

China Insight



PRC Ministry of Commerce Issues New Notice on Stabilizing Foreign Investment

Dear Sir or Madam,

On 25 February 2021, the PRC Ministry of Commerce issued the *Circular on Centering on Building a New Development Pattern and Effectively Stabilizing Foreign Investment* (the "**Circular**") to further stabilize foreign investment, improve the structure and quality of foreign investment and better handle foreign investment matters in 2021. The Circular took effect on the same day. Please find below a brief overview on the content of the Circular.

Kind regards,
CMS, China

To further stabilize foreign investment, improve the structure and quality of foreign investment and better handle foreign investment matters in 2021, the PRC Ministry of Commerce ("**MOFCOM**") on 25 February 2021 issued the *Circular on Centering on Building a New Development Pattern and Effectively Stabilizing Foreign Investment* (the "**Circular**"). The Circular took effect on the same day.

The aim of the Circular is to serve as guidance from the MOFCOM to all other Authorities of Commerce in the People's Republic of China ("**PRC**"), following its previous version for the year of 2020 (for more details, please refer to our previous newsletter "[Chinese Governments on Central and Local Levels Issue Additional Supporting Policies on Foreign Investment to Lessen Impact of COVID-19](#)" dated 16 April 2020). It proposes 22 specific measures from five different aspects for stabilising foreign investment. Below is a brief overview on the content of the Circular.

1. Expanding Opening-up to a Higher Level and Attracting More Foreign Investments

- a) According to the Circular, MOFCOM again stresses its determination to implement in-depth pre-entry national treatment plus negative list regime to foreign investors. The measures listed in the *Special Administrative Measures for Access of Foreign Investment (Negative List) (2020 Edition)*, *Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2020 Edition)* and *Special Administrative Measures (Negative List) for Foreign Investment Access in Hainan Free Trade Port (2020 Edition)* shall be well carried out (collectively referred to as the "**Negative Lists**", for more details, please refer to our previous newsletter "[China Introduces New Negative List 2020 and New FTZ Negative List 2020](#)" dated 7 July 2020), especially those in relation to the automotive industry and the finance industry. MOFCOM also intends to further ensure that no foreign investment access is restricted any more or prohibited by any measure outside the Negative Lists.
- b) The Circular calls for making good use of preferential policies to foreign investment in the PRC, especially those in regard to taxation and land use matters to attract more foreign investment in advanced manufacturing, high-tech technologies, energy-saving and environmental protection industries and emerging industries, as encouraged by the *Catalogue of Industries for Encouraging Foreign Investment (2020 Version)*

(the "Encouraged Catalogue 2020", for more details, please refer to our previous newsletter "[China Releases Its Revised Negative List for Market Access 2020 and Catalogue of Industries for Encouraging Foreign Investment 2020](#)" dated 8 January 2021).

- c) In addition to the preferential policies to foreign investors, MOFCOM will carry out more competitive measures in children's schooling and individual income tax concessions to attract more world-class foreign talents to the PRC. The threshold of setting up foreign-invested research and development centers in the PRC will be further lowered to increase foreign investors' investment in technological innovations.
- d) A new guidance with the name the *14th Five-Year Plan for Development by Utilizing Foreign Investment* is intended to be formulated and published by MOFCOM later in order to provide guidance to all Authorities of Commerce in the PRC to further expand opening-up and to actively take advantage of foreign investment.

2. Promoting the Development of Opening-up Platforms

- a) According to the Circular, MOFCOM will further open up industries such as digital economy and the Internet in the free trade zones. Also, the national plan for the Hainan Free Trade Port will be implemented as well as a comprehensive pilot program for expanding the opening-up of the service industry in Beijing.
- b) MOFCOM again stresses its intention to develop in 2021 national economic development zones by cultivating strategic emerging industries and advanced manufacturing clusters in the industry sectors of electronic information, smart manufacturing and biomedicine. Labor-intensive and export-oriented enterprises are encouraged to be transferred from Eastern China to Central and North-eastern China. Also, cooperation between national economic development zones and border- (trans-) cooperation zones shall be deepened. The construction of the China Laos Mohan-Boding Economic Cooperation Zone is expressly said to be speeded up.
- c) Same as in 2020, foreign investors are continued to be encouraged by the Circular to make investments in Central, Western and North-eastern China. The Circular states that MOFCOM will implement strategic measures for the large-scale development of Western China, the revitalization of North-eastern China, the renovation of Central China, the coordinated development of Beijing, Tianjin and Hebei, the development of the Yangtze River Economic Belt, the integrated development of the Yangtze River Delta Region and development of the Guangdong-Hong Kong-Macao Greater Bay Area. MOFCOM will further promote the ecological protection and high-quality development of the Yellow River Basin and the development of the Chengdu-Chongqing economic circle.

