

Translation



The following regulation, promulgated in 2010, seeks to increase private investors' role in the Chinese economy. The regulation encourages private investment in strategic emerging industries and virtually every other sector, including even the PRC defense industry, which historically has been a preserve of state-owned enterprises.

Title

Certain Opinions of the State Council on Encouraging and Channeling the Healthy Development of Private Investment

国务院关于鼓励和引导民间投资健康发展的若干意见

Author

General Office of the State Council (国务院办公厅). The State Council is the executive branch of the PRC government and also functions as China's cabinet.

Source

PRC central government website, May 13, 2010. The *Opinions* themselves are dated May 7, 2010.

The Chinese source text is available online at:

https://web.archive.org/web/20201118173441/http://www.gov.cn/zwgk/2010-05/13/content_1605218.htm

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To the people's governments of all provinces, autonomous regions, and province-level municipalities, and all ministries and commissions of the State Council and their respective agencies:

Since the beginning of reform and opening up [in 1978], China's private investment (民间投资) has constantly grown stronger, and has become an important force for promoting economic development, adjusting the industrial structure, creating flourishing rural and urban markets, and expanding employment in society. Unwaveringly encouraging, supporting and guiding the development of the non-publicly owned sector (非公有制经济), and further encouraging and channeling private investment, at the same time as we unwaveringly consolidate and develop the publicly owned sector (公有制经济), is conducive to upholding and improving the basic economic system of the initial stage of socialism in China, developing a mixed-ownership sector (混合所有制经济) on the basis of the modern property rights system, and promoting equal competition and common development of the economy across different forms of ownership. It is conducive to refining the socialist market economy system, giving full rein to the market's fundamental role in allocating resources, and establishing a market environment of fair competition. It is also conducive to stimulating the endogenous dynamics of economic growth, stabilizing the foundation of sustainable development, and promoting faster development with long-term stability; and is conducive to expanding employment,

increasing the incomes of residents, boosting domestic consumption, and promoting social harmony and stability. Toward these ends, we submit the following opinions:

I. Further broadening the fields and scope of private investment

1. We should deeply implement and put into practice the series of policy measures in *Several Opinions of the State Council on Encouraging, Supporting and Guiding the Development of the Individual and Private (个体私营) Sectors and Other Non-Publicly Owned Sectors of the Economy* ([2005] No. 3), etc., and encourage and channel the entry of private capital into industries and fields to which access has not been expressly prohibited by laws and regulations. Investment access thresholds should be set in a standardized manner, so as to create a market environment with fair competition and equal access. Market access standards and preferential support policies must be open and transparent, with all types of investing entities treated equally, and there should be no additional conditions imposed on private capital alone.

2. Clearly define the scope of government investment. Government investment should be used mainly in economic and social fields that are related to national security, and in which the market is unable to allocate resources effectively. Private capital should be encouraged to enter infrastructure, municipal engineering works and other public service fields in which market operation is feasible.

3. Further adjust the layout and structure of the state-owned sector (国有经济). For state-owned capital, the focus of investment should be put on continually strengthening and reinforcing important industries and key fields that are related to the lifeblood of the national economy.

4. Actively promote reform of the healthcare, education and other social service fields. Privately run social undertakings (民办社会事业) should be taken as an important supplement to the development of public undertakings for society (社会公共事业), with overall planning and a rationalized layout, and we should accelerate the cultivation and formation of a public service system in which government investment is the mainstay and private investment supplements it.

II. Encouraging and channeling private capital to enter basic industry and infrastructure fields

5. Encourage private capital participation in transportation-related construction. We should encourage private capital investment, via 100% shareholding, controlling equity investment, minority equity investment and other methods, in the construction of projects such as those for roads, water transport, harbors and wharves, civil airports, and general-use aviation facilities. We should urgently study and formulate a railway system reform program, introduce market competition, promote investor diversification, encourage private capital participation in construction of railroad trunk and branch lines, railway car ferries, and station facilities, and allow minority equity investment by private capital in projects to construct coal transport corridors, dedicated passenger lines, intercity rail transit, etc. We should also explore establishment of a railway industry investment fund, actively support accelerated shareholding

reform and listing by railroad enterprises, and broaden the channels and pathways for private capital to enter the railroad construction sector.

