

Legal Commentary

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Restrictions Lifted on FDI in the Entertainment Sector

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On June 30, 2019, the National Development and Reform Commission and the Ministry of Commerce promulgated the *Special Administrative Measures (Negative List) for Foreign Investment Access (2019 Version)* (“**2019 National Negative List**”) and the *Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2019 Version)* (“**2019 FTZ Negative List**”). In comparison with their respective 2018 versions, the 2019 negative lists reduce the number of industries restricted to foreign investment from 48 to 40 nationwide and from 45 to 37 in Pilot Free Trade Zones. Both the 2019 National Negative List and the 2019 FTZ Negative List will be effective on July 30, 2019.

With respect to the culture, sports and entertainment sector, the 2019 National Negative List and the 2019 FTZ Negative List make the following adjustments:

	2018 Version	2019 Version
Special Administrative Measures (Negative List) for Foreign Investment Access	The construction and operation of cinemas must be controlled by Chinese parties.	Cancelled
	Performance brokerage agencies must be controlled by Chinese parties.	Cancelled
Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones	The construction and operation of cinemas must be controlled by Chinese parties. (Film screenings shall conform to the ratio of screening time between domestic movies and imported movies as stipulated by the Chinese government. A screening entity’s annual screening time for domestic movies shall not be less than two thirds of its annual total screening time.)	Cancelled

I. Cancellation of Restrictions on Foreign Investment in Cinemas

Both the 2019 National Negative List and the 2019 FTZ Negative List cancel the restrictions requiring Chinese parties to control the construction and operation of cinemas. Currently, however, the *Regulations on Administration of Films* stipulate that “the State permits the construction and renovation of cinemas in the form of Sino-foreign equity joint ventures and Sino-foreign contractual joint ventures,” and the *Interim Provisions on Foreign-invested Cinemas* stipulate that foreign investors are not permitted to establish wholly-owned cinemas. It is foreseeable that once the negative list restrictions are cancelled, these conflicting provisions may be amended or adjusted accordingly.

II. Cancellation of Restrictions on Foreign Investment in Performance Brokerage Agencies

The *Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2018 Version)* previously cancelled the restriction requiring Chinese parties to control performance brokerage agencies. The 2019 National Negative List now cancels this restriction on a nationwide basis.

According to the currently effective *Regulations on Administration of Commercial Performances*: “foreign investors may establish Sino-foreign equity joint performance brokerage agencies and Sino-foreign contractual joint performance brokerage agencies with Chinese investors in accordance with law ... but shall not establish wholly foreign-funded performance brokerage agencies ... For establishing a Sino-foreign equity joint performance brokerage agency ... the investment ratio of the Chinese party shall not be less than 51%; for establishing a Sino-foreign contractual joint performance brokerage agency ... the Chinese party shall have the dominant operating power.” Upon the cancellation of the restriction requiring Chinese parties to control performance brokerage agencies pursuant to the 2019 Nationwide Negative List, the conflicting provisions in the *Regulations on Administration of Commercial Performances* may be amended accordingly.

Important Announcement

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