On 12 January 2017, the State Council published the new policy on foreign investment (Guo Fa [2017] No. 5) setting out the measures to attract more foreign investors. The measures announced include opening up more sectors or industries to foreigners wishing to invest, improvement of the foreign investment environment and the relaxation of government interventions. The content of the policy is summarized below.

Further opening up of Chinese market
The Guidance of Categories on Foreign Investment and its associated regulations will be revised to relax restrictions on the service, manufacturing and mining sectors. Foreign investors and Chinese nationals living outside of China are invited to participate in innovation or industry upgrading activities in China.

The rules on access to financial institutions, securities companies, investment funds, companies engaged in futures, insurance companies, insurance intermediaries, accounting firms, architecture bureaus and rating firms will be relaxed. The sectors such as telecommunications, Internet, culture, education and transportation will incrementally be opened up.

Restrictions of foreign investment on the manufacturing of railway equipment, motorcycles, fuel ethanol production and oil processing etc. will be removed. Access to the mining industry will be relaxed and oil and gas projects in cooperation with foreign investors will be changed from a prior approval system to a filing system.

Foreign investors are encouraged to invest in high-end manufacturing, intelligent machinery, green technology, industrial design, engineering consulting services, modern logistics, and inspection and certification services. They will be equally treated as domestic investors under the "Made in China 2025" programme, a long-term strategic programme to upgrade China’s industry.

By way of franchising, foreign investors are allowed to participate in infrastructure projects including energy, transportation, water conservancy, environmental protection and municipal public works. The preferential policies applicable to these projects will equally apply to foreign investors.

The government supports the cooperation between Chinese and foreign enterprises or research institutions in respect of research and development (R&D). Foreign investors are encouraged to establish R&D centres, enterprise technology centres and post-doctoral research stations. Foreign-investment enterprises may participate in the state scientific programmes, and the preferential policies such as R&D super-deduction, the favourable tax treatment of new high technology enterprises and research centres equally apply to foreign-investment enterprises.

Foreign individuals who make investments in technology in China will receive national treatment and the relevant department of the government is urged to assist with the application of residence permits or multiple entry visas for spouse and offspring’s.

Creation of level playing field
All government departments are ordered to stick to the fair competition rules contained in Guo Fa [2016] No. 34 and are prohibited to impose extra restrictions on foreign-investment enterprises. Unless otherwise provided by law, the same requirements as for domestic investors on information, time limit, qualifications and business license must apply to foreign-investment enterprises.

China’s process of standardization must be transparent and may not exclude foreign investors. Foreign investors may compete with domestic enterprises to tender for government procurement contracts and sell their products manufactured in China to the Chinese government.

The policy also aims to strictly protect intellectual property rights of foreign-investment enterprises and allow the relevant international organizations to establish intellectual property arbitration and mediation centres in China.

Foreign-investment enterprises will be given more access to the capital market in China and may be listed and issue corporate bonds and convertible bonds etc in certain capital markets.

The minimum registered capital requirement for foreign-investment enterprises will be removed to bring it in line with domestic investors unless otherwise provided by laws and regulations.

Increasing efforts to attract foreign investment
To stimulate employment, economic development and technology innovation, local governments are authorized to issue local policies to attract foreign investment if the authority is conveyed by laws and regulations.
China will revise the 'Catalogue of Foreign Investment Advantageous Industries in the Central and Western Regions' and expand the scope of sectors or industries encouraged by the government. The preferential enterprise income tax treatment will equally apply to foreign investment enterprises in the encouraged industries. Foreign investors who transfer their business activities to the central and western regions will enjoy the incentives with regard to taxation, land-use rights and financing.

Foreign multinational companies are encouraged to set up regional headquarters, procurement centres and clearing centres to carry out centralized capital and foreign currency operations.

The foreign exchange system will be reformed to accommodate the foreign debt management of foreign-investment enterprises. The administration of foreign investment including the registration and alteration of business will be simplified and foreign investors will generally receive national treatment unless it is on the negative list. Finally, China will cut short the customs procedures for foreign-investment enterprises.

Note: Some policies set out above are not new and are already in place, the purpose of this decree is to update these measures and where necessary, add new ones. It is expected that all of the relevant departments will issue notices or announcements for implementation as they develop.

See also

China (People's Rep.) - Business and Investment - Country Surveys sections 3.1., 4.1., 5.