

Regional

Highlights of China's 2017 Foreign Investment Catalogue

Introduction

On 28 June 2017, the PRC National Development and Reform Commission ("**NDRC**") and the PRC Ministry of Commerce ("**MOFCOM**") jointly released a revised Catalogue for the Guidance of Foreign Investment Industries (2017 Revision) ("**2017 Catalogue**"), which came into effect from 28 July 2017.

This is the seventh revision to the Catalogue since it was first issued in 1995. The 2017 Catalogue reflects the intention of the State Council¹ to improve the investment environment, further loosen the requirements for market access in the service, manufacturing and mining industries, and to adopt a "negative list" management approach on a nationwide basis. There are three major amendments to the 2015 version, which are detailed as follows:

Structural Changes

All the previous versions of the Catalogue classify foreign investment projects in China into three categories, i.e., "encouraged", "restricted" and "prohibited", for approval and incentive purposes. Any activity or sector not included in the Catalogue is considered "permitted" in principle.

The 2017 Catalogue has adjusted the previous structure and changed it to include the following two main parts:

- (a) Encouraged Foreign Investment Industrial Catalogue; and
- (b) Special Administrative Measures on Foreign Investment Access to China (Negative List), which is formulated on the following basis:
 - (i) It includes the activities and sectors in the encouraged category, subject to limitations on foreign equity ownership;
 - (ii) It includes the restricted category;
 - (iii) It includes the prohibited category; and
 - (iv) It excludes the restrictive measures which apply to both foreign investments and domestic investments.

¹ Several Opinions of the State Council on Building a New and Open Economic System (中共中央 国务院关于构建开放型经济新体制的若干意见); Notice from the State Council on Several Measures for Opening Wider to the Outside World and the Active Utilization of Foreign Investment (国务院关于扩大对外开放积极利用外资若干措施的通知)

Client Update: Singapore

2017 AUGUST

**LAWYERS
WHO
KNOW
ASIA**

Regional

From the effective date of the 2017 Catalogue, China enters an era of guiding foreign investment based on the Negative List on a nationwide basis. Therefore, the Negative List will apply to all the regions in China except for the free trade zones approved by the government, while such free trade zones will follow a separate version of the negative list created for the free trade zones.

New Investment Opportunities

The number of restrictive measures in the 2017 Catalogue has been substantially reduced from 93 to 63. The list of sectors that completely ban foreign investment has also been shortened from 36 to 28. The new investment opportunities include, *inter alia*, the following:

A. Service Industry

No.	Item	Changes
(1)	Highway passenger transportation 公路旅客运输	From "restricted" to "permitted"
(2)	Ocean shipping tally 外轮理货	From "restricted" to "permitted"
(3)	Credit investigation and rating services 资信调查与评级服务	From "restricted" to "permitted"
(4)	Accounting and auditing 会计、审计	From "encouraged" to "permitted"; The nationality requirement for the principal partner has been removed.

B. Manufacturing Industry

No.	Item	Changes
(1)	Processing of edible oils and fats from soybeans, rapeseeds, peanuts, cottonseeds, camellia seeds, sunflower seeds, palms, etc. (Chinese parties as the controlling shareholders), processing of rice, flour and raw sugar, and deep processing of corn 豆油、菜籽油、花生油、棉籽油、茶籽油、葵花籽油、棕榈油等食用油脂加工（中方控股），大米、面粉、原糖加工，玉米深加工	From "restricted" to "permitted"; The limitation on the ownership of shares has been lifted.

Client Update: Singapore

2017 AUGUST

**LAWYERS
WHO
KNOW
ASIA**

Regional

(2)	Production of biological liquid fuels (ethanol fuel and biodiesel) 生物液体燃料（燃料乙醇、生物柴油）生产	From “restricted” to “permitted”
(3)	Rail transportation equipment 轨道交通运输设备	From “encouraged” to “permitted”; The limitation on the ownership of shares has been lifted.
(4)	Manufacturing and research and development of automotive electronic bus network technologies 汽车电子总线网络技术的制造与研发	From “encouraged” to “permitted”; The limitation on the ownership of shares has been lifted.
(5)	Manufacturing and research and development of electronic controllers for electric power steering systems 电动助力转向系统电子控制器的制造与研发	No longer limited to Chinese-foreign equity joint ventures
(6)	Manufacturing of motorcycles 摩托车制造	From “restricted” to “permitted”; The limitation on the ownership of shares has been lifted; The limitation that “the same foreign investor may establish no more than two joint ventures in China that undertake production of the same kinds (classes of motorcycles) of whole automobile products” has been lifted.
(7)	Manufacturing and repair of marine engineering equipment (including modules) 海洋工程装备（含模块）制造与修理	From “encouraged” to “permitted”; The limitation on the ownership of shares has been lifted.
(8)	Manufacturing of low and medium-speed diesel engines of vessels and bent axles (Chinese parties as the controlling shareholders) 船舶低、中速柴油机及曲轴的制造（中方控股）	From “encouraged” to “permitted”; The limitation on the ownership of shares has been lifted.
(9)	Design and manufacturing of civil satellites, and manufacturing of civil satellite payloads 民用卫星设计与制造、民用卫星有效载荷制造	The limitation on the ownership of shares has been lifted.
(10)	Smelting of rare metals including, but not limited to, tungsten, molybdenum, tin (excluding tin compounds) and antimony	From “encouraged” to “permitted”

