



# Update China Desk

## China Law Brief

11/2014  
English Version

### FDI Reform: China relaxes curbs on foreign investment

*Dr. Kai Bandilla*  
*Sven-Erik Green*

In the wake of healthcare reforms in May, which saw restrictions on foreign investment in joint-venture hospitals lowered, the Chinese government released the latest update to the “Catalogue for the Guidance of Foreign Investment Industries” on November 4, 2014, which further eased restrictions imposed on foreign investments in certain key sectors such as batteries, rail freight, car parts, mining and chemicals.

While the reforms in May were mainly aimed at reducing the burden on public hospitals, the more recent ones try to alleviate the pressure on the government to remove restrictions on FDI as Chinese companies expand investments abroad, especially in Europe and the US. The goal is to induce foreign governments to reciprocate by either lowering existing restrictions in those markets or refraining from introducing them. The new catalogue will come into effect on December 3.

The number of sectors in which foreign companies are required to form joint ventures (JV) or are limited to minority stakes will be reduced from formerly 79 to 35, thus – for the first time – allowing foreign companies to operate as a wholly foreign-owned enterprise (WFOE) in sectors they were previously barred from or which necessitated a Chinese partner.

The sectors in which WFOE are now permitted include:

- Accounting and Auditing;
- Oil field exploration and development;
- Automobile parts;
- Traditional Chinese Medicine;
- Aircraft and vessel engines and components; and
- Equipment manufacturing for air traffic control systems.

Notably most restrictions in the manufacturing and mining sectors

#### Goals

#### New sectors opened to WFOEs



have been lifted, exceptions being the processing of edible oils and fats, the production of biological fuels, smelting of rare metals and rare earth elements and the manufacture and repair of vessels. The mining of special and rare types of coal, lithium, granite and precious metals are limited to investments with a Chinese partner.

Other noteworthy changes have been made in the finance, securities and real estate sectors. The catalogue now allows foreign investments in banks and has raised the limit of shares a foreign entity may own in a securities company from formerly one-third to 49 percent.

While some sectors are now open to WFOEs others are still limited to JVs. The latter, however, have also seen significant changes as foreign investors may now act as controlling shareholders in certain industries. These include:

- Manufacture of ground-based and water-based aircrafts;
- Design and manufacture of vessel cabin machinery;
- Design and manufacture of civil satellites;
- International sea transportation;
- Operation of performance venues; and
- Construction, maintenance and operation of railways.

The easing of the JV rules in the railway sector can be seen as an attempt to attract foreign investment as China plans to connect the underdeveloped western parts of the country to its existing rail network.

The new catalogue does not only ease restrictions but also adds new ones to the list. JVs manufacturing vehicles may now only engage in up to two of the following three sectors, passenger vehicles, commercial use vehicles (trucks and construction) and motorcycles unless the third sector is added through a merger or acquisition by the Chinese partner. Furthermore the Chinese

### **Restrictions on manufacturing and other sectors lifted**

### **Sectors opened to majority stake JVs**

### **New restrictions**



partner must now own more than 50 percent of the shares in such a company.

Foreign investments are prohibited in the production of genetically modified plant seeds, processing of petroleum and coking, processing and production of nuclear fuel, sale of tobacco, Chinese legal consulting and the operation of antique stores and auction houses selling Chinese cultural relics.

By easing restrictions on foreign investments the Chinese government tries to mitigate any further decline of its annual growth rate and to appease foreign governments. While the reduction of entry barriers is laudable and an incremental development of the affected sectors, it remains to be seen if these goals will be achieved, considering that these sectors are either small and specialized or already dominated by highly competitive Chinese companies.

## **Conclusion**

**Dr. Kai Bandilla  
Sven-Erik Green**

**China Desk**

**Heuking Kühn Lüer Wojtek**  
Tel: +49 (40) 35 52 80-787  
Fax: +49 (40) 35 52 80-80  
Email: [China-Desk@heuking.de](mailto:China-Desk@heuking.de)

in cooperation with

**Global Law Office**  
(Beijing, Shanghai, Shenzhen)  
[www.globallawoffice.com.cn](http://www.globallawoffice.com.cn)



**Dr. Kai Bandilla**



**Sven-Erik Green**

**Your Contact:  
“China Desk”**

## CHINA DESK

Please find out more information about our China Desk on our website under  
<http://www.heuking.de/en/about-us/international/china-desk.html>

## INFORMATION

- We will be glad to receive your any comments or suggestions. Please contact us via email: [china-desk@heuking.de](mailto:china-desk@heuking.de).
- This Newsletter “*Update China Desk*” does not constitute legal advice. While the information contained in this Newsletter has been carefully researched, it only offers a partial reflection of the law and its developments. It can be no substitute for individual advice appropriate to the facts of an individual case.
- This Newsletter is sent as a group email. To unsubscribe to this newsletter, please write to: [china-desk@heuking.de](mailto:china-desk@heuking.de).

**Berlin**  
Unter den Linden 10  
10117 Berlin/Germany

**Brussels**  
Rue Froissart 95  
1040 Brussels/Belgium

**Chemnitz**  
Weststraße 16  
09112 Chemnitz/Germany

**Cologne**  
Magnusstraße 13  
50672 Cologne/Germany

**Düsseldorf**  
Georg-Glock-Straße 4  
40474 Düsseldorf/Germany

**Frankfurt**  
Goetheplatz 5-7  
60313 Frankfurt a. M./Germany

**Hamburg**  
Neuer Wall 63  
20354 Hamburg/Germany

**Munich**  
Prinzregentenstraße 48  
80538 Munich/Germany

**Zurich**  
Bahnhofstrasse 3  
8001 Zurich/Switzerland

[www.heuking.de](http://www.heuking.de)