

## China 2014 Regulatory Transparency Scorecard

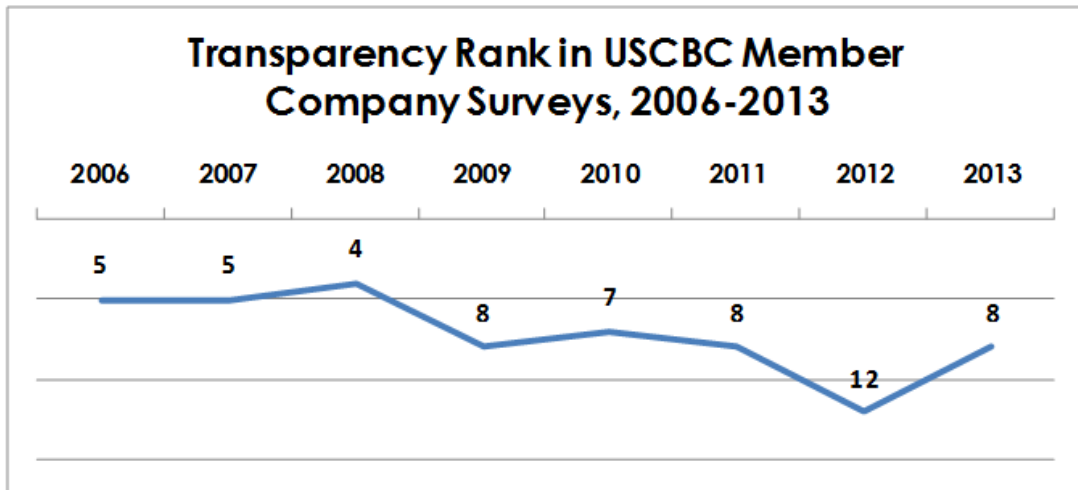
March 2014

### Executive Summary

Transparency – including solicitation of public feedback during the creation of new laws and regulations, open government decision-making, and the ability to access information – is consistently cited as a top concern for US-China Business Council (USCBC) member companies in USCBC’s annual membership survey on China’s business environment. As part of efforts to monitor this issue, USCBC conducts an annual review of selected PRC government agencies’ records in increasing transparency in their rule-making processes. This year’s report, covering January to December 2013, shows that China continues to significantly lag in its commitments and implementation in promoting regulatory transparency. The National People’s Congress (NPC), China’s legislative body, and the State Council, the equivalent of the United States’ cabinet, have made high-level commitments to improve regulatory transparency. In 2008, the NPC announced that it would solicit public comments on most draft laws and amendments it reviews. The State Council pledged in 2008, 2011, and 2012 to release drafts of all trade- and economic-related administrative regulations and departmental rules for 30-day public comment periods.

- USCBC analysis of the NPC, the State Council, and selected government agencies shows varying levels of compliance with these transparency commitments and that all agencies need considerable improvement.
- The NPC continues to have a mixed, though slightly improved record of posting draft laws for comment for a full 30-day period. Sixty-six percent of laws passed over a recent twelve-month period had been published to the NPC website for comment at some point during their drafting process.
- The State Council posted less than 10 percent of its own administrative regulations and departmental rules for public comment through the State Council Legislative Affairs Office (SCLAO).
- Other government agencies did no better. During the twelve-month period tracked in this report, the seven agencies tracked – the National Development and Reform Commission (NDRC), Ministry of Commerce (MOFCOM), Ministry of Finance (MOF), Ministry of Industry and Information Technology (MIIT), General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), State Administration of Industry and Commerce (SAIC), and Ministry of Human Resources and Social Security (MOHRSS) – posted a small fraction of relevant documents for comment on either the SCLAO or their respective agency websites: Less than 10 percent of regulations to the SCLAO site and less than 17 percent of additional regulations to their agency sites.
- Part of the challenge of tracking transparency lies with the lack of clarity about what regulations fall under China’s commitments. USCBC’s report uses two filters for including regulations in the report: A “narrow” interpretation that includes only those documents explicitly labeled as State Council or departmental administrative regulations in other legal documents, and a “broad” interpretation that includes other regulations that appear to function as State Council or departmental administrative regulations.
- Among the small percentage of regulations that are posted for public comment in line with State Council’s commitments, however, the majority is posted for at least the full 30-day period, and the average comment period for administrative regulations and departmental rules posted for public comment on either the SCLAO or agency websites exceeded 24 days.

