




The foreign Investment Law of the People's Republic of China

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Pursuant to  [the Regulation on the Implementation of the Foreign Investment Law of the People's Republic of China](#), investors from the Hong Kong SAR and the Macao SAR are subject to the Foreign Investment Law and the Regulation when making investments in Mainland China.

Among the regulations stipulated in the Mainland and Hong Kong Closer Economic Partnership Arrangement and its subsequent agreements,  [the Mainland and Macao Closer Economic Partnership Arrangement](#) and its subsequent agreements, the Cross-Strait Economic Co-operation Framework Agreement and its subsequent agreements, international treaties and agreements concluded or joined by China, those that are more favourable for the investment access of foreign investors shall prevail. Regulations that provide more favourable measures for eligible investors investing in special economic zones, such as pilot free trade zones, shall prevail.

Pursuant to  [the Foreign Investment Law of the People's Republic of China](#), (EN) “Foreign investment” referred to in this Law means the investment activities conducted directly or indirectly by foreign natural persons, foreign enterprises or other foreign organisations (hereinafter referred to as “foreign investors”) in the territory of China, including the following circumstances:

(1) a foreign investor sets up a foreign-invested enterprise in the territory of China individually or jointly with any other investor;

(2) a foreign investor acquires shares, equities, shares of property, or other similar rights and interests of an enterprise in the territory of China;

(3) a foreign investor invests in a new project in the territory of China individually or jointly with any other investor;

(4) investment in other ways as prescribed by laws, administrative regulations or prescribed by the State Council.

“A foreign-invested enterprise” referred to in this Law means an enterprise that is wholly or partly invested by a foreign investor and registered in the territory of China in accordance with Chinese law. The State implements a system of pre-establishment national treatment plus negative list for foreign investment. Of which:

(EN) “Pre-establishment national treatment”referred to in the preceding paragraph means that the treatment accorded to foreign investors and their investments at the stage of investment access shall be no less favorable than that accorded to domestic investors and their investments;

“Negative list”referred to in the preceding paragraph means the special administrative measures for the access of foreign investment in specific sectors as stipulated by the State. The State accords national treatment to foreign investments outside the negative list.

Special Administrative Measures for Foreign Investment Access (Negative List) (2021)

No.	Special Administrative Measures
I.	Agriculture, forestry, animal husbandry and fishery

No.	Special Administrative Measures
1	For the selection of new wheat varieties and seed production, the Chinese party must hold no less than 34% of the shares, and the controlling stake of the selection of new corn varieties and seed production must be held by the Chinese party.
2	Investment in research and development, breeding and planting of Chinese rare and exclusive precious fine varieties, as well as the manufacturing of the relevant propagative materials (including excellent genes for planting, husbandry and aquaculture) is prohibited.
3	Investment in breeding genetically modified crops, livestock and poultry breeds, and aquatic breeds, as well as manufacturing of genetically modified seeds (seedlings) thereof, is prohibited.
4	Investment in fishing in the sea areas under Chinese jurisdiction and within Chinese territorial waters is prohibited.
II. Mining	
5	Investment in exploration, mining and beneficiation of rare earth, radioactive minerals and tungsten is prohibited.
III. Manufacturing	
6	Printing of publications must be controlled by the Chinese party.
7	Investment in the application of steaming, stir-frying, moxibustion, and calcination of Chinese herbal medicines and other processing techniques as well as the production of confidential prescription products of proprietary Chinese medicines is prohibited.
IV. Production and supply of electricity, heat, gas and water	

