Investors seeking to invest in China should be aware that PRC laws regulate the type of industries foreigners may invest in. These industries are set out in the Foreign Investment Industry Guidance Catalogue ("Catalogue").

The Catalogue distinguishes industry categories into "Encouraged", "Restricted" and "Prohibited" sectors.

"Encouraged" sectors are industries where foreign investments are encouraged, and tax and other regulatory or financial incentives may be in place to attract foreign investments. “Restricted” sectors are industries where strict regulatory requirements have to be complied with and onerous approval procedures complied with, before foreign investments are permitted. “Prohibited” sectors are industries where foreign investments are not allowed. All other industries not listed under any of the aforesaid are regarded as permitted industries where foreign investors are not differentiated against.

On 24 December 2011, the National Development and Reform Commission and the Ministry of Commerce jointly issued the newly amended Catalogue ("2011 Catalogue"), which takes effect from 30 January 2012. This is the fifth revision to the Catalogue (the last revision was in 2007) in line with China’s WTO commitments.

The 2011 Catalogue has been revised to reflect following major revisions:

1. Encouraging investment in high-end manufacturing sectors using new and high technology, and by removing sectors currently experiencing overcapacity from the encouraged category, such as production of polycrystalline silicon and coal chemistry. This is to upgrade the PRC manufacturing sector.

2. In a shift to cultivate emerging strategic industries, such as environmentally friendly and resource-saving technologies, and new generation information technology by adding specific provisions to the Encouraged category such as:
   - manufacturing key parts and components of certain types of automobiles,
   - development and manufacturing Internet system equipment, terminal equipment, software and chips based on IPv6 technology, and
   - recycling sector, specifically the recycling of electronic products, automobile, mechanical and electrical equipment, rubber, metal and battery.

3. To boost development of modern service sector by introducing new businesses to the Encouraged category, such as:
   - construction and operation of recycled water plant,
   - charging station and battery change station for hybrid / electric automobile,
   - venture capital investment company,
   - intellectual property service, and
   - family service (not defined)

   and by reclassifying certain sectors from the Restricted category to the Permitted category, such as:
   - health care institution, and
   - finance lease company.

In addition, in light of the Chinese government’s efforts to cool down the overheated real estate market, the 2011 Catalogue reclassifies the construction and operation of certain properties to the Prohibited category.

The PRC government also plans to balance regional development by providing favorable treatment for foreign investment in central and western regions by shifting some of the previously encouraged sectors under the Catalogue to the Catalogue of Priority Industries for Foreign Investment in the Central and Western Regions, which provides detailed encouraged sectors for foreign investment in...
the less developed central and western regions and is expected to be amended next year.

Compared to the last revision in 2007, the 2011 Catalogue continues the trend to further liberalise foreign investment, and even restriction in the portion of foreign shareholding has been eliminated in some sectors.

Responding to the fast changing environment, further revisions on laws and regulations on foreign investment are expected to be implemented by the PRC government, as it continues to monitor the evolving needs to local industries and adjusts the Catalogue to fit such needs.

If you wish to have further information on this update or wish to discuss how it may potentially have an impact on your business, please feel free to contact the following:

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