www.dachenglaw.com
北京市东直门南大街 3 号国华投资大厦 5 层/12 层/15 层（100007）
5/F, 12/F, 15/F, Guohua Plaza, 3 Dongzhimennan Avenue,
Beijing 100007, China
Tel: +8610-58137799
Fax: +8610-58137788

DACHENG LAW OFFICES
大成律师事务所

中国法通讯
China Law Newsletter

跨境贸易与投资
Cross-border Trade and Investment

第 19 期 • Issue 19
2013 年 3 月 • March 2013

编者按：本刊旨在报道与中国有关的跨境贸易与投资的最新动态与我们的实务经验，但本刊不可替代个案的正式法律意见。您若重复收到本刊或者要订阅、退订或进一步了解本刊的内容，请与大成的有关律师联系。

Editor's note: the purpose of this publication is to report the most recent developments in the field of cross-border trade and investment in connection with China, as well as our practical experience therein. However, this publication should not be treated as a substitute for a formal legal opinion in individual cases. If you have received this publication more than once, or would like to subscribe or unsubscribe to this publication, or follow up on any issues raised in this publication, please be in contact with the lawyer you usually deal with at Dacheng Law Offices.

目录
CONTENTS

立法新闻 LEGISLATIVE NEWS [4]

[1] 国家旅游局发布落实内地与香港、澳门《关于建立更紧密经贸关系安排补充协议九》有关旅游措施的通知

CNTA Promulgates the Circular on Implementing Relevant Tourism Measures under the Supplementary Agreement IX of the Closer Economic Partnership Agreement between Mainland and Hong Kong and Macao

[2] 国家外汇管理局发布《关于境外上市外汇管理有关问题的通知》

SAFE Promulgates the Circular on Issues Concerning Foreign Exchange Control for Overseas Listings

[3] 商务部 国台办联合公布《台湾投资者经第三地转投资认定暂行办法》

MOFCOM and Taiwan Affairs Office of the State Council Jointly Promulgate the Interim Measures on Determining the Trans-investment of Taiwan Investors through a Third Place

[4] 商务部 环保部印发《对外投资合作环境保护指南》

MOFCOM and MEP Print and Distribute the Guidelines on the Environmental Protection in Foreign Investment and Cooperation

投资动态 INVESTMENT DEVELOPMENTS [5]

[5] 厦门着力打造大陆对台贸易中心

Xiamen Fosters the Taiwan Trade Center, Mainland

[6] 陈德铭表示中国将继续优化投资环境

China to continue optimizing investment environment

[7] 中国企业海外并购金额同比增长 54%

China Outbound M&A Deals Jump 54 percent Year on Year

[8] 福建渐成台资保险机构“登陆”桥头堡

Fujian Becoming the "Landing" Frontline for Taiwan-funded Insurance Institutions

[9] 国务院批准设立昆山深化两岸产业合作试验区

State Council Approves to Establish the Kunshan Experimental Zone for Strengthening Cross-strait Industrial Cooperation

立法新闻
LEGISLATIVE NEWS

- **国家旅游局发布落实内地与香港、澳门《关于建立更紧密经贸关系安排补充协议九》有关旅游措施的通知（来源：国家旅游局网站，2013 年 1 月 22 日）**

  CNTA Promulgates the Circular on Implementing Relevant Tourism Measures under the Supplementary Agreement IX of the Closer Economic Partnership Agreement between Mainland and Hong Kong and Macao (Source: www.cnta.com, January 22, 2013)

近日，国家旅游局发布《国家旅游局办公室关于落实内地与香港、澳门〈关于建立更紧密经贸关系安排补充协议九〉有关旅游措施的通知》，自 2013 年 1 月 1 日起实施。

Recently, the National Tourism Administration of the People’s Republic of China ("CNTA") promulgated the Circular of the Office of the National Tourism Administration

on Implementing Relevant Tourism Measures under the Supplementary Agreement IX of the Closer Economic Partnership Agreement between Mainland and Hong Kong and Macao (the "Circular") which will come into force as of January 1, 2013.

