

**THE US-CHINA BUSINESS COUNCIL**  
美中贸易全国委员会

## China 2015 Regulatory Transparency Scorecard

March 2015

### Executive Summary

Transparency – the openness of government decision-making, the public availability of information, and the solicitation of broad public feedback during the drafting of new laws and regulations – is consistently cited as a top concern in the US-China Business Council’s (USCBC) annual membership survey on China’s business environment. To measure the transparency of China’s lawmaking process, USCBC conducts an annual review of how select PRC government agencies comply with commitments to soliciting public feedback. In particular, all of China’s economic and trade-related central government agencies have agreed to public comment periods of at least 30 days on draft laws, administrative regulations, departmental rules, and regulations that function as regulations and rules. For the fifth straight year, USCBC has found that China’s central government agencies have an inconsistent record and are not fully meeting their regulatory transparency obligations.

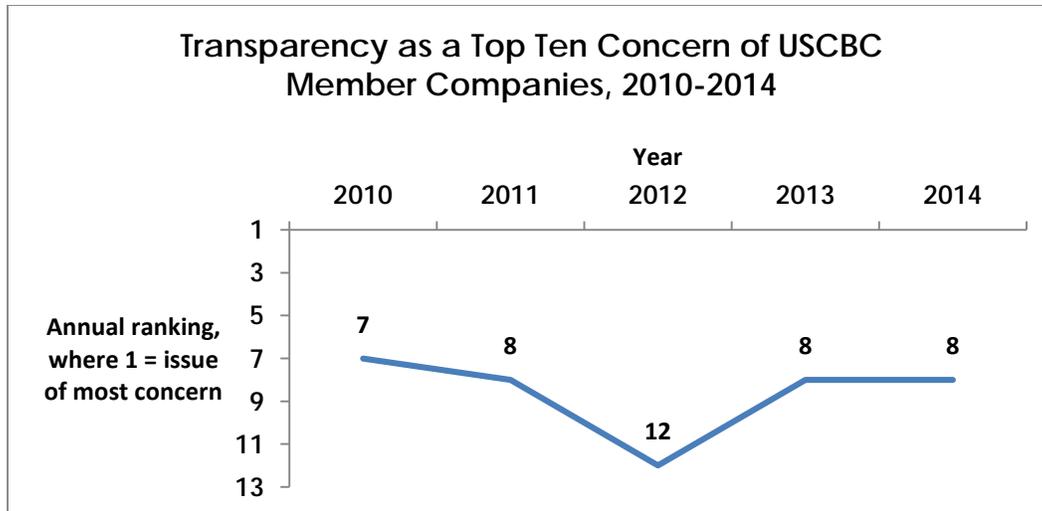
These obligations include high-level commitments by the National People’s Congress (NPC), China’s legislature, and the State Council, the equivalent of the US cabinet. In 2008, the NPC agreed to solicit public comments on most draft laws and amendments. In 2008, 2011, and again in 2012, the State Council pledged during bilateral dialogues with the United States to release drafts of all economic and trade-related administrative regulations and departmental rules for at least a 30-day public comment period.

One challenge in tracking transparency is the lack of clarity about which regulations fall under China’s commitments. USCBC’s report uses two filters for determining what policy documents to include in the report: a “narrow” interpretation that includes document types explicitly labeled as administrative regulations or departmental rules (known in this report as “narrow regulatory documents”), and a “broad” interpretation that includes other documents that have a clear economic regulatory impact (known in this report as “broad regulatory documents”).

This year’s report, covering the period from January to December 2014, reveals that compliance remains far below China’s commitments for nearly all government entities. Only China’s State Council showed a notable improvement this year, but it is unclear if this is the start of a dedicated and positive trend, or a one-off result. Major findings of the report include:

- Seventy-five percent of narrow regulatory documents were posted by the State Council, just under a 50 percentage point increase from USCBC’s 2013 and 2014 findings. Since 2013, when USCBC began listing data separately for each agency, this is the highest rate of compliance for any entity.
- However, the State Council’s record is not as positive for broad regulatory documents. The State Council posted only 30 percent of its broad regulatory documents for public comment in 2014.
- Just three of nine laws passed or amended by the NPC were posted for public comment.
- None of the seven priority government agencies monitored by USCBC posted more than 30 percent of broad regulatory documents for public comment on the State Council Legislative Affairs Office (SCLAO) website, and most posted less than 15 percent. For narrow regulatory documents, none of the agencies posted more than 62 percent of policies for public comment on the SCLAO website, and most posted less than 35 percent.

USCBC recommends that the Chinese government ensures that all administrative regulations, departmental rules, and regulatory documents are posted on the designated SCLAO information website comment page for at least a 30-day period, as per China’s bilateral commitments and domestic laws and regulations. China should take a further step by permitting a longer comment period of 60 or 90 days, which would allow for higher-quality comment contributions. Finally, lawmakers should define and clarify what types of documents are covered under the State Council’s transparency commitments, making sure to include catalogues, measures, standards, and opinions, all of which can impact industry significantly.



Regulatory transparency – the openness of government decision-making, the public availability of information, and the solicitation of broad public feedback during the drafting of new laws and regulations – remains a top concern of US-China Business Council (USCBC) member companies operating in China. In [USCBC’s 2014 annual membership survey](#), transparency ranked as the number eight business challenge (see graph), above national treatment and below licensing.

