

Prohibited and limited sectors in China for foreigners

Description

Prohibited and limited sectors in China for foreigners

The 12th Five-Year Chinese Plan covering the years 2011-2015 aims to further forge relationships with foreign companies.

Although its plan is promising for the development of China, foreigners keep in mind that many economic sectors are prohibited or restricted from entering. Regularly, the Chinese government publishes a list of the prohibited and limited sectors. This list can be found in the [Catalogue for the Guidance of Foreign Investment in Industries](#) and classifies the whole industries sector into four main groups: encouraged, permitted, restricted and prohibited. Prospective foreign investors may also find supplementary information regarding equity caps limit foreign ownership and the wholly foreign owner enterprises (WFOE) scheme in China. The [WFOE](#) scheme is, however, primarily used for the sectors which are commonly not restricted or prohibited.

Prohibited and Restricted sectors are located in the whole area of the economic system, no matter the location. Even within the Shanghai pilot free trade zone, several foreign investments are restricted. These restrictions often temper the optimism of potential foreign against China to offer a level playing with domestic competitors. Furthermore, these restrictions are often provided by the government with discretion.

While prohibited sectors are highly regulated, approval process from the [Ministry of Commerce](#) (MOFCOM) and local counterparts are common to gain permission entering in restricted sectors.

Prohibited sectors

Prohibited sectors touch on national security primarily, and/or which do not comply with the five-year Chinese plan and economic development perspective.

Prohibited sectors are diverse. For instance, prohibited investments for foreigner include limiting investing in energy and resource-intensive industry or environmentally damaging industries. Other prohibited sectors can be found in the primary sector, secondary sector or even in the [Tertiary sector in China](#).

A summing up is depicted below, while the entire list can be found on the MOFCOM's website.

- **Farming, Forestry, Animal Husbandry and Fishery Industries:** foreign companies are prohibited fishing in the sea area within the Government jurisdiction.
- **Mining and Quarrying Industries:** are prohibited exploring mining.
- **Manufacturing Industry:** are prohibited processing of green tea and special tea with China's traditional crafts.
- **Post and Telecommunication Services:** are prohibited to gain control of local air traffic control and postal services.
- **Media organizations:** prohibited publishing newspapers, magazines or books

Restricted sectors

For the 12th five-year plan, the Chinese government aim to decrease the disparities between provinces in term of economic and potential development. As matter of fact, foreign companies willing to operate or presently operating in China should be aware of the benefit of investing in the western part of China. Indeed, foreign investor investing in restricted sectors in the Sichuan province may be able to obtain quickly and easier approval from the local authorities to in order to develop the province rapidly.

In terms of foreign investment solutions, joint venture is the common way for limited sectors in order to gain entry. Further, the opening of restricted sectors leads to improvement and openness to the non-public sector.

The last published Catalogue for the Guidance of Foreign Investment in Industries (2012) has seen the remove of foreign-invested healthcare service from the restricted list. In other words, this sector is now more open to foreigners than it used to be. The last published version also mention the switch of agricultural sectors to "encouraged" in order to ensure the agricultural modernization and need of China.

Among the limited sectors, we note the following ones:

- **Wholesale and Retail Trade Industries:** capital goods for agricultural production (Chinese should hold the majority of shares)
- **Real Estate Industry:** Real estate transaction in second-grade market and medium and brokerage companies
- **Leasing and Commercial Service Industry:** Status enquiry and grade service companies
- **Art, Sports and Entertainment Industries:** Construction and operation of cinemas (Chinese partner shall hold the majority of shares)

Ref:

http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=87372

<http://www.sinonym.net/>

http://www.chinadaily.com.cn/m/jiangsu/taicang/2013-04/23/content_16565721.htm

Date Created

August 2014

Author

thibaud

Shanghai Landing Law Offices