6. Encourage private capital participation in construction of water resource projects. We should establish fee collection-based compensation mechanisms, implement government subsidies, and, through landlord bidding, contract leasing and other methods, attract private capital to invest in construction of irrigation, inter-basin water transfer, integrated water resource use, soil and water conservation, and other water resource projects.

7. Encourage private capital participation in electric power-related construction. Private capital participation in wind, solar, geothermal, biomass and other types of new energy industry construction should be encouraged. Support should be given to private capital participation in hydroelectric, thermal and nuclear power plant construction using 100% shareholding, controlling equity investment or minority equity investment. We should further open up the electric power market, actively promote electricity price reform, accelerate implementation of online competitive bidding, implement tendering by project owners, refine the regulatory system for electricity, and create a good environment for private sector power generation enterprises to participate in competition on an equal basis.

8. Encourage private capital participation in oil and natural gas construction. We should support private capital entry into the oil and gas exploration and development fields, and cooperation with state-owned oil enterprises in carrying out oil and gas exploration and development. Support should be given to private capital minority interest participation in construction of storage and pipeline transport facilities and networks for petroleum, natural gas and refined products.

9. Encourage private capital participation in telecommunications-related construction. Private capital should be encouraged to enter the market for basic telecommunications operations using the minority equity investment method. Value-added telecommunications business carried out by private capital should be supported. In the telecommunications sector, we should strengthen regulation of monopolistic and unfair competition behavior, and promote fair competition and sharing of resources.

10. Encourage private capital participation in land consolidation and reclamation, and in the exploration and development of mineral resources. We should actively channel private capital to participate, through different forms of tendering and bidding, in construction of land consolidation, reclamation and other projects, encourage and guide private capital investment in mine geological environment restoration and governance, and adhere to the comprehensive opening of the mining rights market to private capital.

III. Encouraging and channeling private capital to enter the municipal utilities and policy housing construction sectors

11. Encourage private capital participation in municipal public utilities construction. We should support the entry of private capital into such areas as urban water supply, gas supply, heating supply, sewage and waste treatment and disposal, public transportation, and urban landscaping and greening. The active participation of private capital in the reorganization and restructuring of municipal public utility enterprises and organizations should be encouraged,

with qualified municipal public utility projects being able to adopt market-based modes of operation, and to transfer property rights or operating rights to private capital.

12. Further deepen reform of municipal utilities. We should actively introduce market competition mechanisms, vigorously promote tendering systems for municipal utility investment and operation entities, and establish a sound municipal utility concession system. We should improve and refine the government procurement system, establish standardized government regulation and subsidy mechanisms, accelerate the pace of reform of the municipal utility product pricing and fee collection system, and create a good institutional environment for encouraging and channeling private capital to enter municipal utility fields.

13. Encourage private capital to participate in policy-based (政策性) housing construction. We should support and channel private capital to invest in construction of affordable housing, public rental housing and other policy-based housing, participate in shantytown renovation, and take advantage of corresponding policy-based housing construction policies.

IV. Encouraging and channeling private capital to enter social undertaking fields

14. Encourage private capital to participate in developing healthcare services. We should support private capital setting up various kinds of hospitals, community health services organizations, nursing homes, outpatient departments, clinics, health centers (offices) and other medical institutions, and participating in the transformation and restructuring of public hospitals. We should also support private healthcare organizations undertaking public health services, basic medical services, and designated health insurance services. Tax policies for non-profit medical institutions should be effectively put into practice. We should encourage a reasonable flow of medical talent resources to private medical institutions, and ensure that private medical institutions receive the same treatment as public hospitals with regard to talent recruitment, job title evaluations, research topics, etc. Regulation of the medical quality, medical practice, fee-setting, and other aspects of various medical institutions should be strengthened, so as to promote the healthy development of private medical institutions.