Since 2009, USCBC has monitored and tracked the drafting and release of economic- and trade-related laws, departmental rules, administrative regulations, and other regulatory documents to determine whether they have been posted for at least a 30-day public comment period on the websites of the National People’s Congress (NPC), the State Council Legislative Affairs Office (SCLAO), and other relevant government agencies.<sup>1</sup> Following the collection of these data, USCBC publishes an annual report summarizing and analyzing the results. This is the seventh report USCBC has published on China’s regulatory transparency, and covers the 12-month period from January to December 2014.

For the fifth consecutive year, USCBC has found that China’s National People’s Congress, State Council, and other central government agencies are not fully meeting their regulatory transparency obligations.

## Methodology

USCBC’s transparency scorecard is based on China’s domestic laws and regulations as well as its bilateral and multilateral commitments to improve regulatory transparency. Since 2000, China has committed to regulatory transparency on numerous fronts:

- The 2000 [Legislation Law](#)<sup>2</sup> states that the government may seek opinions from relevant organizations, groups, experts, and the general public on major laws (Article 25).
- China’s 2001 World Trade Organization Accession [Protocol](#) states that for all laws, regulations, and measures impacting trade in goods or services, the government would “provide a reasonable period for comment to the appropriate authorities before such measures are implemented” (Article 2, Section C).

<sup>1</sup> This includes the National Development Reform Commission, the Ministry of Industry and Information Technology, the Ministry of Commerce, the Ministry of Human Resources and Social Security, the Administration of Quality Supervision, Inspection, and Quarantine, and the State Administration for Industry and Commerce.

<sup>2</sup> The Legislation Law was under revision as of the drafting of this report, and was reviewed by the National People’s Congress during its March 2015 session.

- The State Council’s 2001 [Regulations on Procedures for the Formulation of Administrative Regulations](#) state that drafts of major administrative regulations are to be released for public comment after those drafts receive approval from the State Council (Article 19).
- The State Council’s 2001 [Regulations on Procedures for the Formulation of Rules](#) state that public opinion will be solicited for draft rules that have a direct influence on the rights and obligations of citizens, legal persons, or other organizations (Article 15).
- The State Council’s 2007 [Regulations on Open Government Information](#) require administrative organs to prepare and release publicly open government information guidebooks and directories (Article 19).
- The NPC Standing Committee [announced in April 2008](#) that it would generally solicit public comments on most draft laws it reviews, to promote open participation in the legislative process.
- At the June [2008 Strategic Economic Dialogue \(SED IV\)](#), a US-China bilateral dialogue, China committed to providing a forum for “public comment for all trade- and economic-related administrative regulations and departmental rules” for at least 30 days on the SCLAO information website comment pages.
- At the May [2011 Strategic & Economic Dialogue \(S&ED\)](#), China committed to requiring that “all trade- and economic-related administrative regulations and departmental rules be published” for at least 30 days on the SCLAO website.
- The State Council’s 2012 [Opinions of the State Council on Strengthening the Construction of a Law-Based Government](#) aim at creating a system in which regulatory documents are open to public comment (Article 9).
- SCLAO’s 2012 [Interim Measures on Solicitation of Public Comments on Draft Laws and Regulations](#) require draft laws and administrative regulations to be released for public comment and to be posted on the official SCLAO website for public comment for no fewer than 30 days (Article 6).

This 2014 transparency scorecard reflects ongoing USCBC efforts to monitor and track all economic and trade-related laws, amendments, administrative regulations, departmental rules, and regulatory documents drafted and issued by the NPC, the State Council (including SCLAO), and government agencies responsible for regulating trade and the economy. USCBC also tracks the activities of key subsidiary agencies such as the National Energy Administration (NEA), which is under the purview of the National Development and Reform Commission (NDRC). The agencies tracked are:

- NDRC, including NEA and the State Administration of Grain (SAG);
- Ministry of Industry and Information Technology (MIIT);
- Ministry of Commerce (MOFCOM);
- Ministry of Finance (MOF);
- Ministry of Human Resources and Social Security (MOHRSS);
- General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), including the Standardization Administration of China (SAC) and the Certification and Accreditation Administration of the People’s Republic of China (CNCA); and
- State Administration of Industry and Commerce (SAIC), including the China Trademark Office (CTMO)

During 2014, USCBC conducted regular and detailed monitoring of the individual Chinese-language agency websites and of major Chinese-language media websites to compile data for this report. To ensure that the report captured all documents that served in an economic and trade-related regulatory capacity, USCBC reviewed each document released by these agencies to determine their direct or indirect regulatory impact on businesses in China. USCBC’s research also tallied whether each of these documents was ever open for public comment, during this or any previous tracking period.

No explicit guidance exists on what is formally considered “trade- and economic-related administrative regulations and departmental rules” as cited in China’s June 2008 SED IV and May 2011 S&ED transparency commitments. Even though China has enacted regulations for setting administrative regulations and departmental rules, the definitions and official titles of such documents are not listed anywhere, making it difficult to identify which documents are included in their scope. For example, Article 4 of the Regulations on

Procedures for the Formulation of Administrative Regulations says administrative regulations are typically called “regulations,” but can also be called “provisions,” “measures,” or other titles. Article 6 of the Regulations on Procedures for the Formulation of Rules says that departmental rules are typically called “provisions” and “measures,” but may not be called “regulations.”

