

# China Legal Briefing\* 257

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## **1. Adoption of Provisions on Administration of New Energy Vehicle Manufacturing Enterprises and Products**

The Ministry of Industry and Information Technology of the PRC (MIIT) published Provisions on Administration of New Energy Vehicle Manufacturing Enterprises and Products (“Provisions”) on 6 January, 2017 and will enact the Provisions on 1 July 2017. Against the background of considerable growth of the new energy vehicles and the corresponding security risk which is caused by the new technology, the Provisions shall set aside some requirements for the establishment of the new energy vehicle manufacturing enterprises and strengthen the quality of the products. According to the Provisions, the new energy vehicle manufacturing enterprises which would like to file an application for its establishment shall, inter alia, have the design and development capacities, producing capabilities, warranties for the products consistency, and after-sales and products safety and security capabilities. Also, they shall be in compliance with the Requirements of Examination of New Energy Vehicles Enterprise Entrance (“Requirements”). The Requirements contain 17 items for the examination, 8 of which are negative items. If two of the eight negative items were not satisfied, the enterprise would not be allowed to move into the market.

## **2. Promulgation of Notice Regarding the Wider Opening to the Outside World and Making Active Use of Foreign Investment**

A Notice of the State Council on Several Measures for Opening Wider to the Outside World and Making Active Use of Foreign Investment (hereinafter referred to as “Notice”) was promulgated and came into effect on 12 January 2017. The Notice stipulates that it is imperative to open wider to the outside world as the guidance to propel a new round of high-level opening-up initiatives. Accordingly, it is required to revise the Catalogue for the Guidance of Foreign Investment Industries and relevant policies and regulations, and relax restrictions on the market entry of foreign investment in the *service industry, manufacturing industry, mining industry* and other fields. In terms of service industries, the focus of relaxing restrictions shall be on the market entry of foreign investment in banking institutions, securities companies, fund management companies, futures companies, insurance institutions and insurance intermediaries. Restrictions on the market entry of foreign investment in accounting and audit, architectural design, rating services and other fields, and promoting the orderly opening-up of telecommunications, *the internet*, culture, education, transportation and other fields shall be liberalized. The notice also eliminates restrictions on the market entry of foreign investment in manufacturing industry. Foreign investors shall be supported to participate in infrastructure construction, to cooperate with

research institutes in research and development and top overseas elites to start up business and seek development in Mainland China. The Notice also mentions the significance of creating an equal play field for foreign investors and local companies. Furthermore, more efforts shall be made to attract foreign investment.

With this Notice, the Chinese governmental powers at all levels, the departments and commissions of the State Council have to amend or adopt new rules to implement the Notice. For example, the Catalogue for the Guidance of Foreign Investment Industries shall be revised to further relax restrictions on service industry, manufacturing industry etc.

### **3. China Adopts Amendments to Administrative Procedure Law**

In order to ensure that major administrative, civil, commercial and other proceedings involving multiple administrative regions are heard in a lawful, timely and impartial manner, to push judicial work to shift its focus down to the grass-roots level, to settle disputes in the places where they occur, and to facilitate the participation of the parties concerned in litigation proceedings, the Supreme People's Court (SPC) adopted Provisions of the Supreme People's Court on Several Issues Concerning the Hearing Cases by Circuit Courts (hereinafter referred to as "Provisions") on 27 December 2016 and it came into effect on 28 December 2016. In the Provisions, apart from the original First Circuit Court and Second Circuit Court, SPC added the Third Circuit Court, the Fourth Circuit Court, the Fifth Circuit Court and the Sixth Circuit Court. The First Circuit Court is located in Shenzhen, Guangdong Province, covering the circuit jurisdictions of Guangdong Province, Guangxi Zhuang Autonomous Region, and Hainan Province and Hunan Province. The Second Circuit Court is located in Shenyang, Liaoning Province, covering the circuit jurisdictions of Liaoning Province, Jilin Province and Heilongjiang Province. The Third Circuit Court is located in Nanjing, Jiangsu Province, covering the circuit jurisdictions of Jiangsu Province, Shanghai Municipality, Zhejiang Province, Fujian Province and Jiangxi Province. The Fourth Circuit Court is located in Zhengzhou, Henan Province, covering the circuit jurisdictions of Henan Province, Shanxi Province, Hubei Province and Anhui Province. The Fifth Circuit Court is located in Chongqing Municipality, covering the circuit jurisdictions of Chongqing Municipality, Sichuan Province, Guizhou Province, Yunnan Province and Tibet. The Sixth Circuit Court is located in Xi'an, Shaanxi Province, covering the circuit jurisdictions of Shaanxi Province, Gansu Province, Qinghai Province, Ningxia Hui Autonomous Region, and Xinjiang Uygur Autonomous Region. The Supreme People's Court itself shall accept directly the

relevant cases from Beijing Municipality, Tianjin Municipality, Hebei Province, Shandong Province and Inner Mongolia Autonomous Region.

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