

New Negative List of Shanghai FTZ Published

Shanghai Municipal People's Government issued the *Special Administration Measurements for Market Entrance of Foreign Investment in China (Shanghai) Pilot Free Trade Zone (Negative List) (2014 Version)* ("2014 Negative List") on June 30th, 2014 and published the same on the official website of China (Shanghai) Pilot Free Trade Zone ("Shanghai FTZ") on July 1st, 2014.

Compared with the Negative List (2013 Version) which was published on September 29th, 2013 ("2013 Negative List"), there are following key features of 2014 Negative List worth to be mentioned:

1. The 2014 Negative List has downsized the restrictive measurements from 190 items to 139 items, including 110 restricted industries and 29 prohibited industries. For example, restrictions for foreign investment in wholesale of salt, retail by mail order and online sale, etc. have been deleted. In this sense, there are no special restrictions for foreign investment in above industries in Shanghai FTZ. However, foreign investment in such industries shall still comply with the restrictions which are generally applied for both foreign investment and domestic investment.
2. The 2014 Negative List has released the foreign investment in some industries with certain restrictions. For instance, foreign investor is allowed to invest in production of green tea provided that such investment is in the form of a joint venture controlled by Chinese investor. Construction and operation of large wholesale market for agriculture products is also open for foreign investment though other real estate projects, including high grade hotel, high grade office building and international conference center and villa, are still restricted for foreign investments.
3. The 2014 Negative List has clarified the restricted industries with more detailed restrictive measurements. All the restrictive measurements have been classified based on the national standard of Category and Code for Industries in the National Economy. Therefore, the foreign investor will have a more accurate understanding to the specific restricted industry in the Shanghai FTZ. The 2014 Negative List has also deleted the general description such as those in Cultural and Art Industry for the avoidance of any doubt.
4. The 2014 Negative List reiterates that the business activities which damages social and public welfare, national security, social security and those prohibited or restricted by the international treaties will still subject to prohibition or restriction. The 2014 Negative List has removed those restrictions which are applicable for both foreign investment and domestic investment. Therefore, some industries no longer mentioned in the 2014 Negative List, e.g. gambling and pornographic industries are still prohibited in the Shanghai FTZ.

The 2014 Negative List has opened up more areas for foreign investments in the Shanghai FTZ thus bring new opportunities for foreign investors. It means more and more foreign investments may be conducted with higher efficiency in the Shanghai FTZ. However, it will be still recommendable for the foreign investors to have a comprehensive analysis on possible restrictions (such as those based on relevant laws and regulations that generally applicable for both domestic and foreign investments) even if the target industry is not mentioned in the 2014 Negative List.

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