What qualifies as a regulatory document is even less clear. In the Opinions of the State Council on Strengthening the Construction of a Law-based Government, no guidance is given on how to identify a regulatory document, with the Opinions saying only that regulatory documents with a “direct influence on rights and obligations of citizens, legal persons or other organizations, public comments shall be solicited.” No further guidance is given on what “direct influence” is, or on how to define the rights, obligations, and scope of public comments.

For the purposes of this report, USCBC has divided rules and regulations into two separate categories:

- A “narrow” interpretation that includes only those documents explicitly labeled as administrative regulations or departmental rules, such as “provisions” (规定), “regulations” (条例), and “measures” (办法); and
- A “broad” interpretation that includes regulations under the “narrow” interpretation and other documents with a clear regulatory impact, such as “opinions” (意见), “notices” (通知), and “catalogues” (目录).

For categories of administrative regulations, departmental rules, and regulatory documents along with a full list of the types of documents included under these categories, see Appendix 1.

## Findings

### Implementation of NPC Transparency Commitments

NPC compliance with the regulatory transparency commitments made in April 2008 has been uneven since the inception of this annual USCBC report in 2010. However, NPC compliance backtracked in 2014 compared to 2013. Out of the nine laws passed or amended in the 12-month period, only three were open for public comment. Six of the laws passed during the tracking period were revisions to previous laws, and none of the revised laws were open for public comment. This is a marked decrease from 2013, in which six of nine laws were open for public comment.

This year’s figure marks a three-year low for NPC. Before 2011, NPC consistently opened draft laws for at least a 30-day comment period at least once during the standard three review rounds by NPC Standing Committee. As these laws have considerable regulatory weight across China, USCBC encourages NPC to return to its previously consistent high marks.

### Implementation of State Council Transparency Commitments

The State Council (including SCLAO) and its cabinet-level government agencies’ commitment to regulatory transparency remain insufficient. USCBC tracked 673 broad regulatory documents released by the State Council and seven priority government agencies in 2014. However, only 119 of these (17.7 percent) were open for public comment at any point on either SCLAO or the respective agency website. Though USCBC analysis shows that these numbers are an improvement from past years, these agencies still have a poor record of compliance with China’s transparency commitments.

The State Council posted a small portion (30 percent) of its broad regulatory documents for public comment on the SCLAO website. The State Council had a much better record for narrow regulatory documents, posting 75 percent—nearly a 50 percentage point increase from last year. USCBC applauds the State Council for its progress on narrow regulatory documents, but would encourage it to continue improving its record on broad regulatory documents.

**Table 1: State Council Administrative Regulations and Regulatory Documents Posted for Public Comment**

Government Agency and Tracking Period	Broad Regulatory Documents		Narrow Regulatory Documents	
	Total	Posted to SCLAO	Total	Posted to SCLAO
State Council (including SCLAO) January to December 2014	50	15 (30%)	20	15 (75%)

All of the government agencies tracked by USCBC showed a poor record of compliance with State Council commitments on transparency, based on a variety of metrics. None of the agencies, for example, posted a significant number of broad regulatory documents to the SCLAO website, with compliance ranging from 28.6 percent (SAIC) to less than one percent (NDRC). In fact, other than SAIC, no agency posted more than 9 percent of broad regulatory documents to the SCLAO website. For the narrow category, the compliance rates were higher, and have improved from last year – but are still insufficient. Most agencies still posted less than half of all narrow regulatory documents to SCLAO for public comment. Again, SAIC was the exception with 61.5 percent. NDRC had the lowest percentage in this category, posting only 2.4 percent of its narrow regulatory documents to SCLAO.

In looking more comprehensively at regulations posted to either SCLAO or the agency sites, the numbers improve somewhat, but are still insufficient. Looking at broad regulatory documents, the percentage of policies posted to either site increases for each ministry, ranging from 9.8 percent (MIIT) to 44.6 percent (SAIC), with most ranging between 9 and 15 percent. The numbers improve somewhat for narrow regulatory documents, with ministry posting rates ranging from 21.1 percent (MIIT) to 84.6 percent (SAIC), with most ranging between 20 and 55 percent. For reference, every policy that was posted to the SCLAO website for comment was also posted to the respective agency website.

**Table 2: Selected Government Agencies' Departmental Rules and Regulatory Documents Posted for Public Comment**

Government Agency	Broad Regulatory Documents			Narrow Regulatory Documents		
	Total	Posted to SCLAO <sup>3</sup>	Posted to Agency Only <sup>4</sup>	Total	Posted to SCLAO	Posted to Agency Only
National Development and Reform Commission (NDRC)	205	2 (0.98%)	24 (11.7%)	42	1 (2.4%)	14 (33.3%)
Ministry of Commerce (MOFCOM)	74	6 (8.1%)	4 (5.4%)	15	5 (33.3%)	2 (13.3%)
Ministry of Finance (MOF)	202	3 (1.5%)	18 (8.9%)	45	2 (4.4%)	10 (22.2%)
Ministry of Industry and Information Technology (MIIT)	143	4 (2.8%)	10 (7.0%)	19	3 (15.8%)	1 (5.3%)
General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ)	78	5 (6.4%)	14 (17.9%)	14	5 (35.7%)	5 (35.7%)
State Administration of Industry and Commerce (SAIC)	56	16 (28.6%)	9 (16.1%)	26	16 (61.5%)	6 (23.1%)
Ministry of Human Resources and Social Security (MOHRSS)	34	3 (8.8%)	2 (5.9%)	9	3 (33.3%)	2 (20%)

<sup>3</sup> Items posted to the SCLAO website may also have been posted on one or more agency websites for comment; for example, one or more agencies may post jointly released regulations to their websites.