3. Intensifying Attraction for Foreign Investment and Integrating International and Domestic Industrial Chains

- a) In the Circular, MOFCOM promises to further attract foreign investment to the PRC by making full use of informatization means such as long-distance business and investment promotion, video conferencing, online negotiation and "signing contracts in the cloud". Regarding the mechanisms for promoting multilateral and bilateral investment, the Authorities of Commerce will get into closer contact with countries such as Japan, Korea, Singapore, the United Kingdom, the Netherlands and Denmark. Exhibition platforms for foreign investment promotion such as China International Import Expo, China International Fair for Investment and Trade, Central China Investment and Trade Expo, China International Fair for Trade in Services, World Manufacturing Forum, Qingdao Multinationals Summit shall also be enhanced.
- b) Foreign investors are encouraged to establish regional headquarters and functional institutions in the PRC for fund management, procurement and sales. MOFCOM also confirms in the Circular that the requirements for foreign investors' strategic investment in listed companies, i.e. their qualifications, shareholding ratios and shareholding lockup periods, shall be further relaxed.

4. Improving the Service System for Foreign Investment

- a) MOFCOM intends to strengthen the services of Authorities of Commerce to foreign-invested enterprises and key foreign-invested projects and to solve problems commonly faced by the foreign-invested enterprises in practice. For key enterprises, the Authorities of Commerce will continue dynamic monitoring and tracking services on them and provide "one-to-one" services. Moreover, the Authorities of Commerce may hold symposiums and video conferences with foreign chambers of commerce and multi-national companies in response to their feedbacks and suggestions on policies.
- b) The Circular stresses the importance of dynamically adjusting the list of key foreign-invested projects and of accelerating their implementation and construction by providing more support in land use, energy consumption and funding. For complaints lodged by foreign-invested enterprises, the local authorities in

charge shall protect the legitimate rights of the foreign-invested enterprises and solve the problems of unfair treatments for a fair competition order. Also, the Authorities of Commerce shall make use of the special funding and supporting policies in improving the foreign investment service system.

5. Promoting the Reform of "Delegating Power, Improving Regulations, and Upgrading Services" and Continuing to Optimize the Environment for Foreign Investment

- a) The Circular calls for full implementation of the *PRC Foreign Investment Law* and its implementing measures. The outdated regulations and rules and those not in compliance with the *PRC Foreign Investment Law* shall be abolished in due course.
- b) MOFCOM intends to optimize the information reporting system of foreign investors to improve the convenience of information submission and to develop the accuracy and completeness of data, as well as a supervision and inspection mechanism of the information reporting system. With the promulgation of the *Measures for Security Review of Foreign Investment* (the "**Measures**", for more details, please refer to our previous newsletter "[China Enacts Further Measures for Security Review of Foreign Investment](#)" dated 25 January 2021), the foreign investment security review system shall be implemented.
- c) The Circular also requires continuous updates in the *PRC Foreign Investment Guide* and the Invest in China website alongside with the reform in the administrative examination and approval system so as to improve the transparency and efficiency of administrative licensing and to provide more convenience to foreign investors.

6. Conclusion

In comparison to the previous documents promulgated by MOFCOM in this regard, the Circular does not provide many further developments but only combines them into a comprehensive document to enhance guidance. It guides the work of all Authorities of Commerce in stabilizing foreign investment in the year of 2021. Most of the measures in this Circular, however, are still vague and mostly description of intentions of MOFCOM, although some of them have already been specified and further detailed in separate legislative documents such as the Negative Lists, the Encouraged Catalogue 2020 and the Measures. We expect that more regulations or rules in detail will be promulgated in the near future to better implement the measures stipulated in this Circular.

In case you have questions or for further information, please contact the authors of this newsletter:



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