USCBC recommends that the PRC government ensure that all administrative regulations and departmental rules are posted on the designated SCLAO information website comment page for a full 30-day public comment period. The office should also consider going further by posting for a longer comment period of 60 or 90 days. For additional recommendations, see page 8.



China’s record of regulatory transparency – soliciting public feedback on new laws and regulations, open government decision-making, and the public’s ability to access information – continues to be a top concern for US-China Business Council (USCBC) member companies. Since 2009, USCBC has monitored the drafting and issuance of relevant PRC laws and regulations to determine whether they have been posted for comment on the websites of the National People’s Congress (NPC), State Council Legislative Affairs Office (SCLAO), and other government agencies for a 30-day period. USCBC then publishes a detailed report summarizing the results. This is the sixth report USCBC has issued on China’s transparency efforts since 2009 and covers the 12-month period from January to December 2013.

This year’s report shows that China continues to fall short in meeting its commitments in promoting regulatory transparency.

- The NPC continues to have an inconsistent record of making draft laws available for public comment on its website for a full 30-day period. For example, 66 percent of laws passed over the recent 12-month period had been published to the NPC website for comment at some point during the drafting process.
- The State Council and other selected government agencies show varying levels of compliance with bilateral transparency commitments, and USCBC analysis shows that all agencies need considerable improvement. The State Council posted less than 10 percent of its own administrative regulations and departmental rules for public comment on the SCLAO website. Other government agencies did no better, posting only a small fraction of relevant documents for comment on either the SCLAO or their respective agency websites. Less than 20 percent of relevant documents were posted to either the SCLAO site or a government agency website.

## Detailed Methodology

USCBC’s analysis has focused on areas in which the central government has stated, either on its own or through bilateral agreements, its intentions to improve transparency, including:

- Compliance with the NPC Standing Committee’s April 2008 announcement that, to promote open participation in its legislative process, it would solicit public comments on most draft laws and amendments it reviews ([www.npc.gov.cn/npc/flcazqyj/2008-04/22/content\\_1464905.htm](http://www.npc.gov.cn/npc/flcazqyj/2008-04/22/content_1464905.htm));
- Adherence to the June 2008 Strategic Economic Dialogue (SED IV) commitment to “publish for public comment all trade and economic-related administrative regulations and departmental rules” for at least 30

days on the SCLAO information website comment pages ([www.treasury.gov/initiatives/Documents/sedjointfactsheet.pdf](http://www.treasury.gov/initiatives/Documents/sedjointfactsheet.pdf));

- Compliance with the State Council’s 2010 directive to “strengthen” compliance with its transparency commitments ([www.gov.cn/zwggk/2010-11/08/content\\_1740765.htm](http://www.gov.cn/zwggk/2010-11/08/content_1740765.htm));
- Adherence to the May 2011 Strategic & Economic Dialogue (S&ED) commitment requiring that “all proposed trade- and economic-related administrative regulations and departmental rules be published” for at least 30 days on the SCLAO website ([www.treasury.gov/press-center/press-releases/Pages/TG1172.aspx](http://www.treasury.gov/press-center/press-releases/Pages/TG1172.aspx));
- Compliance with SCLAO’s April 2012 Interim Measures on Draft Laws and Regulations for Public Comment that states that relevant draft regulations should “in general” be released for a 30-day comment period ([www.chinalaw.gov.cn/article/cazjgg/201204/20120400367358.shtml](http://www.chinalaw.gov.cn/article/cazjgg/201204/20120400367358.shtml)); and
- Other efforts to increase transparency, including policies implemented in accordance with the State Council’s Regulations on the Disclosure of Government Information ([www.gov.cn/zwggk/2007-04/24/content\\_592937.htm](http://www.gov.cn/zwggk/2007-04/24/content_592937.htm)) issued in May 2008.