<sup>4</sup> This does not include policies that were listed to both SCLAO and agency websites.

Among the small number of broad regulatory documents from any entity (6.1 percent) that were listed on the SCLAO website for public comment, the majority (46 of 52, or 88.5 percent) were posted for at least 30 days, in full compliance with China’s commitments. On average, regulatory documents posted to the SCLAO website were open for public comment for at least 28 days.

The record was less positive for broad regulatory documents posted only to agency websites, however. Only 25 of 67 or 37.3 percent of those policies were posted for at least 30 days, and these policies had an average comment period of fewer than 20 days (see table 3 below). This is a drop from last year’s average of 24 days. The length of comment periods varies significantly, ranging from as few as four days to as many as 94. For methodology and resources, see Appendix 2.

**Table 3: Length of Time State Council and Government Agency Administrative Regulations, Departmental Rules, and Regulatory Documents are Posted for Public Comment**

	Total Regulations	Regulations Released for 30+ Days	Adjusted Mean <sup>5</sup>	Non-Adjusted Mean
<b>State Council and Agency Regulations Posted to SCLAO</b>	52	46 (88.5%)	28.3 days	30.2 days
<i>State Council Regulations Posted to SCLAO</i>	15	15 (100%)	30 days	32.7 days
<i>Agency Regulations Posted to SCLAO</i>	37	31 (83.8%)	27.5 days	29.2 days
<b>Agency Regulations Posted to Agency Websites Only</b>	67	25 (37.3%)	19.6 days	23.8 days

## Challenges in Tracking Transparency

Tracking the State Council and selected agencies’ regulatory transparency record is a challenging process. Chinese commitments—including bilateral agreements—do not define key terms such as “trade- and economic-related,” “administrative regulations and departmental rules,” “regulatory documents,” “public opinions,” or “direct influence on the “rights and obligations of citizens, legal persons, or other organizations.” The ambiguous terminology has led to multiple interpretations of the commitments and multiple methods for measuring compliance. It also results in uneven commitment among Chinese regulatory agencies. All of these factors make it difficult to identify readily which regulations fall under these commitments, resulting in the need to track both broad and narrow definitions of what may qualify.

SCLAO’s April 2012 Interim Measures on Solicitation of Public Comments on Draft Laws and Regulations states that draft regulations should “generally” be released for public comment for no fewer than 30 days (Article 6), but exempts “emergency or special circumstances” as well as “draft administrative regulations involving state secrets, national security, the exchange rate, and monetary policy that are not suitable for public comment” (Article 3). Some regulations may fall into these exempted categories, but they are unlikely to cover all of the unreleased regulatory documents USCBC identified in 2014. SCLAO’s 2012 measures do not provide clarification on the scope and definition of these exceptions. Additionally, regulations that legally may be exempt from these requirements generally do not state clearly that they are invoking these exemptions.

Additionally, after an administrative item is posted for public comment on an agency website, some agencies later remove the link to the original policy. Verifying the publication date, implementation date, and content of

<sup>5</sup> USCBC found that a number of regulatory documents had been posted for longer than 30 days, skewing the figure for the average number of days posted for comment. To present a more accurate average, USCBC adjusted the data to treat regulatory documents posted for more than 30 days as regulatory documents posted for comment for exactly 30 days.

the policy must therefore be done through detailed Chinese-language media searches, making it challenging to confirm that a policy was indeed listed for the full period on the agency website.

Some administrative items, including amendments to laws and draft regulations, may include rounds of comment that are not open to the public, but in which officials circulate drafts to select stakeholders in government, industry, and academia. In these cases, the comment periods can vary in length and may last only a few days. This manner of solicitation does not meet Chinese government transparency commitments and limits the perspectives the Chinese government receives. To qualify as “public comment,” government agencies must include all industry stakeholders, including foreign companies, allowing them to provide an accurate assessment of the impact policies may have – as well as constructive feedback.

The number of administrative items released each year represents a significant challenge for comprehensive data collection. This year’s report included nearly 700 administrative items, but in total, thousands were reviewed as part of USCBC’s data collection. Because it is not always clear from their title which Chinese policies must be released for public comment, every administrative item must be read in order to be assessed for whether it could classify as an administrative regulation or a departmental rule based on its form and function.

In the absence of a centrally maintained public record of items released for comment in China, the only way to verify whether laws and regulations are published for public comment is to check each relevant agency website regularly for the release of new documents. Although all the agencies tracked have a specific page for administrative items open for public comment, other regulatory documents not open for public comment are scattered across different locations on each agency’s website. While some draft items may be released for comment to ministry websites only, it is challenging to track new regulations if they are neither posted to the SCLAO site nor receive coverage in the Chinese media. This makes it nearly impossible for transparency to be tracked comprehensively, without a significant time commitment.