Client Update: Singapore

2017 AUGUST

**LAWYERS
WHO
KNOW
ASIA**

Regional

	(including antimony oxides and antimony sulphides) 钨、钼、锡（锡化合物除外）锑（含氧化锑和硫化锑）等稀有金属冶炼	
--	---	--

C. Mining Industry

No.	Item	Changes
(1)	Exploration and exploitation of unconventional oil and gas, such as oil shale, oil sand and shale gas. 油页岩、油砂、页岩气等非常规油气勘探、开发	From “restricted” to “permitted”; No longer limited to Chinese-foreign equity or contractual joint ventures
(2)	Exploration and exploitation of noble metals (gold, silver, and platinum group) 贵金属（金、银、铂族）勘查、开采	From “restricted” to “permitted”
(3)	Exploitation and ore dressing of lithium 锂矿开采、选矿	From “restricted” to “permitted”

D. Other Industries

No.	Item	Changes
(1)	Construction and operation of large-scale agricultural product wholesale markets 大型农产品批发市场建设、经营	From “restricted” to “permitted”
(2)	Construction and operation of comprehensive water control projects 综合水利枢纽的建设、经营	From “encouraged” to “permitted”; The limitation on the ownership of shares has been lifted.

E. Newly-encouraged Industries

In addition to the above changes, the 2017 Catalogue adds six new industries to the “encouraged” category:

- (a) Manufacturing of intelligent emergency medical rescue devices;
- (b) R&D and manufacturing of virtual reality (VR) and augmented reality (AR) devices;
- (c) Establishment and operation of city parking facilities;
- (d) Development and manufacturing of key components for 3D printing devices;
- (e) Construction of hydrogen refueling stations; and
- (f) Manufacturing of hydrographic monitoring sensors.

Client Update: Singapore

2017 AUGUST

LAWYERS
WHO
KNOW
ASIA

Regional

New Investment Restrictions

While the Catalogue relaxes restrictions in a variety of industries, certain industries (e.g. general aviation and banking) face tighter regulation with the update. Additionally, the following industries now fall under the “prohibited” category on the Negative List:

- (a) Aerial photography mapping;
- (b) Editing and publishing of books, newspapers, and periodicals;
- (c) Editing, publishing, and production of audio-visual products and electronic publications;
- (d) Radio, television video-on-demand businesses, and satellite television broadcasters receiving facility installation services;
- (e) Internet public information services; and
- (f) Research institutes of humanities and social sciences.

Impact

According to the Negative List and the Interim Measures for Administering the Record-filing of Establishments and Modification of Foreign-invested Enterprises, foreign investment into industries which are not on the Negative List only needs to be filed with the local agency of MOFCOM instead of obtaining an approval, except for roundtrip investment by domestic companies, enterprises and individuals.

Notwithstanding the above, we would like to highlight that since the Negative List has removed the sectors subject to the same restrictions for foreign investments and domestic investments from the 2017 Catalogue as they are no longer considered foreign-specific measures for market access, foreign investors cannot only rely on the Negative List to judge whether foreign investment is allowed. For example, the construction and operation of large theme parks requires approval for both foreign and domestic investments; the construction of golf courses and villas, projects endangering the safety and performance of military facilities as well as the gambling and lottery industry and pornography industry are prohibited for both foreign and domestic investments.

Therefore, it is advisable to have a proper consultation with lawyers experienced in foreign investment into China before entering the China market.

Please note that Rajah & Tann Singapore LLP Shanghai Representative Office is a foreign law firm licensed by the Ministry of Justice of the People's Republic of China (the “PRC”) and that Rajah & Tann Singapore LLP (like other foreign law firms) is not permitted by the Ministry of Justice of the PRC to issue opinions on matters of PRC law. The views (if any) presented in relation to any PRC laws and regulations for this matter are based on our knowledge and understanding of the PRC laws and regulations obtained from our past experience in handling PRC matters and by conducting our own research, and also from informal consultations with PRC lawyers from time to time. As such, such views do not constitute (and should not be construed as constituting) an opinion or advice on the laws and regulations of the PRC.