As in previous years’ reports, this report tracks the drafting and issuance of relevant laws and regulations by the NPC, SCLAO, and government agencies to assess China’s compliance with its transparency commitments. These agencies were selected because they play key roles in formulating trade-related regulations that are important for US companies doing business in China. USCBC also monitored key subsidiary agencies such as the National Energy Administration (NEA) under the National Development and Reform Commission. The agencies examined are:

- National Development and Reform Commission (NDRC), including the NEA and State Administration of Grain (SAG)
- Ministry of Commerce (MOFCOM)
- Ministry of Finance (MOF)
- Ministry of Industry and Information Technology (MIIT)
- 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)
- State Administration of Industry and Commerce (SAIC), including the China Trademark Office (CTMO)
- Ministry of Human Resources and Social Security (MOHRSS)

To compile data for this report, USCBC staff conducted regular, detailed reviews of relevant agency websites on a fixed schedule. USCBC also monitored other government websites, press sources, and a broad mix of information channels to identify measures that directly or indirectly related to business concerns in China.

Chinese regulations do not provide explicit guidance as to what documents formally constitute the “trade and economic-related administrative regulations and departmental rules” cited in China’s June 2008 SED IV and May 2011 S&ED transparency commitments. While these commitments did not formally define which regulatory documents would fall under these rules, other PRC laws and regulations provide clues as to what types of regulations and departmental rules should be included.<sup>2</sup>

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<sup>1</sup> SCLAO posts documents for public comment on several websites, including [yijian.chinalaw.gov.cn/lisms/action/guestLoginAction.do](http://yijian.chinalaw.gov.cn/lisms/action/guestLoginAction.do) (State Council documents); [bmyj.chinalaw.gov.cn/lisms/action/guestLoginAction.do](http://bmyj.chinalaw.gov.cn/lisms/action/guestLoginAction.do) (ministry-level documents); and [www.chinalaw.gov.cn/article/cazjgg/](http://www.chinalaw.gov.cn/article/cazjgg/) (most laws posted at the above and links to their respective comment pages).

<sup>2</sup> These regulations include the PRC Constitution ([www.gov.cn/gongbao/content/2004/content\\_62714.htm](http://www.gov.cn/gongbao/content/2004/content_62714.htm)), the 2001 Regulations on the Procedures for the Enactment of Administrative Regulations ([© 2014, The US-China Business Council](http://www.law-</a></p></div><div data-bbox=)

For the purposes of this report, USCBC used two separate filters:

- A “narrow” interpretation that includes only those documents explicitly labeled as State Council or departmental administrative regulations, such as “provisions” (规定), “regulations” (条例), and “measures” (办法); and
- A “broad” interpretation that includes regulations that fall under the “narrow” interpretation as well as other administrative regulations that appear to function as State Council or departmental administrative regulations, such as “opinions” (意见), “notices” (通知), and “catalogues” (目录).

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

## Findings

### Implementation of NPC Transparency Commitments

The NPC’s compliance with the transparency measures outlined in April 2008 has been inconsistent, but improved slightly this year compared to last year. Out of nine laws (including amendments) passed during the 12-month period covered in this update, six (66.7 percent) were posted to the NPC website for comment at some point during the drafting or revision process, and all but one – the amended PRC Consumer Protection Law – were posted for 30 days. This is an improvement from the 40 percent compliance during USCBC’s previous mid-March to mid-November 2012 tracking period, but remains low.

These percentages also represent lower figures than in years past. Until 2011, USCBC scorecards consistently showed that the NPC released most draft laws for a 30-day comment period at least once during their standard three rounds of NPC Standing Committee review. We encourage the NPC to return to a consistent record of legislative transparency.

### Implementation of State Council Transparency Commitments

Efforts by China’s central government agencies to solicit comments on draft rules and regulations continue to be insufficient. No agency posted more than one-third of relevant regulations for comment in 2013. USCBC analysis of the State Council and seven key government agencies that fall under the State Council over this 12-month tracking period continues to show a poor record in complying with China’s transparency commitments.

The State Council posted only a small portion of its own administrative regulations and departmental rules for public comment through SCLAO: Less than 10 percent of relevant documents under the “broad” definition and less than 27 percent under the “narrow” definition (see Table 1). Concerningly, both figures are lower than percentages in the previous tracking period, which were 13.6 and 27.3 percent, respectively.