It is important to note that these challenges are simply for tracking and evaluating China’s compliance with its transparency commitments. The burden for companies seeking to ensure that they are in compliance with relevant laws and regulations is even heavier, since in addition to identifying the policies, companies must then assess what the potential impact of the released policies may be on their businesses. For policies that are only publicly released after implementation, companies may have little time to determine how to comply with new policies and procedures that their regulators have issued.

A lack of transparency also negatively impacts China’s ability to achieve its own economic and trade goals. China aims to be a major global economy that plays a leading role in setting global trade policy. Regulatory transparency is an important step to help China achieve this goal. Transparency helps create a more predictable policy environment that promotes confidence among global investors. This predictability helps investors feel more comfortable bringing the technology, managerial know-how, and capital that China seeks. Longer public comment periods with broad participation will help industry understand China’s policy priorities, and will help align foreign investment to achieve those goals.

The process of releasing policies for public comment is not the end goal, but a means for developing effective policy. More voices help inform policymakers about the possible impacts of policy measures. In addition to improving the effectiveness of policies, regulatory transparency improves government accountability and governance, both stated goals of last year’s Fourth Plenum of the 18<sup>th</sup> Chinese Communist Party Congress. Indeed, the Chinese Academy of Social Sciences issues an annual report on the transparency of ministries under the State Council, as well as provincial governments (see Appendix 3d).

## Recent Developments in Transparency

The PRC government continues to voice its commitment to transparency through various statements and regulations, despite generally poor compliance with past transparency commitments. Some recent developments regarding regulatory transparency include:

**Fourth plenum documents on legal and regulatory reform** The fourth plenum communique issued in October 2014 suggests that the legislative process may be more open to public participation in the future. The communique states that citizen participation, expert research and verification, risk evaluation, legitimacy review, and collective discussion will become part of the legislative process for major administrative policy decisions. Indeed, improved governance, a more rules-based system, greater accountability, and increased transparency would all be welcome reforms for domestic and foreign companies if enacted. USCBC continues to advocate that public participation ought to go beyond “major administrative policy decisions” and include all decisions that will impact domestic and foreign companies.

**JCCT outcomes on medical devices and pharmaceutical access** At the December 2014 Joint Commission on Commerce and Trade (JCCT), the United States and China agreed on a comment period of at least 60 days for all draft pharmaceutical and medical device rules and regulations. Further detail is needed to define what constitutes “rules and regulations” and to ensure the comment period is open publicly to all industry stakeholders. Nevertheless, China’s public commitment in this area represents a step in the right direction.

**Public surveys on existing regulations** Chinese government agencies have also shown greater willingness to survey the public on regulatory issues, pointing to a greater belief in the value of transparency and public opinion. In September 2014, the SAIC [website](#) asked the Chinese public to vote on whether they had seen local implementation of a group of 75 separate approval and licensing items, with the aim of understanding how policies are implemented at the local level. The website does not explain how the results were used, if at all, but the action was ostensibly a step forward in promoting transparency and public participation in policy. In September 2014, MOFCOM released a [survey](#) on its website to understand and evaluate problems with the Regulation on Franchise Management, an administrative regulation passed in 2007 that created China’s franchising regulatory framework. Even though no information was provided on how the survey results were used, this is again a positive development in soliciting public feedback.

## USCBC Recommendations

To improve regulatory transparency and increase public participation, USCBC recommends that China’s government should:

- Ensure that all administrative regulations, departmental rules, and regulatory documents are posted on the “solicitation of comment” section of the SCLAO website for at least 30 days. As the USCBC 2015 [Board Priorities Statement](#) notes, a longer comment period of 60 to 90 days would be preferable. Longer commenting periods will result in broader input from stakeholders, and provide feedback that will help China achieve its economic and legislative goals.
- Define and clarify what types of documents are covered under the State Council’s transparency commitments, making sure to include catalogues, measures, standards, and opinions, all of which can affect industry significantly. Although these policies may not be, in name, “administrative regulations” or “departmental rules,” their implementation can have a substantial impact on stakeholders. Regulatory agencies should provide notice and opportunities for comment before releasing all of these types of measures.

- Explain in detail the economic methodology and rationale behind administrative reviews and decision-making by central government bodies to allow greater transparency in these processes. These should include antimonopoly reviews, countervailing duty and antidumping investigations and case rulings, and decisions made based on “national economic security considerations.”
- Create a central government-run, web-based database of laws and regulations that have been released for comment in order to facilitate annual reviews of the State Council and its agencies’ compliance to transparency commitments.
- Remove or clarify language such as “and other relevant regulations” from administrative regulations, departmental rules, and regulatory documents. Ambiguity surrounding the scope of “relevant regulations” results in significant burdens for companies trying to ensure they are compliant with new rules. Specific additional regulations should be identified, or the phrase should be removed.