《通知》明确，在内地设立的香港、澳门独资或合资旅行社，可以申请经营旅行社所在地省、自治区、直辖市正式户籍的居民前往香港、澳门的团队旅游业务。具体许可条件和程序等按照《旅行社条例》和《中外合资经营旅行社试点经营出境旅游业务监管暂行办法》（国家旅游局、商务部令第 33 号）的有关规定执行。

The Circular specifies that the individual proprietorship or joint venture travel agencies of Hong Kong and Macao that are established in the Mainland may apply for the operations of the business of group tour in Hong Kong and Macao for the residents with the formal household register of the provinces, autonomous regions and municipalities directly under the Central Government where the travel agencies are located. Specific permit conditions and procedures shall be implemented in accordance with relevant provisions of the Regulations on Travel Agencies and the Interim Measures for Supervising the Pilot Operation of Overseas Travel Business of Sino-foreign Joint Venture Travel Agencies (Order of the National Tourism Administration and the Ministry of Commerce No. 33).

Top

- **国家外汇管理局发布《关于境外上市外汇管理有关问题的通知》（来源：外汇局网站，2013 年 2 月 16 日）**

  SAFE Promulgates the Circular on Issues Concerning Foreign Exchange Control for Overseas Listings (Source: www.safe.gov.cn, February 16, 2013)

2013 年 1 月 28 日，国家外汇管理局发布《国家外汇管理局关于境外上市外汇管理有关问题的通知》（《通知》），自发布之日起施行。《通知》以登记管理为核心，大幅简化业务手续和审核材料。企业按要求办理了境外上市相关登记手续后，即可通过银行办理账户开立、资金汇兑等手续，无需再经外汇局核准。

On January 28, 2013, the State Administration of Foreign Exchange ("SAFE") promulgated the Circular of the State Administration of Foreign Exchange on Issues Concerning Foreign Exchange Control for Overseas Listings (the "Circular") which shall come into force as of the date of promulgation. The Circular, with a core of registration administration, greatly simplifies the business procedures and examined materials. The enterprises may complete the procedures, without approval of the SAFE again, for opening accounts and capital exchanges through banks after they complete the relevant registration procedures for overseas listing as required.

Top

- **商务部 国台办联合公布《台湾投资者经第三地转投资认定暂行办法》（来源：商务部网站，2013 年 2 月 21 日）**

  MOFCOM and Taiwan Affairs Office of the State Council Jointly Promulgate the Interim Measures on Determining the Trans-investment of Taiwan Investors through a Third Place (Source: www.mofcom.gov.cn, February 21, 2013)

2013 年 2 月 20 日，商务部、国务院台湾事务办公室公布《台湾投资者经第三地转投资认定暂行办法》（《办法》），自 2013 年 2 月 20 日起实施。根据《办法》，台湾投资者以其直接或间接所有或控制的第三地公司、企业或其他经济组织作为投资者（第三地投资者）在大陆投资设立企业（转投资企业），可根据本办法提出申请，将该第三地投资者认定为视同台湾投资者（转投资认定）。

On February 20, 2013, the Ministry of Commerce ("MOFCOM") and the Taiwan Affairs Office of the State Council promulgated the Interim Measures on Determining the Trans-investment of Taiwan Investors through a Third Place (the "Measures") , effective as of February 20, 2013. According to the Measures, Taiwan Investors, investing in China's Mainland to establish enterprises (trans-investment enterprises) by taking companies, enterprises or other economic organizations they directly or indirectly own or control at a third place as the investors (third place investors), may apply for determining such third place investors as Taiwan investors in accordance with these Measures (determination of trans-investment).

Top

- **商务部 环保部印发《对外投资合作环境保护指南》（来源：北京市政府网站，2013 年 2 月 28 日）**

MOFCOM and MEP Print and Distribute the Guidelines on the Environmental Protection in Foreign Investment and Cooperation (Source: www.beijing.gov.cn, February 28, 2013)

2013 年 2 月 18 日，商务部、环保部联合下发了《关于印发〈对外投资合作环境保护指南〉的通知》（商合函〔2013〕74 号）。《指南》提出，企业应当秉承环境友好、资源节约的理念，发展低碳、绿色经济，实施可持续发展战略，实现自身盈利和环境保护“双赢”。企业应当了解并遵守东道国于环境保护相关的法律法规的规定，企业投资建设和运营的项目，应当依照东道国法律法规规定，申请当地政府环境保护方面的相关许可。

