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中国法通讯
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跨境贸易与投资
Cross-border Trade and Investment

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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.

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立法新闻
LEGISLATIVE NEWS

- **广东省印发《实施〈粤港合作框架协议〉2013 年重点工作安排》（来源：广东省政府网站，2013 年 4 月 2 日）**

  Guangdong Province Prints and Distributes the Key Work Arrangements for Implementing the Framework Agreement on Hong Kong/Guangdong Cooperation in 2013 (Source: www.gd.gov.cn, April 2, 2013)

2013 年 3 月 25 日，广东省人民政府发布《广东省人民政府关于印发实施粤港合作框架协议 2013 年重点工作安排的通知》 ，明确各项工作安排。

On March 25, 2013, the People's Government of the Guangdong Province issued the Circular of the People's Government of Guangdong Province on Printing and Distributing the Key Work Arrangements for Implementing the Framework Agreement on Hong Kong/Guangdong Cooperation in 2013, specifying the arrangements for various items of work.

《通知》提出，支持香港投资者以人民币资金投资广东省内产业项目。推动粤港跨境个人人民币业务创新和发展。推动大型涉外活动以人民币作为计价、核算和统计单位。继续支持广东法人金融机构和企业赴港发行人民币债券。支持两地企业开展跨境人民币融资业务。《通知》支持港资银行在广东增设异地支行，支持广东法人金融机构在香港的子公司申请 RQFII 资格，支持取得 RQFII 资格的金融机构创新产品设计、扩大投资额度和投资范围。

The Circular states that efforts shall be made to: support Hong Kong investors in their investments in the industrial projects in Guangdong Province with RMB funds; encourage the innovation and development of Hong Kong-Guangdong cross-border individual RMB businesses; promote the use of RMB as the unit of accounting, audit and statistics for large-scale foreign-related activities; continue supporting financial institutions and enterprises incorporated in Guangdong in issuing RMB bonds in Hong Kong; and support the development of the cross-border RMB financing businesses of Hong Kong and

Guangdong enterprises. The Circular supports Hong Kong banks in establishing branches in Guangdong, and supports the Hong Kong subsidiaries of financial institutions incorporated in Guangdong in applying for the RQFII qualification, and also supports RQFII-qualified financial institutions in innovating their product designs, increasing their investments and enlarging their investment scope.

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- **我国与冰岛签署自由贸易协定（来源：商务部网站，2013 年 4 月 16 日）**

  China and Iceland Sign Free Trade Agreement (Source: www.mofcom.gov.cn, April 16, 2013)

2013 年 4 月 15 日,《中华人民共和国政府和冰岛政府自由贸易协定》在北京签署。该协定是我国与欧洲国家签署的第一个自由贸易协定，涵盖货物贸易、服务贸易、投资等诸多领域。

On 14 April 2013, the China–Iceland Free Trade Agreement (CIFTA) was signed in Beijing. CIFTA is the first free trade agreement signed between China and European countries and it covers trade in goods, services, investments and many other areas.

根据自贸协定规定，冰岛自协定生效之日起，对从中国进口的所有工业品和水产品实施零关税，与此同时，中国对从冰岛进口的 7830 个税号产品实施零关税。

According to CIFTA, from the agreement's date of entry into force, Iceland will implement zero tariffs for all industrial products and aquatic products imported from China. At the same time, China will implement zero tariffs for 7,830 products imported from Iceland.

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投资动态
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- **外商投资企业登记注册的行政审批环节将简化 港澳台客商来安徽投资（来源：六安新闻网，2013 年 4 月 23 日）**

  Anhui to Simplify Administrative Examination and Approval Process for Registration of Foreign-Invested Enterprises to Attract Investors from Hong Kong, Macao and Taiwan (Source: www.luaninfo.com, April 23, 2013)

4 月 16 日，安徽省工商局出台放宽准入领域、简化办照手续等 7 项政策，促进港澳台客商来皖投资兴业。其中，对涉及外商投资企业登记注册的行政审批环节将进一步简化，对外承诺的登记期限将缩短到 7 天以内。

On April 16, 2013, the Anhui Administration for Industry and Commerce released

seven policies, such as expanding the scope of market access and simplifying the business license application procedures, to encourage businesses from Hong Kong, Macao and Taiwan to invest and set up operations in Anhui. In particular, the administrative examination and approval process for the registration of a foreign-invested enterprise will be further simplified, shortening the promised registration period to seven days.

在简化办照手续方面，政策对港澳台等境外自然人来皖投资设立企业或者担任常驻代表机构首席代表、代表时，提交的身份证明文件为护照，且该护照业经我国出入境管理部门确认并办妥签证和入境手续的，免于提交公证、认证文件，只需提交经申请人签字确认与原件一致的复印件；外商投资的公司的股东以自己的名义通过借贷、委托代出资等方式筹措的资金，经验资机构出具验资证明以后，可以作为该股东的出资；对申报材料齐全、符合法定形式的，尽可能做到即到即办，当场办结、当天发照。

In regard to the simplification of the business license application procedures, where a natural person from Hong Kong, Macao or Taiwan who invests in and establishes an enterprise or acts as the chief representative or representative of a permanent representative office in Anhui submits his or her passport as his or her identity certification, and the passport has been confirmed by the exit-entry administrative authorities, and the visa and entry formalities have been complied with, he or she is not required to submit notarization or certification documents except for a photocopy of the passport signed by the applicant to confirm that it is identical with the original copy. Where a shareholder of a foreign-invested company raises funds in its own name by such means as a loan or authorized capital contribution, such funds may be used as the contributed capital of the shareholder after a capital verification institution has issued a capital verification certificate; if the application materials are complete and conform to the statutory format and requirements, the application shall as far as possible be handled immediately, with the application disposed of on the spot and the business license issued on the same day.