## Appendix 1: Categories for Relevant Administrative Regulations, Departmental Rules, and Regulatory Documents

Administrative regulations and departmental rules may include a variety of documents:

- Articles 89 and 90 of the PRC Constitution ([www.gov.cn/gongbao/content/2004/content\\_62714.htm](http://www.gov.cn/gongbao/content/2004/content_62714.htm)) note that the State Council is responsible for drafting and releasing “administrative regulations” (行政法规), “decisions” (决定), and “orders” (命令). The State Council is also responsible for changing or cancelling relevant regulations released by ministries and agencies, including “orders” (命令), “directives” (指示), and “rules” (规章).
- Article 4 of the 2001 Regulations on Procedures for the Formulation of Administrative Regulations ([http://www.gov.cn/gongbao/content/2002/content\\_61545.htm](http://www.gov.cn/gongbao/content/2002/content_61545.htm)) state that State Council administrative regulations are generally titled “regulations” (条例), and may also be called “provisions” (规定), “measures” (办法), and “others.” (等)
- Article 6 of the 2001 Regulations on Procedures for the Formulation of Rules ([http://www.gov.cn/gongbao/content/2002/content\\_61556.htm](http://www.gov.cn/gongbao/content/2002/content_61556.htm)) state that departmental rules are generally titled “provisions” (规定) and “measures” (办法), but cannot be titled “regulations” (条例)
- Article 2 of the 1990 Decisions on the Registration of Regulations and Rules ([www.law-lib.com/law/law\\_view.asp?id=6358](http://www.law-lib.com/law/law_view.asp?id=6358)) state that departmental administrative items may be titled “provisions” (规定), “measures” (办法), “rules” (细则), and “general rules” (规则).

The tables below reflect the US-China Business Council’s (USCBC) detection of administrative items released on the websites of the National Development and Reform Commission, Ministry of Commerce, Ministry of Finance, Ministry of Industry and Information Technology, General Administration of Quality Supervision, Inspection and Quarantine, State Administration of Industry and Commerce, and Ministry of Human Resources and Social Security, and include items that were not posted to the SCLAO website for public comment. These items fall into two categories:

- A “narrow” category that includes only those documents explicitly labeled as State Council or departmental administrative regulations; and
- A “broad” category that also includes administrative regulations that appear to function as State Council or departmental administrative regulations, but are not included in the State Council definition. (This broad category includes regulatory documents that are narrow, as well as an additional set of “non-narrow” regulations listed below.)

### Terms Used for Narrow Items Circulated or Issued by Key Entities, January 2014 through December 2014

Terms	Total <sup>6</sup>	Posted for Comment on SCLAO Site	Posted for Comment on Ministry Site	Not Posted
Provisions (规定)	35	14	24	11
Decisions (决定)	6	3	3	3
Orders (命令)	0	0	0	0
Regulations (条例)	12	11	11	1
Measures (办法)	96	20	40	56
Directives (指示)	0	0	0	0
Rules (细则)	8	0	1	7
General rules (规则)	7	1	3	4

<sup>6</sup> All items posted on the SCLAO website were also posted on the relevant agency website.

Terms	Total <sup>6</sup>	Posted for Comment on SCLAO Site	Posted for Comment on Ministry Site	Not Posted
Other	0	0	0	0
<b>TOTAL</b>	<b>164</b>	<b>49</b>	<b>82</b>	<b>82</b>

Terms Used for Non-Narrow Items Circulated or Issued by Key Entities, January 2014 through December 2014

Terms	Total	Posted for Comment on SCLAO Site	Posted for Comment on Ministry Site	Not Posted
Opinions (意见)	86	0	3	83
Notices (通知)	237	0	2	235
Guides (指引)	3	0	0	3
Standards (标准)	4	0	1	3
Catalogues (目录)	39	1	8	31
General rules (通则)	0	0	0	0
Requirements (条件)	2	0	1	1
Measures (方法)	0	0	0	0
Other	138	2	22	116
<b>TOTAL</b>	<b>509</b>	<b>3</b>	<b>37</b>	<b>472</b>

## Appendix 2: Information Sources

US-China Business Council (USCBC) staff regularly monitor a range of sources for PRC economic and trade-related regulatory documents by conducting a detailed review of State Council Legislative Affairs Office (SCLAO) and agency webpages on a fixed schedule. When compiling these documents, USCBC notes the date issued, comment period (if applicable), total days open for comment (if applicable), where it was posted, whether the document was jointly released, and the category to which the item belongs (see Appendix 1). Prior to the categorization and calculation of total regulations, means, and adjusted means, USCBC conducts regular, detailed reviews to check for accuracy in the data.

### National People's Congress (NPC)

USCBC tracks NPC laws on the NPC website ([www.npc.gov.cn/npc/xinwen/node\\_12488.htm](http://www.npc.gov.cn/npc/xinwen/node_12488.htm)). In addition to ascertaining which and how many laws were passed during each calendar year, USCBC looks at which drafts of these laws were posted for comment on the NPC's public comment portal ([www.npc.gov.cn/npc/flcazqyj/node\\_8176.htm](http://www.npc.gov.cn/npc/flcazqyj/node_8176.htm)) at any point during the drafting process, even if that public comment was prior to the current tracking period.

Consequently, USCBC is able to track which drafts are posted for comment and which draft laws were not posted for comment out of the total laws passed. For the laws passed in a given tracking period, USCBC notes whether they were previously issued for comment at any point during the drafting process.

### SCLAO

USCBC tracks items posted on the State Council's website ([www.gov.cn](http://www.gov.cn)), as well as the SCLAO's websites (<http://www.chinalaw.gov.cn/article/cazjgg/index.shtml> and <http://www.chinalaw.gov.cn/article/fgkd/xfq/>).

### Ministries and Agencies

USCBC tracks items released by key government agencies on their individual websites. As each agency may organize data differently, USCBC conducts an in-depth review of website pages where relevant items may be posted, including pages for announcements, policies, laws and regulations, and public comments. For the key agencies examined in this report, USCBC tracks regulatory documents posted to these pages and checks whether they were posted for comment at any point during the drafting process.