15. Encourage private capital participation in developing education and training businesses. The establishment of colleges and high schools, elementary and middle schools, kindergartens, and vocational education and other types of educational and social training institutions by private capital should be supported. We will: Revise and refine the *Regulations on the Implementation of Privately Run Education Promotion Law of the People's Republic of China*, implement talent incentive policies and public funding support policies for private schools, and accelerate formulation and refinement of financial, property rights, social security and other policies to promote the development of private education.

16. Encourage private capital to participate in developing social welfare undertakings. By means of land use security, lending support, government procurement, etc., private capital should be encouraged to invest in the construction of specialized service facilities, and to establish various types of social welfare institutions offering nursing care (assisted living) services for the elderly and rehabilitation and care services for the disabled.

17. Encourage private capital participation in developing the cultural, tourism and sports industries. We should encourage private capital to engage in activities such as advertising,

printing, the performing arts, entertainment, cultural creativity, cultural exhibits, film and television production, internet culture, animation and games, publishing, digital production of cultural products, and related services, and to build cultural facilities such as museums, libraries, cultural centers, and movie theaters. Private capital should be encouraged to rationally develop tourism resources, build tourism facilities, and engage in various tourism and leisure activities. Private capital should also be encouraged to invest in producing sports products, construct various kinds of sports stadiums and fitness facilities, and engage in activities such as sports and fitness competitions and performances.

V. Encouraging and channeling private capital to enter financial service fields

18. Allow private capital to establish financial institutions. On the preconditions of strengthening effective regulation, promoting standardized operation, and preventing financial risks, restrictions on equity ratios for financial institutions should be relaxed. We should support private capital participation, through shareholding, in increases of registered capital and shares by banks, and participation in efforts to restructure rural and urban credit cooperatives. Private capital should be encouraged to found or participate in the establishment of financial institutions such as rural banks, loan companies, and rural mutual funds, and minimum capital contribution percentage restrictions on rural banks and incorporated community banks should be relaxed. The policy on full tax deduction of loan loss reserves for loans to small- and medium-size enterprises should be implemented, and the audit procedures for small- and medium-size financial institutions to write off bad debts should be simplified. Limits on the shareholding percentages of individual investors in microloan (小额贷款) companies should be relaxed as appropriate, and the same government subsidy policies should be implemented for the agriculture-related business of microloan companies. We should support the establishment of credit guaranty companies (信用担保公司) by private capital as the promoters, and refine the risk compensation and risk sharing mechanisms of credit guaranty companies. Private capital should be encouraged to establish financial intermediation services institutions by means of promotion, and to participate in the reorganization and restructuring of securities, insurance and other financial institutions.

VI. Encouraging and channeling private capital to enter commercial trade circulation fields

19. Encourage private capital to enter the merchandise wholesale and retail trade and modern logistics fields. The development of private wholesale and retail enterprises should be supported, and private capital investment in chain stores, e-commerce, and other new-type circulation formats should be encouraged. We should channel private capital to invest in third-party logistics services, create conditions for private logistics companies to undertake outsourcing of logistics business from traditional manufacturing and commercial trade industries, and support the collaborative development of joint distribution by small- and medium-size private trade and circulation enterprises. We should also accelerate reform of the logistics industry management system, encourage the resource integration and full utilization of logistics infrastructure, promote the networkized (网络化) operation of logistics enterprises, construct convenient and efficient financing platforms, create a fair and standardized market

competition environment, and advance the socialization (社会化) of logistics services and marketization of resource utilization.

VII. Encouraging and channeling private capital to enter defense S&T industry construction fields

20. Encourage private capital to enter defense S&T industry investment and construction fields. We should channel and support the orderly participation of private enterprises (民营企业) in the reorganization and restructuring of defense industry enterprises, encourage private enterprises to participate in dual-use high technology development and industrialization, and permit private enterprises to participate, in accordance with relevant regulations, in undertaking defense industry production and scientific research tasks.

VIII. Encouraging and channeling private capital to reorganize and join forces to participate in state-owned enterprise (SOE) reform

21. We should encourage private enterprises to use the property rights markets to form private capital consortiums, promote the rational circulation of property rights, and carry out cross-regional and cross-industry mergers, acquisitions and reorganizations. We should encourage and support private capital to circulate domestically in a rational fashion, achieving the orderly and gradual transfer of industries, and to participate in western region development, the revitalization of old industrial bases such as the northeastern region, and the rise of the central region, as well as in new rural construction, and development for poverty alleviation. Support should be given to efforts by private enterprises to expand and strengthen themselves by means of joint reorganization, etc., and to develop into group companies with distinctive features and strong market competitiveness.