Contacts



Chia Kim Huat
Regional Head, Corporate and
Transactional Practice
Rajah & Tann Singapore LLP

D +65 6232 0464
F +65 6428 2188

kim.huat.chia@rajahtann.com



Linda Qiao
Senior International
Counsel
Rajah & Tann Shanghai
Representative Office

D +86 21 6120 8818
F +86 21 6120 8820

linda.qiao@rajahtann.com



Benjamin Cheong
Partner
Rajah & Tann Singapore LLP

D +65 6232 0738
F +65 6428 2233

benjamin.cheong@rajahtann.com



Chen Xi
Partner (Foreign Lawyer)
Rajah & Tann Singapore
LLP

D +65 6232 0158
F +65 6428 2256

chen.xi@rajahtann.com



Zheng Haotian
Associate
Rajah & Tann Shanghai
Representative Office

D +86 21 6120 8818
F +86 21 6120 8820

haotian.zheng@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
F +65 6225 9630
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Sole Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN NK LEGAL | *Myanmar*

Rajah & Tann NK Legal Myanmar Company Limited

T +95 9 7304 0763 / +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 894 0377 to 79 / +632 894 4931 to 32 / +632 552 1977
F +632 552 1978
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

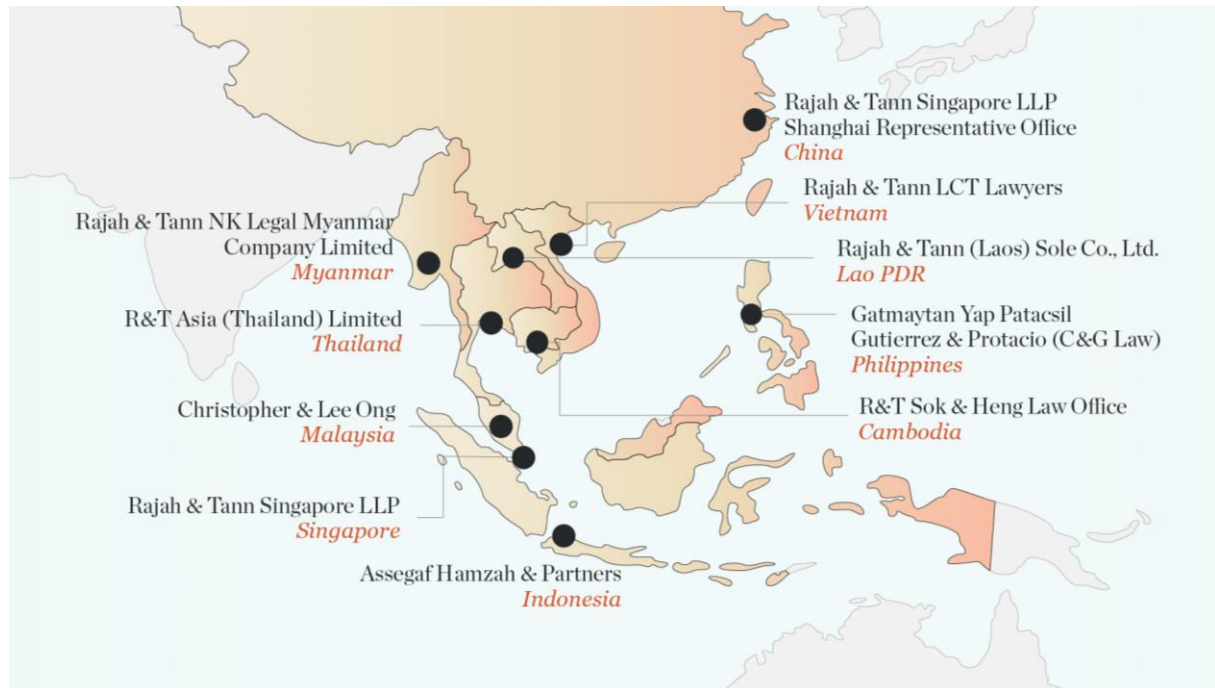
Member firms are constituted and regulated in accordance with local legal requirements and where regulations require, are independently owned and managed. Services are provided independently by each Member firm pursuant to the applicable terms of engagement between the Member firm and the client.

Client Update: Singapore

2017 AUGUST

**LAWYERS
WHO
KNOW
ASIA**

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or e-mail Knowledge & Risk Management at eOASIS@rajahtann.com.