**Table 1: State Council’s Administrative Regulations and Departmental Rules Posted for Public Comment**

Government Agency and Tracking Period	“Broad” Definition		“Narrow” Definition	
	Total	Posted to SCLAO	Total	Posted to SCLAO
State Council (including SCLAO) January to December 2013	62	6 (9.7%)	15	4 (26.7%)

[lib.com/law/law\\_view.asp?id=16619](http://lib.com/law/law_view.asp?id=16619)), and the 1990 Decision 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))

Other government agencies posted an even smaller proportion of their regulations to one of the relevant SCLAO comment websites, with the majority of agencies tracked posting less than 10 percent of relevant rules and regulations covered under the “broad” definition. Under the “narrow” definition, the compliance rate remains very low (see Table 2). USCBC uncovered a considerable number of relevant trade and economic-related items—more than 500 in this tracking period—not released for comment on relevant SCLAO websites (see Appendix 1).

These agencies did no better in posting relevant rules and regulations to their own websites. In general, agencies posting draft rules and regulations to the SCLAO website also posted to their own websites, but some posted additional draft regulations to their respective agency websites only. While doing so does not meet the requirements of the State Council’s commitment, it provides some measure of transparency for stakeholders. Those numbers, however, were also quite small—ranging from zero to 32.5 percent of regulations—indicating that the majority of regulations not posted to a SCLAO website were not posted for public comment anywhere (see Table 2).

**Table 2: Selected Government Agencies’ Administrative Regulations and Departmental Rules Posted for Public Comment**

Government Agency	“Broad” Definition			“Narrow” Definition		
	Total	Posted to SCLAO <sup>3</sup>	Posted to Agency only	Total	Posted to SCLAO	Posted to Agency only
National Development and Reform Commission (NDRC)	125	0 (0.0%)	2 (1.6%)	11	0 (0.0%)	1 (9.0%)
Ministry of Commerce (MOFCOM)	65	4 (6.2%)	11 (17.0%)	20	4 (20.0%)	8 (40.0%)
Ministry of Finance (MOF)	173	2 (1.2%)	19 (11.0%)	45	1 (2.2%)	6 (13.3%)
Ministry of Industry and Information Technology (MIIT)	135	0 (0.0%)	3 (2.2%)	8	0 (0.0%)	0 (0.0%)
General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)	114	2 (1.6%)	37 (32.5%)	15	2 (13.3%)	1 (6.7%)
State Administration of Industry and Commerce (SAIC)	35	2 (5.7%)	0 (0.0%)	3	2 (66.7%)	0 (0.0%)
Ministry of Human Resources and Social Security (MOHRSS)	30	2 (6.7%)	2 (6.7%)	11	1 (9.1%)	1 (9.1%)

Among the small percentage of regulations that had been posted for public comment in line with China’s commitments, however, the majority were posted for or close to the full 30-day period. For those regulations posted for public comment on either the SCLAO or agency websites, the average comment period exceeded 24 days (see Table 3).

NDRC, MIIT, and MOHRSS compliance worsened overall. These agencies generally posted fewer documents in this tracking period than in the period tracked in USCBC’s 2013 transparency scorecard. While MOFCOM, MOF, AQSIQ, and SAIC also posted fewer documents to the SCLAO website, the documents posted for comment to their agency websites remained the same or increased. For example, MOFCOM posted 40 percent

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

of regulations under the “narrow” definition to its own website, compared with zero in the previous tracking period. Even though the number of regulations posted to SCLAO remained low, this may indicate a slightly positive trend that certain agencies may be gradually posting more documents for comment to their own websites.

These low numbers suggest that the main problem is that ministries and agencies do not post their relevant regulations at all, much less to the SCLAO website. Even though the adjusted means all exceed 24 days, the length of comment periods can vary significantly, with some regulations open for comment for as few as 7 or 11 days. Greater scrutiny of overall ministry and agency compliance is necessary to provide additional perspective and improve China’s transparency compliance. For methodology and sources, see Appendix 2.