On February 18, 2013, the Ministry of Commerce ("MOFCOM") and the Ministry of Environmental Protection ("MEP") jointly distributed the Circular on Printing and Distributing the Guidelines on the Environmental Protection in Foreign Investment and Cooperation (the "Guidelines") (Shang He Han [2013] No. 74). The Guidelines state that under the philosophy of environmental friendliness and resource conservation, enterprises shall develop low-carbon and green economy, implement sustainable development strategy and achieve win-win results in their own profits and environmental protection. Enterprises shall learn and observe the relevant laws and regulations on environmental protection of the host country. To invest in construction and operation projects, enterprises shall apply for the relevant permits of local governments in terms of environmental protection in accordance with the laws and regulations of the host country.

Top

投资动态
INVESTMENT DEVELOPMENTS

- **厦门着力打造大陆对台贸易中心（来源：新华网，2013 年 1 月 8 日）**

  Xiamen Fosters the Taiwan Trade Center, Mainland (Source: www.xinhuanet.com, January 8, 2013)

从 1 月 7 日召开的厦门市第十四届人民代表大会第二次会议上获悉，厦门市正在规划建设大陆对台贸易中心，力争在建立和完善促进对台贸易的平台载体、市场准入和贸易便利化方面探索先行先试，力求把大陆对台贸易中心建成融贸易经济、电子商务、会展经济、综合物流、要素服务于一体，聚集两岸及全球贸易主体，从事货物贸易、服务贸易和信息交流的贸易体制创新实验区和两岸国际贸易合作示范区。

According to the resource from the 2nd Session of the 14th People's Congress of Xiamen which was held on January 7, 2013, Xiamen is planning to build the Taiwan trade center and striving to explore its leading and exploratory role in establishing and improving the platform and carrier, market access and trade convenience of promoting Mainland-Taiwan trade, and striving to build the Taiwan Trade Center, Mainland into a trade systemic innovative experimental area and cross-trait international trade cooperative demonstration area which integrate trade economy, E-commerce, exhibition economy, comprehensive logistics and element service, gather the trade bodies from two traits and the globe, and engage in goods trade, service trade and information exchange.

2012 年，厦台贸易持续增长，厦门市对台进出口贸易达 77.8 亿美元。同年，厦门市新批台资项目 120 个，合同利用台资 1.1 亿美元。企业赴台投资增长明显，全年 6 家企业入台投资，企业赴台投资获批项目数和投资金额均居福建省首位。

In 2012, trade between Taiwan and Xiamen is increasing sustainably, and the import and export trade between Xiamen and Taiwan reaches USD7.78 billion. In this year, 120 Taiwan-invested projects in Xiamen are newly approved; Taiwan capital which is utilized in contracts reaches USD110 million. Enterprises' investments to Taiwan is increasing significantly, six enterprises make investments in Taiwan in the whole year, and both the number of enterprises' projects which are approved to make investment in Taiwan and the investment amount rank first in Fujian Province.

Top

- **陈德铭表示中国将继续优化投资环境（来源：商务部，2013 年 1 月 16 日）**

  China to continue optimizing investment environment (Source: Ministry of Commerce, January 16, 2013)

1 月 14 日，中国外商投资企业协会举行 2013 年第一次会长办公会，商务部部长、中国外商投资企业协会会长陈德铭出席并讲话。陈德铭认为，2013 年中国经济总体向好，国内消费和投资有望保持稳步增长，尽管还有一些不确定因素，吸收外商直接投资规模仍可望与 2012 年基本持平。未来环保、生态产业以及中小城镇建设发展潜力

大，这将是外商投资的新商机。中国政府将继续致力于优化投资环境，鼓励外商投资企业在华投资。

On January 14, China Association of Enterprises with Foreign Investment (CAEFI) held the first president office meeting in 2013. Chen Deming, minister of the Ministry of Commerce and president of CAEFI, attended the meeting and gave a speech. According to Chen, China's economy is moving towards a sound direction in 2013, domestic consumption and investment will maintain steady growth, and the scale of FDI in 2013 is likely to maintain the 2012 level despite some uncertainties. There is great potential in environmental protection, ecological industry and medium and small township construction, which will provide new business opportunities for foreign investors. Chinese government is committed to continuing optimizing the investment environment and encouraging foreign investors to invest in China, said Chen.