22. Encourage and guide private enterprises to participate in the restructuring and reorganization of state-owned enterprises (SOEs) through minority equity investment, controlling equity investment, asset purchases and other means. We should reasonably lower the proportion of state-owned capital in state-owned holding companies. In the process of private enterprise participation in the restructuring and reorganization of SOEs, the requirements of national policies on disposal of assets and liabilities, social security, and other areas must be conscientiously enforced, employees must be properly relocated in accordance with law, and the legitimate rights and interests of employees must be guaranteed.

IX. Promoting strengthening of independent innovation (自主创新), and transformation and upgrading, by private enterprises

23. Implement tax incentive policies to encourage enterprises to increase R&D investment, and encourage private enterprises to increase R&D investment, improve independent innovation capacity, and master core technologies with independent intellectual property rights. We should help private enterprises establish engineering technology research centers and technology development centers, increase reserves of technology, and train technical personnel effectively. We should also support participation by private enterprises in projects and key technology research under major national technology programs, and constantly improve the technology levels and R&D capacities of enterprises.

24. Accelerate implementation of incentive policies to promote the conversion of S&T achievements into practical applications (科技成果转化), actively develop technology markets, refine mechanisms for registering S&T achievements, and facilitate the transfer and purchase of advanced technology by private enterprises. We should accelerate the establishment and mechanism innovation of S&T service organizations such as those for analytical testing, inspection testing, entrepreneurial incubation, technology assessment, and technical consulting, and provide service platforms for independent innovation by private enterprises. We should also actively promote market competition in high-tech service fields such as information outsourcing, intellectual property rights, technology transfer and conversion of S&T achievements into practical applications, and support the carrying out of technology service activities by private enterprises.

25. Encourage private enterprises to intensify new product development efforts, and achieve generational product replacement and upgrading. Additional deductions under preferential policies should be allowed for R&D expenses incurred in developing new products, in accordance with regulations. Private enterprises should be encouraged to implement brand development strategies, create brand-name products, and raise their product quality and service levels. Through methods such as accelerated depreciation of fixed investment, private enterprises should be encouraged to carry out technological renovation, eliminate outdated production capacity, and accelerate technical upgrading.

26. Encourage and guide private enterprises to develop strategic emerging industries. Information technology and other high- and new technologies should be broadly applied to uplift traditional industries, the circular economy and green economy should be vigorously developed, and we should invest in building emerging industries with development potential, such as energy conservation and emissions abatement, water conservation and consumption reduction, biotech and pharmaceuticals, information networks, new energy, new materials, environmental protection, and comprehensive resource utilization.

X. Encouraging and channeling private enterprises to actively participate in international competition

27. Encourage private enterprises to "go global" ("走出去") and actively participate in international competition. Private enterprises should be supported in carrying out internationalized operations across R&D, production, marketing and other areas, in developing strategic resources, and in establishing international sales networks. We should support private enterprises in using their own independent brands, independent intellectual property, and independent marketing, in developing international markets, and in accelerating the incubation of multinational enterprises and internationally famous brands. We should also support the formation of consortiums among private enterprises, and among private enterprises and SOEs, making the most of their respective strengths, and to jointly carry out various forms of overseas investment.

28. Refine overseas investment promotion and protection systems. Together with relevant countries, we should establish consultative mechanisms on policies for encouraging and promoting international flows of private capital, carry out multiple forms of dialogue and exchange, and develop mutually beneficial collaborative relationships with long-term stability.

By means of signing bilateral private investment cooperation agreements, utilizing the multilateral agreements system, etc., we should strive for a favorable trade and investment environment, and more preferential policies, for private enterprises to "go global." We should also improve and refine incentive policies for overseas investment, so that private enterprises enjoy the same treatment as other enterprises in terms of funding support, finance insurance, foreign exchange management, quality inspection and customs clearance, and other respects.

