVESTMENT

Revised Catalogue for Guidance of Foreign Investment Industries (Draft) Released for Public Comments

NDRC, together with MOFCOM and other relevant government departments, recently revised the *Catalogue for Guidance of Foreign Investment Industries* (2007) (the “Old Catalogue”) and issued the revised draft to solicit public comments (the “Draft”).

On the one hand, the Draft maintains the Old Catalogue’s classification of foreign investment industries which consists of the encouraged, restricted and prohibited categories and the industries not listed therein should all fall under the permitted category. On the other hand, the Draft has made significant revisions to the Old Catalogue, to reflect the principle that “we should expand the sectors opening up to foreign investment, and encourage foreign investment in the advanced manufacturing industry, high technology industry, modern service industry as well as new energy, energy conservation and environmental protection industries” as specified in the *Several Opinions of the State Council on Further Doing a Good Job in the Utilization of Foreign Investment* (GUO FA [2010] No. 9). As a result, certain industries with excess production capacity (such as automobile manufacturing) are taken out of the encouraged category and will be replaced by industries

involving new materials, high technology and green concept, such as R&D and manufacturing of new aerospace materials, design and manufacturing of special production equipment for auto power batteries and manufacturing of hi-tech green batteries.

In addition, the Draft has also made the following notable adjustments: (i) financial leasing companies, medical institutions, and franchising, commissioned operation and commercial management in the wholesale and retail industries are deleted from the restricted category, which will instead fall under the permitted category; (ii) venture capital investment and intellectual property right services are added as encouraged industries; and (iii) the construction and operation of villa is removed from the restricted category to the prohibited category, and domestic mail courier services become prohibited for foreign investment.

The public comment process expires by April 30, 2011. According to the estimate of relevant NDRC officials, the newly revised *Catalogue for Guidance of Foreign Investment Industries* may be officially promulgated in June or July, 2011.

INDUSTRIAL POLICY

NDRC Revises Catalogue for Guidance of Industrial Restructuring

NDRC recently issued the revised *Catalogue for Guidance of Industrial Restructuring* (2011) (the “New Catalogue”), which will take effect on June 1, 2011. Unlike the *Catalogue for Guidance of Foreign Investment Industries*, which is focused specifically on foreign investment industries, the *Catalogue for Guidance of Industrial Restructuring* mainly addresses the overall industrial restructuring of China. The classification of industries in the 2005 version remains unchanged, which consists of the encouraged, restricted and to-be-phased-out categories, and, for those not listed therein, the permitted category. The highlights of the New Catalogue mainly include:

- (1) It reflects the need for industrial restructuring and upgrading; with respect to the encouraged category, there are strengthened supports for the new energy technology industry, services industry and independent innovation industry;
- (2) It pays more attention to the restriction and guidance of industries with excess production capacity; more restrictions are imposed on industries with excess production capacity and low-level repetitive construction in the restricted category; and
- (3) There is a raised awareness of environmental

protection; sectors relating to waste recycling are added to the “environmental protection

and resource conservation and comprehensive utilization” industry.

Market Access Threshold for Coal Chemical Industry Raised

NDRC recently issued the *Circular on Regulating the Coal Chemical Industry for Its Orderly Development* (the “Circular”), which requires that, before the release of new approval catalogue, the approval of coke and calcium carbide projects simply for expansion of production capacity should be suspended, and that the construction of coal chemical industry projects with annual capacity below specific standards should be prohibited. In addition, the Circular requires the strict implementation of environment assessment examination and energy conservation review. With respect to the regions where the total volume of main pollutant emission exceeds standards or the energy conservation evaluation review is unqualified, the approval of coal chemical projects

adding main pollutants should be suspended.

The promulgation of the Circular indicates that the market access for the coal chemical industry is subject to more stringent regulations. NDRC will impose stricter control over the development of the coal chemical industry at coal net-inflow regions and water short regions. It will also promote integrated utilization and optimize allocation of coal resources and will facilitate the coal industry to evolve from the traditional development mode of high energy consumption, high pollution and low degree of intensification to one that introduces capital and advanced technology, emphasizes industrial restructuring and upgrading, and increases the technology value of products.

For further information, please write us at inquiry@hanyilaw.com.

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