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- **前海现代服务业综合试点项目管理办法颁布（来源：www.sz.gov.cn，2013 年 4 月 25 日）**

Measures for the Comprehensive Management of Modern Service Industry Pilot Schemes in Qianhai Released (Source: www.sz.gov.cn, April 25, 2013)

2013 年 3 月 18 日，深圳市财政委员会、深圳市前海管理局共同发布了《深圳前海深港现代服务业合作区现代服务业综合试点项目管理办法》（以下简称《管理办法》），自发布之日起实施。

On 18 March 2013, the Finance Committee and Qianhai Administration Bureau in Shenzhen jointly issued the Measures for the Comprehensive Management of Modern Service Industry Pilot Schemes for the Qianhai Shenzhen–Hong Kong Modern Service Industry Pilot Schemes in the Cooperation Zone (hereafter referred to as the Measures), which took effect on its issuance date.

《管理办法》共 7 章 21 条，有效期为 3 年。《管理办法》将重点支持金融业、现

代物流业、信息服务业等领域。在金融业领域，将开展跨境人民币业务、股权投资、要素交易市场建设、金融产品创新、金融中介服务等项目。在现代物流业方面，将围绕供应链管理、国际综合贸易、物流增值服务等领域开展项目。在信息服务业领域，将开展信息传输服务、软件和信息技术服务以及信息内容服务等项目。

The Measures consists of seven chapters and twenty-one articles, and will be valid for three years. The Measures puts emphasis on the finance industry, modern logistics industry and information service industry. With regard to the finance industry, projects including cross-border RMB services, equity investment, factor market construction, financial product innovation and financial agency services will be conducted. In the modern logistics industry, projects focused on supply chain management, comprehensive international trade and value-added logistics services will be conducted. In the information service industry, projects such as information transmission services, software and information technology services and information content services will be conducted.

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实务经验
PRACTICE EXPERIENCE

中国投资者境外投资基本流程

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中国投资者境外投资基本流程

并购类－民营企业

1. 获得投资机会
2. 与中国驻当地商务参赞处接洽；了解投资目的国的基本投资环境及合作方的基本情况；与投资合作方签订保密协议。
3. 投资双方初步洽谈，达成合作意向。
4. 向中国政府咨询：了解类似投资项目获批记录及本投资项目获批的可能性
5. 对合作方进行初步尽职调查

6. 设计跨境投资架构

7. 投资双方前期谈判，签订交易要点/意向书/框架协议。

8. 准备投资项目申请报告，报告应包括以下内容：

(1) 项目名称、投资方基本情况

(2) 项目背景情况及投资环境情况

(3) 项目建设规模、主要建设内容、产品、目标市场，以及项目效益、风险情况

(4) 项目总投资、各方出资额、出资方式、融资方案及用汇金额

(5) 购并或参股项目，应说明拟购并或参股公司的具体情况

9. 向主管发改委（中方投资额 1 亿美元以下的非资源开发类境外投资项目，由所在省级发改委核准）报送项目申请报告，并应附如下文件：

(1) 公司董事会决议或相关的出资决议

(2) 证明中方及合作外方资产、经营和资信情况的文件

(3) 银行出具的融资意向书

(4) 以有价证券、实物、知识产权或技术、股权、债权等资产权益出资的，按资产权益的评估价值或公允价值核定出资额。应提交具备相应资质的会计师、资产评估机构等中介机构出具的资产评估报告，或其他可证明有关资产权益价值的第三方文件

(5) 投标、并购或合资合作项目，中外方签署的意向书或框架协议等文件

(6) 境外竞标或收购项目，应按提前规定报送信息报告，并附国家发展改革委出具的有关确认函件

——办理时限：自收到齐全、符合规定形式的申请材料之日起 15 日内组织审查、评估，并作出决定；做出决定后 5 个工作日内送达申请人。

10. 对目标公司进行法律、财务、业务尽职调查，全面查明目标公司的真实情况

11. 根据尽职调查情况进行评估，决定是否继续进行交易及是否需要调整交易架构及交易要点。

12. 起草交易文件，双方进行深入谈判；搭建投资架构。

13. 签订交易文件，明确交易文件履行要点。

14. 向主管商务机关（中方投资额 1000 万美元及以上、1 亿美元以下的境外投资，由省级商务主管部门核准）申报核准，需提交以下材料：

(1) 申请书，主要内容包括境外企业的名称、注册资本、投资金额、经营范围、经营期限、投资资金来源情况的说明、投资的具体内容、股权结构、投资环境分析评价

(2) 企业注册地的区、县商务主管部门意见

(3) 《境外投资申请表》

(4) 企业营业执照复印件

(5) 境外企业章程及相关协议或者合同

(6) 国家有关部门的核准或备案文件

(7) 并购类境外投资须提交《境外并购事项前期报告表》

(8) 境外投资资金来源说明

(9) 主管商务部门要求的其他文件

——办理时限：20 个工作日

15. 持发改委和商务主管部门的核准文件，办理外汇登记、备案

16. 交易文件生效，履行交易文件。

17. 向商务部备案，向中国驻当地商务参赞处登记。

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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.