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

	Total Regulations	Adjusted Mean <sup>4</sup>	Non-Adjusted Mean
State Council Regulations Posted to SCLAO	6	29.7 days	30.8 days
Agency Regulations Posted to SCLAO	12 <sup>5</sup>	29.9 days	32.6 days
Agency Regulations Posted to Agency Websites	26	24.3 days	33.1 days

## Challenges to Tracking Transparency

Tracking the transparency performance of the State Council and selected agencies is complicated by several factors. First, PRC government commitments – such as the 2008 SED IV agreement – do not define key terms, such as “trade and economic-related” or “administrative regulations and departmental rules.” This allows multiple interpretations of the commitments and multiple ways of measuring compliance. Furthermore, the 2011 S&ED commitment states that posting rules and regulations is “subject to limited exceptions,” but does not provide clarification on what these exceptions are.

Second, SCLAO’s April 2012 Interim Measures on Draft Laws and Regulations for Public Comment states that draft regulations should “generally” be released for a 30-day comment period (Article 6), but exempts “emergency or special circumstances” as well as “regulations involving state secrets, national security, the exchange rate, and monetary policy that are not suitable for public comment” (Article 3). While it is possible that some regulations not released for public comment fall into these exempt categories, they are unlikely to cover all of the regulations analyzed by USCBC. SCLAO’s 2012 measures do not provide clarification on the scope and definition of these exceptions.

Third, the URLs to which some administrative items are initially posted may move or expire after a short time, especially those posted on agency websites, which may make it difficult to locate regulations later. Broken URLs hinder the effectiveness of government efforts to improve transparency.

Fourth, some draft administrative items, including amendments to laws and draft regulations, may undergo more than one comment period. These drafts are not always posted publicly, but instead may be circulated to select stakeholders in government, industry, and academia. In these cases, the public comment periods can vary in length and may only last a few days. This manner of solicitation does not meet Chinese government commitments to transparency and potentially limits the perspectives the Chinese government can receive.

<sup>4</sup> USCBC found that a number of 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 documents posted for more than 30 days as documents posted for comment for exactly 30 days.

<sup>5</sup> This number excludes duplicate regulations released jointly by multiple ministries that may be included separately in Table 2.



Finally, no centrally maintained, public record of items that have been released for comment exists. The only way to verify whether laws and regulations issued for implementation were published for comment is to check the SCLAO and departmental websites regularly for the release of new documents, and compile these into a database. This makes it nearly impossible for anyone – public and private sector alike – to track transparency in a comprehensive fashion, and very difficult without a significant time commitment. While some draft items may be released for comment on ministry or agency websites only, it is difficult to locate new regulations without checking websites regularly, especially if documents are not posted to the SCALO site or covered in the Chinese press.

Because of these factors, USCBC tracks the activity of PRC agencies that are most relevant to US industry concerns, but recognizes that such lists may not be all-inclusive due to the nature of China's transparency challenges.

## Recent Developments in PRC Transparency

The PRC government has continued to emphasize its commitment to increasing transparency through various statements and regulations, despite its uneven implementation of existing commitments. Some recent developments pertaining to information disclosure include:

- **PRC agencies' general solicitation of comments to revise existing laws or regulations** Some PRC agencies this year have called for public comments or recommendations for the revision of existing laws. The call for suggestions prior to the internal drafting process may indicate that, in some areas, the PRC government is receptive to comments early in the drafting process. For example:
  - The former State Food and Drug Administration (SFDA) in June 2013 stated it was soliciting public comments and recommendations for revision of the [PRC Food Safety Law](#) with a comment deadline of 27 days. After soliciting initial recommendations, the newly established China Food and Drug Administration (CFDA) issued the [Revised Draft PRC Food Safety Law](#) for public comment on October 29.
  - MOFCOM in December 2013 stated it was accepting comments for revision of [three laws pertaining to foreign investment vehicles](#): PRC Laws on Wholly Foreign-Owned Enterprises, Sino-Foreign Equity Joint Ventures, and Sino-Foreign Contractual Joint Ventures. MOFCOM did not specify a deadline for public feedback.

Neither SFDA's nor MOFCOM's initial announcements included the draft regulations themselves. The decision to solicit public comments earlier in the revision process of laws or regulations – prior to release of a draft – may, however, be a potentially positive trend in agencies' recognition of the importance of regulatory transparency.