### National Development and Reform Commission (NDRC)

Announcements (公告)	<a href="http://www.sdpc.gov.cn/zcfb/zcfbgg/">http://www.sdpc.gov.cn/zcfb/zcfbgg/</a>
Notices (通知)	<a href="http://www.sdpc.gov.cn/zcfb/zcfbtz/index.html">http://www.sdpc.gov.cn/zcfb/zcfbtz/index.html</a>
Planning documents (规划文本)	<a href="http://www.sdpc.gov.cn/zcfb/zcfbghwb/">http://www.sdpc.gov.cn/zcfb/zcfbghwb/</a>
Seeking public comment (征求意见)	<a href="http://www.sdpc.gov.cn/yjq/">http://www.sdpc.gov.cn/yjq/</a>
Other (其他)	<a href="http://www.sdpc.gov.cn/zcfb/zcfbqt/">http://www.sdpc.gov.cn/zcfb/zcfbqt/</a>

### National Energy Administration

Open catalogue (公开目录)	<a href="http://zfxgk.nea.gov.cn/index.htm">http://zfxgk.nea.gov.cn/index.htm</a>
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### State Administration of Grain

Policy documents (政策文件)	<a href="http://www.chinagrains.gov.cn/n16/n1077/n1632/index.html">http://www.chinagrains.gov.cn/n16/n1077/n1632/index.html</a>
Work developments (工作动态)	<a href="http://www.chinagrains.gov.cn/n16/n1062/n1422/n1512/index.html">http://www.chinagrains.gov.cn/n16/n1062/n1422/n1512/index.html</a>
Industry developments (行业动态)	<a href="http://www.chinagrains.gov.cn/n16/n1062/n1167/n4020298/index.html">http://www.chinagrains.gov.cn/n16/n1062/n1167/n4020298/index.html</a>

## Ministry of Commerce (MOFCOM)

China's documents on foreign economic trade (中国对外经济贸易文告)	<a href="http://www.mofcom.gov.cn/article/b/g/">http://www.mofcom.gov.cn/article/b/g/</a>
Department order announcements (部令公告)	<a href="http://www.mofcom.gov.cn/article/b/c/?">http://www.mofcom.gov.cn/article/b/c/?</a>
Domestic trade management (国内贸易管理)	<a href="http://www.mofcom.gov.cn/article/b/d/">http://www.mofcom.gov.cn/article/b/d/</a>
Foreign trade management (对外贸易管理)	<a href="http://www.mofcom.gov.cn/article/b/e/?">http://www.mofcom.gov.cn/article/b/e/?</a>
Foreign investment management (外国投资管理)	<a href="http://www.mofcom.gov.cn/article/b/f/">http://www.mofcom.gov.cn/article/b/f/</a>
Comprehensive policies (综合政策)	<a href="http://www.mofcom.gov.cn/article/b/fwzl/">http://www.mofcom.gov.cn/article/b/fwzl/</a>
Seeking public comments (征求意见)	<a href="http://www.mofcom.gov.cn/article/au/">http://www.mofcom.gov.cn/article/au/</a>

## Ministry of Finance (MOF)

Policy releases (政策发布)	<a href="http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/index.htm">http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/index.htm</a>
Notices and announcements (通知公告)	<a href="http://www.mof.gov.cn/zhengwuxinxi/bulinggonggao/tongzhitonggao/index_1.htm">http://www.mof.gov.cn/zhengwuxinxi/bulinggonggao/tongzhitonggao/index_1.htm</a>
Collection of comments (意见征集)	<a href="http://www.mof.gov.cn/gongzhongcanyu/yijianzhengji/">http://www.mof.gov.cn/gongzhongcanyu/yijianzhengji/</a>

## Ministry of Industry and Information Technology (MIIT)

Policy and legislation (政策法规)	<a href="http://www.miit.gov.cn/n11293472/n11293832/n11294042/index.html">http://www.miit.gov.cn/n11293472/n11293832/n11294042/index.html</a>
Document releases (文件发布)	<a href="http://www.miit.gov.cn/n11293472/n11293832/n12843926/index.html">http://www.miit.gov.cn/n11293472/n11293832/n12843926/index.html</a>

## General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)

Orders and announcements (局令公告)	<a href="http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/">http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/</a>
Notices and developments (通知动态)	<a href="http://www.aqsiq.gov.cn/xxgk_13386/tzdt/">http://www.aqsiq.gov.cn/xxgk_13386/tzdt/</a>
Projects and plans (计划规划)	<a href="http://www.aqsiq.gov.cn/xxgk_13386/jhgh/">http://www.aqsiq.gov.cn/xxgk_13386/jhgh/</a>
Drafts for public comments (草案征询意见)	<a href="http://www.aqsiq.gov.cn/gzcypt/cazxyj/">http://www.aqsiq.gov.cn/gzcypt/cazxyj/</a>
Laws and regulations (法律法规)	<a href="http://www.cnca.gov.cn/rjwzcf/fflg/default.shtml">http://www.cnca.gov.cn/rjwzcf/fflg/default.shtml</a>