Top

- **中国企业海外并购金额同比增长 54%（来源：中国经济网，2013 年 1 月 31 日）**

China Outbound M&A Deals Jump 54 percent Year on Year (Source: www.Ce.cn, January 31, 2013)

1 月 30 日，普华永道发布的最新报告《2012 年企业并购回顾及 2013 年展望》指出，2012 年的战略投资者在国内的交易活动降至 5 年新低，下降幅度甚至比 2009 年因全球经济危机所致的交易活动衰退还要严重。总体而言，2012 年中国并购交易总量下降 26%，金额下降 9%，仅海外并购交易总额出现增长。

On 30 January, PricewaterhouseCoopers (PwC) indicated in its latest report M&A 2012 Review and 2013 Outlook that China M&A deal activity of strategic investors in domestic and inbound space plunged to a five-year low in 2012, a drop sharper than that resulted from the global economic crisis in 2009. Overall China M&A activity declined by 26 percent in announced deal numbers and 9 percent in deal value in 2012, with only outbound deal volume still on the rise.

报告显示，除了私募股权基金和风险投资交易之外，2012 年战略投资者在国内并购交易活动为 2953 宗，与 2011 年的 3744 宗相比，降幅达 21%。从金额来看，2012 年交易总金额为 971 亿美元，与 2011 年的 1349 亿美元相比，下降 28%。虽然中国大陆企业海外并购交易总量从 2011 年的 206 宗略降至 191 宗，但总金额却达历史新高——从 2011 年的 424 亿美元增至 2012 年 652 亿美元，上升幅度达 54%。

As shown in the report, excluding private equity and venture capital deals, there were 2,953 domestic and foreign-inbound M&A deals by strategic investors in China in 2012, compared to 3,744 deals in 2011, a 21 percent drop. In value terms, these deals in 2012 totaled USD97.1 billion, down 28 percent from USD134.9 billion in 2011. Although China outbound deal volumes showed a small decline from 206 deals in 2011 to 191 deals in 2012, the value of these deals reached a record high, up 54 percent from USD42.4 billion in 2011 to USD65.2 billion in 2012.

Top

- **福建渐成台资保险机构“登陆”桥头堡（来源：新华网，2013 年 2 月 18 日）**

Fujian Becoming the "Landing" Frontline for Taiwan-funded Insurance Institutions (Source: www.xinhuanet.com, February 18, 2013)

近日从福建保监局了解到，福建正逐渐成为台资保险机构“登陆”的桥头堡。截至目前，大陆 5 家有台资背景的保险公司中， 4 家在福建省设立了分支机构，其中 2 家把大陆总部设在了福建。目前进入大陆的 5 家台资保险公司包括国泰寿险、国泰产险、新光人寿、台湾人寿、富邦产险。

It is learned from the Fujian Insurance Regulatory Bureau recently that Fujian is becoming the "landing" frontline of Taiwan-funded insurance institutions. So far, among five insurance companies with Taiwan funding background in China’s Mainland, four have set up branches in Fujian province, in which two even have set up their Mainland headquarters in Fujian. The five Taiwan-funded insurance companies which have entered China’s Mainland so far include Cathay Life Insurance, Cathay Property Insurance, Shin Kong Life Insurance, Taiwan Life Insurance and Fubon Property & Casualty Insurance.

Top

- **国务院批准设立昆山深化两岸产业合作试验区（来源：中国证券网，2013 年 2 月 22 日）**

State Council Approves to Establish the Kunshan Experimental Zone for Strengthening Cross-strait Industrial Cooperation (Source: www. cnstock.com, February 22, 2013)

2 月 3 日，国务院正式批复同意设立昆山深化两岸产业合作试验区。昆山试验区包括国家级昆山经济技术开发区、昆山高新技术产业开发区、昆山综合保税区和省级花桥经济开发区，以及规划建设的海峡两岸（昆山）商贸示范区。

On February 3, the State Council officially approved to establish the Kunshan Experimental Zone for strengthening Cross-strait industrial cooperation. The zone covers the National Kunshan Economic and Technological Development Zone, the Kunshan Hi-tech Industrial Development Zone, the Kunshan Comprehensive Bonded Zone, the Huaqiao Provincial Economic Development Zone and the planning Cross-strait (Kunshan) Trade Demonstration Zone.