- **State Council call for better government communication with the public** The State Council indicated at a meeting in September 2013 that it aimed to improve the procedures by which government information is disclosed, including making government economic and social policy more transparent and allowing the public to be aware of and supervise government activities, though did not provide further implementation details. After the meeting, an official statement said that government departments at all levels should hold more media briefings to better respond to public concerns, explain important policies and regulations to the public, and make better use of official websites and hotlines to communicate with the public and disclose government information.  
([www.gov.cn/ldhd/2013-09/18/content\\_2491161.htm](http://www.gov.cn/ldhd/2013-09/18/content_2491161.htm))
- **NDRC measures on government information disclosure** NDRC in November 2013 issued the [Implementing Measures on Government Information Disclosure](#), which indicated that the central government will take steps to make government information more accessible and available to the public,

which would be applicable to documents including directives (令), announcements (公告), plans (规划), budget reports (预算报告), and administrative licensing items.  
([www.gov.cn/zwgk/2013-11/20/content\\_2531119.htm](http://www.gov.cn/zwgk/2013-11/20/content_2531119.htm))

- **State Council opinion on government information disclosure** The State Council in October 2013 acknowledged that “compared with public expectations,” there are still localities and departments for which information disclosure is insufficient. The opinion called for the timely release of policies and regulations on government websites and the improvement of services for public comment solicitation.  
([www.gov.cn/zwgk/2013-10/15/content\\_2506664.htm](http://www.gov.cn/zwgk/2013-10/15/content_2506664.htm))
- **NDRC five-year plan for strengthening rule of law** NDRC in February 2014 issued a Plan for Establishing Rule of Law within the Agency, which aims to promote statutory limitations to power, standardize operations, increase openness and transparency, and improve accountability and efficiency. Specific to regulatory transparency, NDRC indicated it would increase transparency in the legislative process and the public comment process for draft regulations.  
([www.ndrc.gov.cn/zcfb/zcfbtz/2013tz/P020140210624179039558.pdf](http://www.ndrc.gov.cn/zcfb/zcfbtz/2013tz/P020140210624179039558.pdf))

## USCBC Recommendations

USCBC welcomes the State Council’s requirements for agencies to solicit public comment on all administrative documents, and offers the following recommendations for improving the process and increasing public participation:

- Ensure that all administrative regulations and departmental rules are posted on the designated SCLAO information website comment page for the full 30-day comment period. As the USCBC 2014 Board Priorities Statement ([www.uschina.org/reports/priorities-thu-05302013-1325](http://www.uschina.org/reports/priorities-thu-05302013-1325)) notes, a longer comment period of 60 or 90 days would be preferable and result in better comments for the consideration of government regulators and contribute to improved legislative and regulatory outcomes.
- Publish a clear definition of the documents covered under the State Council’s transparency commitments that specify the inclusion of documents such as catalogues, measures, standards, and opinions, which often affect industry significantly. The lack of such a definition creates challenges for companies and regulators alike. In this report, USCBC examines regulations under both a narrow definition as well as a broader definition that includes administrative regulations that appear to function as State Council or departmental administrative regulations. None of these regulations are explicitly included in any State Council definition.
- Explain in detail, and within the bounds of confidentiality, the economic methodology and rationale that underpin administrative reviews and decision-making by central government bodies, including antimonopoly merger reviews, countervailing duty and antidumping investigations and case rulings, and decisions made based on “national economic security” considerations to allow greater transparency in these processes.
- Create a more organized and comprehensive web-based database of laws and regulations that have been released for comment in order to facilitate annual reviews of progress in transparency from an authoritative source.



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

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 the Procedures for the Enactment of Administrative Regulations ([www.law-lib.com/law/law\\_view.asp?id=16619](http://www.law-lib.com/law/law_view.asp?id=16619)) states that State Council administrative items may be titled “regulations” (条例), “provisions” (规定), and “measures” (办法).
- Article 2 of the 1990 Decision 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)) states that departmental administrative items may be titled “provisions” (规定), “measures” (办法), “rules” (细则), and “general rules” (规则).

The following numbers are estimates based on 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 that were not posted to the SCLAO website for public comment. These include two categories:

- A “narrow” category, which includes only those documents explicitly labeled as State Council or departmental administrative regulations.
- 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.