XI. Creating a good environment for private investment

29. Clean up and revise regulations and policy provisions that discourage the development of private investment, effectively protect the legitimate rights and interests of private investors, and cultivate and maintain an environment of fair competition for investment. In formulating laws, regulations and policies involving private investment, we must listen to the opinions and suggestions of the relevant trade associations and private enterprises, and fully reflect the reasonable requirements of private enterprises.

30. Governmental funds allocated by the relevant departments of people's governments at all levels, including investment within government fiscal budgets, special construction funds, and venture capital guidance funds, as well as loans from international financial organizations and foreign governments, should have clear rules, unified standards, and equal treatment for all types of investment entities, including private investors. Inclusion of the products and services of private enterprises in government procurement catalogs should be supported.

31. On the basis of preventing risks, financial institutions of all kinds must innovate and be flexible in the use of multiple types of financing instruments, expand financing support for private investment, and strengthen financial services for private investment. People's governments and relevant regulatory departments at all levels must continuously refine the private investment financing guarantee system (融资担保制度), improve venture capital mechanisms, develop equity investment funds, and continue to support financing of private enterprises through the stock and bond markets.

32. Comprehensively clean up and integrate administrative review and approval matters involving the management of private investment; simplify procedures, shorten time limits, further promote the openness and standardization of management content, standards and procedures; and raise the efficiency of administrative services. We must further clean up and standardize enterprise-related fees, and effectively lighten the burden on private enterprises.

XII. Strengthening private investment services, guidance and standardized management

33. Statistical departments must strengthen statistical work on private investment, so as to accurately reflect the progress and distribution of private investment. Departments in charge of investment, industry administration departments and industry associations must earnestly do private investment monitoring and analysis work well, promptly grasp dynamic private investment situations, and rationally guide private investment. Construction of investment information platforms should be strengthened, information such as national industrial policies, development and construction plans, market entry standards, domestic and foreign industry trends, etc., should be released to the public in a timely manner, private investors should be guided to assess situations correctly, and blind investment should be reduced.

34. Establish and improve the service system for private investment. We should fully utilize the role played by self-regulatory organizations such as chambers of commerce and industry associations, and actively incubate and develop intermediary organizations that provide legal, policy, consulting, financial, banking, technical, management and market information services for private investors.

35. Effectively strengthen regulation while also broadening market access. The relevant departments of people's governments at all levels should, in accordance with relevant laws and regulations, effectively urge private investment entities to carry out investment and construction procedures, and strictly comply with national industrial policies and provisions on environmental protection, land use, energy conservation, and quality and safety. We must establish and refine the enterprise credit system, and instruct private enterprises in establishing standardized property rights, financial, employment and other systems, and in operating according to law. Private investment entities must continuously improve their own quality and capabilities, foster a sense of integrity and sense of responsibility, actively create the conditions to satisfy market entry requirements, and take the initiative to assume corresponding social responsibilities.

36. Create a good climate of public opinion conducive to the healthy development of private investment. We must vigorously propagate the guidelines, policies and measures of the Chinese Communist Party (CCP) Central Committee and State Council on encouraging, supporting and guiding the development of the non-publicly owned sector. We must objectively and fairly propagate and report the positive role of private investment in areas such as promoting economic development, adjusting the industrial structure, causing rural and urban markets to flourish, and expanding employment in society. We must also actively propagate the achievements of entrepreneurs in terms of operating within the law, honesty and trustworthiness, conscientious performance of social responsibilities, and active participation in public welfare undertakings.

All regions and departments should place encouraging and channeling the healthy development of private investment in a more important position. They should further emancipate their minds, change their ideas, deepen reform, innovate and seek the truth. Based on the requirements of these opinions, they should step up the study and formulation of specific implementation methods, implement relevant policies and measures as soon as possible, strive to create a policy environment and public opinion climate favorable to the healthy development of private investment, and effectively promote the sustainable and healthy development of private investment, thereby promoting the reasonable growth, structural optimization, and improved efficiency of investment, and the good and rapid development of the economy and society.

State Council
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