昆山作为两岸经贸交流最紧密的地区，在对台合作的广度、深度上具有独特优势和显著特点。截至 2012 年底，已聚集 4230 多家台资企业，吸引台资约占大陆吸引台资总量的九分之一，对台年贸易额 122.6 亿美元，台湾有影响的制造业企业大多在昆山投资经营。

As an area with closest cross-strait economic and trade exchange, Kunshan has unique strengths and prominent characteristics in the depth and extension of the cooperation with Taiwan. As of the end of 2012, more than 4,230 Taiwan-funded enterprises have been attracted, and the absorbed Taiwan investment accounted for one ninth of total absorbed Taiwan investment in China’s Mainland. The annual trade volume with Taiwan reached USD12.26 billion. Most manufacturing powers of Taiwan have invested in Kunshan for operation.

Top

Please consider the environment before printing this paper

大成律师事务所建立了覆盖全国、遍布世界重要地区和城市的大成全球法律服务网络。大成的总部设在北京，在中国境内的长春、长沙、常州、重庆、福州、广州、哈尔滨、海口、杭州、合肥、黄石、吉林、济南、昆明、南昌、南京、南宁、南通、内蒙古、宁波、青岛、上海、沈阳、深圳、四川、苏州、太原、天津、温州、武汉、乌鲁木齐、无锡、厦门、西安、西宁、银川、郑州、舟山、珠海等 39 个城市设有分所。

Dacheng Law Offices has built a global network of legal service covering China as well as the major regions and cities worldwide. With its head office based in Beijing, Dacheng has established branch offices in 39 Chinese cities, including Changchun, Changsha, Changzhou, Chongqing, Fuzhou, Guangzhou, Harbin, Haikou, Hangzhou, Hefei, Huangshi, Jilin, Jinan, Kunming, Nanchang, Nanjing, Nanning, Nantong, Inner Mongolia, Ningbo, Qingdao, Shanghai, Shenyang, Shenzhen, Sichuan, Suzhou, Taiyuan, Tianjin, Wenzhou, Wuhan, Urumqi, Wuxi, Xiamen, Xi’an, Xining, Yinchuan, Zhengzhou, Zhoushan, Zhuhai.

大成律师事务所在纽约、洛杉矶、芝加哥、巴黎、新加坡、香港、台湾设立了当地的大成律师事务所，可以为客户提供全面本地业务的法律服务。大成还吸收了 5 家外国律师事务所作为大成网络境外成员单位，并与 9 家外国律师事务所建立了长期稳定的战略合作伙伴关系。

Dacheng Law Offices has incorporated local Dacheng law firms in New York, Los Angeles, Chicago, Paris, Singapore, Hong Kong and Taiwan, which is qualified to render a full range of local legal services. Dacheng has 5 foreign associated firms in its oversea network and maintain long standing steady strategic partnership with another 9 foreign law firms.

2009 年，大成作为中国区唯一成员加入了世界最大的、汇集全球顶级律师事务所、会计师事务所、投资公司、金融机构等专业性服务企业和公司的独立专业服务组织 World Service Group（世界服务集团），与 100 多个国家的律师事务所、8 万多名律师建立起了长期稳定的信息交换渠道和业务合作平台，将大成全球化法律服务网络与 WSG 全球网络实现了链接，使大成客户服务体系更广泛地覆盖全球，更有效地满足法律服务市场多样化、多层次的需求。

In 2009, Dacheng Law Offices joined the World Services Group (WSG) as its only member in China. WSG is the world's largest independent multidisciplinary professional service organization with members including professional service providers such as leading law firms, accounting firms, investment companies and financial institutions in the world, whereby Dacheng has established long term steady channel for exchanges, communications and cooperation with law firms and more than 80000 lawyers from more than 100 countries. Dacheng’ global network of legal service is linked with WSG’s global network through its membership, which launches Dacheng’ client service system to the international arena and puts Dacheng into a better position to serve the diversified and comprehensive demands of the legal service market.