### Terms Used for Administrative Items Circulated or Issued by Key Ministries but Not Released for Comment on the SCLAO Comment Pages, January to December 2013

“Narrow” definition of terms specified in PRC law as administrative regulations and departmental rules	Number issued	Other titles used for administrative items and departmental rules covered under the “broad” definition	Number issued
Provisions (规定)	27	Opinions (意见)	74
Decisions (决定)	8	Notices (通知)	181
Orders (命令)	0	Guides (指引)	1
Regulations (条例)	11	Standards (标准)	4
Measures (办法)	65	Catalogues (目录)	23
Directives (指示)	0	General Rules (通则)	3
Rules (细则)	6	Requirements (条件)	4
General Rules (规则)	12	Measures (方法)	1
Rules (规章)	0	Other	176
<b>Total</b>	<b>129</b>	<b>Total</b>	<b>467</b>

## Appendix 2: Information Sources

US-China Business Council (USCBC) staff check a range of sources for PRC economic and trade-related regulations to conduct a detailed review of State Council Legislative Affairs Office (SCLAO) and agency websites on a fixed schedule. When compiling regulations, 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 calculating total regulations, mean and adjusted means, and totals in each category, USCBC conducts regular reviews to check for accuracy of regulations included in the analysis.

### National People's Congress (NPC)

USCBC tracks laws passed by the NPC and posted on the NPC's 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 in a given period, 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.

Consequently, USCBC is able to track which draft laws are posted for comment and which draft laws were not posted for comment. For the laws the NPC passes during USCBC's tracking period, USCBC notes whether they were previously issued for comment at any point during their drafting process.

### SCLAO

USCBC tracks items posted on the State Council's website ([www.gov.cn](http://www.gov.cn)), as well as SCLAO's websites ([www.chinalaw.gov.cn/article/cazjgg/201204/20120400367358.shtml](http://www.chinalaw.gov.cn/article/cazjgg/201204/20120400367358.shtml) and [www.chinalaw.gov.cn/article/fgkd/xf/](http://www.chinalaw.gov.cn/article/fgkd/xf/)).

### Ministries and Agencies

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

### National Development and Reform Commission (NDRC)

Policy releases (政策发布)	<a href="http://www.ndrc.gov.cn/zcfb/default.htm">www.ndrc.gov.cn/zcfb/default.htm</a>
Announcements (发展改革委公告)	<a href="http://www.ndrc.gov.cn/zcfb/zcfbgg/2012gg/default.htm">www.ndrc.gov.cn/zcfb/zcfbgg/2012gg/default.htm</a>
Notices (通知)	<a href="http://www.ndrc.gov.cn/zcfb/zcfbtz/default.htm">www.ndrc.gov.cn/zcfb/zcfbtz/default.htm</a>
Development plans (发展规划)	<a href="http://www.ndrc.gov.cn/fzgh">www.ndrc.gov.cn/fzgh</a>

### Ministry of Commerce (MOFCOM)

Policy releases (政策发布)	<a href="http://www.mofcom.gov.cn/b/b.html">www.mofcom.gov.cn/b/b.html</a>
Seeking public comments (征求意见)	<a href="http://www.mofcom.gov.cn/au/au.html">www.mofcom.gov.cn/au/au.html</a>
Commerce-related legislation (商务法规)	<a href="http://www.mofcom.gov.cn/swfg/swfg.html">www.mofcom.gov.cn/swfg/swfg.html</a>

### Ministry of Finance (MOF)

Policy releases (政策发布)	<a href="http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/">www.mof.gov.cn/zhengwuxinxi/zhengcefabu/</a>
Notices and announcements (通知公告)	<a href="http://www.mof.gov.cn/zhengwuxinxi/bulinggonggao/">www.mof.gov.cn/zhengwuxinxi/bulinggonggao/</a>
Collection of comments (意见征集)	<a href="http://www.mof.gov.cn/gongzhongcanyu/yijianzhengji/">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">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.htm">www.miit.gov.cn/n11293472/n11293832/n12843926/index.htm</a>
Planning and investment (规划投资)	<a href="http://www.miit.gov.cn/n11293472/n11293832/n11294072/index.html">www.miit.gov.cn/n11293472/n11293832/n11294072/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/">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/">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/">www.aqsiq.gov.cn/xxgk_13386/jhgh/</a>
Public information (信息公开)	<a href="http://www.aqsiq.gov.cn/xxgk_13386/jhgh/gh/">www.aqsiq.gov.cn/xxgk_13386/jhgh/gh/</a>
Drafts for public comments (草案征询意见)	<a href="http://www.aqsiq.gov.cn/gzcypt/cazxyj/">www.aqsiq.gov.cn/gzcypt/cazxyj/</a>