No.	Special Administrative Measures
8	For construction and operation of nuclear power plants, the controlling stake must be held by the Chinese party.
V. Wholesale and retail	
9	Investment in wholesale and retail of tobacco, cigarettes, re-dried leaf tobacco and other tobacco products is prohibited.
VI. Transportation, warehousing and postal industries	
10	Domestic water transport companies must be controlled by the Chinese party.
11	The controlling stake of public air transport companies must be held by the Chinese party; the investment ratio of a foreign investor and its affiliates must not exceed 25%, and the legal representative is required to be a Chinese citizen. The legal representative of a general aviation enterprise must be a Chinese citizen; the general aviation enterprises serving the agricultural, forestry and fishery industries are limited to equity joint venture only, whereas the controlling stake in other general aviation enterprises must be held by the Chinese party.
12	In terms of the construction and operation of civil airports, the comparative controlling stake must be held by the Chinese party. Foreign parties are not allowed to participate in the construction and operation of the airport tower.
13	Investment in postal companies and domestic express mail business is prohibited.
VII. Information transmission, software and information technology services	

No.	Special Administrative Measures
14	Telecommunications companies: limited to telecommunications services that are opened up pursuant to China's WTO commitments; the foreign share ratio for value-add telecommunications services (except for e-commerce, domestic multi-party communications, storage-forwarding and call centres) must not exceed 50%; and the controlling stake in basic telecommunications services must be held by the Chinese party.
15	Investment in Internet news services, Internet publishing services, Internet audio-visual programme services, cyber culture operation (except for music) and Internet information dissemination services (except for contents that are opened up pursuant to China's WTO commitments) is prohibited.
VIII. Leasing and business services	
16	Investment in Chinese legal matters (except for provision of information of the impact on Chinese legal environment) is prohibited and a foreign investor is not allowed to be appointed as a partner of a domestic law firm.
17	Investment in market survey services is limited to the form of equity joint venture and the controlling stake of radio and television ratings survey therein must be held by the Chinese party.
18	Investment in social surveys is prohibited.
IX. Scientific research and technical services	
19	Investment in the development and application of human stem cells and gene diagnosis and treatment technologies is prohibited.
20	Investment in humanities and social sciences research institutions is prohibited.

No.	Special Administrative Measures
21	Investment in geodetic surveying, marine surveying and mapping, aerial photography for surveying and mapping, ground motion surveying, and surveying and mapping of administrative boundaries is prohibited. Investment in the making of topographic maps, world administrative area maps, national administrative area maps, maps of administrative areas at or below the provincial level, national educational maps, local educational maps, true three-dimensional maps and electronic navigation maps, and regional geological mapping, mineral geology, geophysics, geochemistry, hydrogeology, environmental geology, geological disasters, remote sensing geology and other surveys is prohibited (mineral rights owners are not subject to these special administrative measures when conducting work within the scope of their mineral rights).
X. Education	
22	Pre-school education, ordinary high school and higher education institutions are limited to Sino-foreign co-operative operation and must be led by the Chinese party (the principal or the chief executive is required to be a Chinese national, and the Chinese party must comprise no less than half of the council, board of directors or joint administrative committee).
23	Investment in compulsory education institutions or religious education institutions is prohibited.
XI. Health and social work	
24	Foreign investment in medical institutions is limited to the form of equity joint venture.
XII. Culture, sports and entertainment	
25	Investment in news organisations (including but not limited to news agencies) is prohibited.

No.	Special Administrative Measures
26	Investment in editing, publishing and production of books, newspapers, periodicals, audio-visual products and electronic publications is prohibited.
27	Investment in various levels of radio stations, television stations, radio and television channels (frequencies), radio and television transmission networks (transmitter stations, relay stations, radio and television satellites, satellite uplink stations, satellite receiving stations, microwave stations, surveillance stations, and cable radio and television transmission networks, etc.) is prohibited. Engagement in the video-on-demand business of radio and television and the installation services of ground receiving facilities for satellite TV broadcast are prohibited.
28	Investment in companies producing and operating radio and television programmes (including programme importation business) is prohibited.
29	Investment in film production companies, distribution companies, cinema companies and film importation business is prohibited.
30	Investment in heritage auction companies, heritage stores and state-owned heritage museums is prohibited.
31	Investment in performing arts groups shall be prohibited.

Source: Foreign Investment Law of the People's Republic of China, Regulations on the Implementation of the Foreign Investment Law of the People's Republic of China, Special Administrative Measures for Foreign Investment Access (Negative List) (2021)