## State Administration of Industry and Commerce (SAIC)

Projects and plans (计划规划)	<a href="http://www.saic.gov.cn/zwgk/jhgh/">http://www.saic.gov.cn/zwgk/jhgh/</a>
Policy and legislation (政策法规)	<a href="http://www.saic.gov.cn/zcfg/">http://www.saic.gov.cn/zcfg/</a>
Important announcements (重要发布)	<a href="http://www.saic.gov.cn/zwgk/zyfb/index.html">http://www.saic.gov.cn/zwgk/zyfb/index.html</a>
Open catalogue (公开目录)	<a href="http://gkml.saic.gov.cn/">http://gkml.saic.gov.cn/</a>

## China Trademark Office

Important trademark news (商标要闻)	<a href="http://www.ctmo.gov.cn/sbyw/">http://www.ctmo.gov.cn/sbyw/</a>
Important releases (重要发布)	<a href="http://www.ctmo.gov.cn/tz/">http://www.ctmo.gov.cn/tz/</a>
Laws and regulations (法律法规)	<a href="http://www.ctmo.gov.cn/fflg1/">http://www.ctmo.gov.cn/fflg1/</a>

## Ministry of Human Resources and Social Security (MOHRSS)

Policy and legislation (政策法规)	<a href="http://www.mohrss.gov.cn/gkml/index3.htm">http://www.mohrss.gov.cn/gkml/index3.htm</a>
Plans and financial affairs (规划财务)	<a href="http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/ghcw/">http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/ghcw/</a>
Seeking public comments (征求意见)	<a href="http://www.mohrss.gov.cn/SYrlzyhshbzb/zxhd/SYzhengqiuyijian/">http://www.mohrss.gov.cn/SYrlzyhshbzb/zxhd/SYzhengqiuyijian/</a>
Social security (社会保障)	<a href="http://www.mohrss.gov.cn/SYrlzyhshbzb/ldbk/shehuibaozhang/index.htm">http://www.mohrss.gov.cn/SYrlzyhshbzb/ldbk/shehuibaozhang/index.htm</a>

## Appendix 3: Chinese Academy of Social Sciences Report on PRC Government Transparency

The Chinese Academy of Social Sciences (CASS) annually evaluates the transparency of ministries directly under the State Council, including ad-hoc organizations, institutions, state bureaus, departments related to foreign affairs, and departments that have direct responsibility for the well-being of PRC citizens. The evaluation uses a combination of phone, mail, and ministry self-surveys. The most recent CASS report was released in March 2015.

CASS ranked ministries on a scale of 1 to 100 points. The overall score for each ministry was based on assessments of five criteria: government information disclosure catalogues (20 percent of the overall score), work information (20 percent), regulatory documents (25 percent), open applications (25 percent), and annual reports on information disclosure (10 percent). Selected rankings for ministries that the US-China Business Council (USCBC) regularly tracks are listed below.

### Selected Ministry and Agency Transparency Rankings Based on CASS Transparency Assessment, 2014<sup>7</sup>

State Council Ministry or Agency	Rank	Score
Ministry of Commerce	2	75.17
National Development and Reform Commission	4	74.39
General Administration of Quality Supervision, Inspection and Quarantine	6	73.82
Ministry of Finance	18	66.18
Ministry of Human Resources and Social Security	25	62.27
State Administration of Industry and Commerce	38	54.97
Ministry of Industry and Information Technology	39	54.96

Source: CASS

CASS also ranked local governments on a scale of 1 to 100 points. The overall score for each ministry was based on assessments of six criteria: government information disclosure catalogues (15 percent), regulatory documents (15 percent), administrative approval information (15 percent), environmental protection information (15 percent), open applications (30 percent), and annual reports on information disclosure (10 percent).

### Top Ten Provincial-Level Governments Based on CASS Transparency Assessment, 2014<sup>8</sup>

Local Government	Rank	Score
Guangdong	1	80.34
Shanghai	2	80.27
Anhui	3	79.80
Zhejiang	4	78.09
Shandong	5	77.83
Tianjin	6	77.12
Hainan	7	77.08
Henan	8	76.15
Fujian	9	75.87
Beijing	10	75.05

Source: CASS

<sup>7</sup> CASS rankings include a fuller range of government ministries and agencies; this list reflects rankings for the seven agencies tracked in USCBC's report.

<sup>8</sup> CASS rankings include provinces and the four centrally administered municipalities – Beijing, Chongqing, Shanghai, and Tianjin. They does not include any of China's autonomous areas – Guangxi, Inner Mongolia, Ningxia, Tibet, and Xinjiang – or either of China's two specially administered regions – Hong Kong and Macao.

**Top Ten Municipal Governments Based on CASS Transparency Assessment, 2014<sup>9</sup>**

<b>Local Government</b>	<b>Rank</b>	<b>Score</b>
Guangzhou, Guangdong	1	84.12
Ningbo, Zhejiang	2	83.91
Wuxi, Jiangsu	3	82.88
Suzhou, Jiangsu	4	80.95
Xiamen, Fujian	5	80.55
Hangzhou, Zhejiang	6	80.17
Qingdao, Shandong	7	80.09
Changsha, Hunan	8	75.40
Chengdu, Sichuan	9	74.58
Fuzhou, Fujian	10	74.13

**Source: CASS**

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<sup>9</sup> The CASS assessment states that it tracks only China's larger cities, though it does not provide any more specific criteria for determining which cities to track.