### State Administration of Industry and Commerce (SAIC)

Projects and plans (计划规划)	<a href="http://www.saic.gov.cn/zwgk/jhgh/">www.saic.gov.cn/zwgk/jhgh/</a>
Policy and legislation (政策法规)	<a href="http://www.saic.gov.cn/zcfg/">www.saic.gov.cn/zcfg/</a>
Important announcements (重要发布)	<a href="http://www.saic.gov.cn/zwgk/zyfb/">www.saic.gov.cn/zwgk/zyfb/</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">www.mohrss.gov.cn/gkml/index3.htm</a>
Plans and statistics (规划与统计)	<a href="http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/ghcw/">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/">www.mohrss.gov.cn/SYrlzyhshbzb/zxhd/SYzhengqiuyijian/</a>
Social security (社会保障)	<a href="http://www.mohrss.gov.cn/SYrlzyhshbzb/ldbk/shehuibaozhang/">www.mohrss.gov.cn/SYrlzyhshbzb/ldbk/shehuibaozhang/</a>

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

The Chinese Academy of Social Sciences (CASS) on an annual basis 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 was conducted by a combination of phone, mail, and self-surveys by ministries. Its most recent report was released in spring 2014.

CASS ranked ministries on a scale of 1 to 100 points. Points were based on five criteria: Government information disclosure catalogues (20 points), government information disclosure guidelines (20 points), disclosure portals and implementation (20 points), annual reports on information disclosure (20 points), and budget information disclosure (20 points). Selected rankings for ministries and agencies that the US-China Business Council (USCBC) regularly tracks are listed below.

### Selected Ministry and Agency Transparency Rankings, 2013

State Council Ministry or Agency	Rank	Score
Ministry of Education	1	65.08
State Administration of Work Safety	2	64.03
National Development and Reform Commission	3	63.45
Ministry of Commerce	4	61.63
General Administration of Quality Supervision, Inspection and Quarantine	5	60.73
Ministry of Industry and Information Technology	14	54.98
Ministry of Human Resources and Social Security	25	51.75
Ministry of Finance	30	49.98
State Administration of Industry and Commerce	35	47.45

CASS also ranked local governments on a scale of 1 to 100 points. These points were based on six criteria: government information disclosure catalogues (20 points), government information disclosure guidelines (15 points), disclosure portals and implementation (20 points), annual reports on information disclosure (15 points), housing demolition information disclosure (15 points), and food safety information disclosure (15 points).

#### **Provincial-Level Government Transparency Rankings, 2013<sup>6</sup>**

<b>Local Government</b>	<b>Rank</b>	<b>Score</b>
Tianjin	1	71.75
Anhui	2	71.44
Jiangsu	3	71.23
Guangdong	4	69.79
Hainan	5	68.45
Fujian	6	66.70
Zhejiang	7	63.43
Guizhou	8	59.96
Beijing	9	58.80
Chongqing	10	58.33

#### **City Government Transparency Rankings, 2013**

<b>Local Government</b>	<b>Rank</b>	<b>Score</b>
Chengdu, Sichuan	1	73.90
Guangzhou, Guangdong	2	72.19
Ningbo, Zhejiang	3	70.65
Fuzhou, Fujian	4	68.53
Hefei, Anhui	5	66.70
Nanjing, Jiangsu	6	66.28
Wuxi, Jiangsu	7	65.55
Suzhou, Jiangsu	8	65.10
Zhuhai, Guangdong	9	64.60
Dalian, Liaoning	10	61.90

<sup>6</sup> CASS's rankings includes provinces (省) and the four centrally-administered municipalities (直辖市)—Beijing, Shanghai, Tianjin, and Chongqing. It does not include any of China's autonomous areas (自治区)—Inner Mongolia, Xinjiang, Tibet, Ningxia, or Guangxi—or either of its two specially administered regions (特别行政区)—Hong Kong and Macao.