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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

- **商务部拟进一步下放外商投资审批权（来源：证券时报，2013 年 6 月 5 日）**

  MOFCOM to Further Delegate Foreign Investment Examination and Approval Power to Lower Levels (Source: www.stcn.com, Jun5, 2013)

6 月 4 日，商务部外贸司副司长黄峰表示，目前正在研究推进外商投资行政审批制度改革，未来将进一步下放审批权，商务部正由“重事前审批”向“重事中事后监管”转变。

On June 4, 2013, Huang Feng, the deputy director of Department of Foreign Trade of the Ministry of Commerce (MOFCOM), said that the MOFCOM is studying on how to promote a reform of the foreign investment administrative examination and approval system and plans to further delegate the examination and approval authority to lower levels, changing the focus from "prior examination and approval" to "subsequent supervision".

黄峰指出，为推动投资便利化，商务部最大幅度缩小外资审批范围，不断下放外资审批权限，减少审批事项，大力推行格式化合同、章程审批，选取了北京、上海、江苏、广东四地先行试点；完善并推行“外商投资企业在线行政许可系统”，实现“在线审核、动态监管”，提高外资审核效率。

Hang Feng said, in order to promote investment facilitation, the MOFCOM will narrow the scope of foreign investment examination and approval to the maximum extent, unceasingly delegate the foreign investment examination and approval power, reduce matters subject to administrative examination and approval, promote the examination and approval of standard forms of contract and articles of association, and first launch a pilot project in Beijing, Shanghai, Jiangsu and Guangdong; and it will improve and promote the "Online Administrative Licensing System for Foreign-Invested Enterprises" to achieve "online review and dynastic supervision" and improve the efficiency in foreign investment review.

目前，鼓励类和允许类 3 亿美元以下、限制类 5000 万美元以下的外商投资企业设立及其变更事项均由各地政府部门审批，不需再报中央政府部门审批，商务部审批数量已由 2005 年 3000 多件减少到 2012 年的 100 余件，审批量减少了 95%。

At present, the matters regarding the establishment or alteration of encouraged or permitted foreign-invested enterprises with the registered capital of not more than USD300 million or restricted foreign-invested enterprises with the registered capital of not more than USD50 million shall be subject to the examination and approval of the local government

departments, without being submitted to the central government departments for examination and approval. The amount of matters subject to the examination and approval of the MOFCOM reduced from over 3,000 in 2005 to over 100 in 2012, with a 95 percent decrease.

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- **新修订《中华人民共和国外资保险公司管理条例》发布（来源：www.gov.cn，2013 年 6 月 8 日）**

New Rules on Foreign-Funded Insurance Companies Released(Source: www.gov.cn, June 8, 2013)

2013 年 5 月 30 日，新修改后的《中华人民共和国外资保险公司管理条例》发布，自 2013 年 8 月 1 日起施行。根据新规定，合资保险公司、独资保险公司的注册资本最低限额为 2 亿元人民币或者等值的自由兑换货币，其注册资本最低限额必须为实缴货币资本；外国保险公司分公司应当由其总公司无偿拨给不少于 2 亿元人民币或者等值的自由兑换货币的营运资金。

On 30 May 2013,the revised PRC Regulations on the Administration of Foreign-Funded Insurance Companies released, with effect from 1 August 2013. According to the new rules, the minimum registered capital of a joint venture insurance company or a wholly foreign-owned insurance company shall be RMB200 million or its equivalent in other convertible currencies and shall be paid in currency, and a foreign insurance company shall allocate its branch an operating capital of no less than RMB200 million or its equivalent in other convertible currencies.

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- **两岸签署服务贸易协议（来源：news.xinhuanet.com，2013 年 6 月 24 日）**

Mainland and Taiwan Sign Service Trade Agreement (Source: news.xinhuanet.com, June24, 2013)

6 月 21 日，海峡两岸服务贸易协议在上海签署，该协议是两岸经济合作框架协议（ECFA）后续协商所签协议之一。协议明确了两岸服务市场开放清单，更大范围地降低市场准入门槛。其中，大陆对台开放共 80 个项目，台湾对大陆开放共 64 个项目。双方市场开放广泛涉及商业、环境、医院、通讯、旅游、运输、商标代理、保险、银行、证券、期货等行业。

On 21 June, Cross-Strait Service Trade Agreement was signed in Shanghai. The Agreement is one of the follow-up agreements to the Economic Cooperation Framework Agreement (ECFA). The Agreement clarifies the list of open service markets between Mainland China and Taiwan, and further decreases the entry conditions of the markets. Mainland China will open 80 service sectors to Taiwan, and Taiwan will open 64 service sectors to Mainland China. The sectors include those related to commerce, the environment, medical services, telecommunications, tourism, transportation, trademark agents, insurance, banking, securities and futures.

根据协议，大陆对台湾开放会计、审计和簿记服务，允许台湾会计师在大陆设立

符合大陆《代理记账管理办法》规定的中介机构从事代理记账业务。台湾会计师事务所在大陆临时开展审计业务可申请《临时执行审计业务许可证》，有效期两年。

According to the Agreement, Mainland China will open accounting, audit and bookkeeping services which permit Taiwanese accountants to set up agencies conducting bookkeeping services in Mainland China according to the Administrative Measures on Bookkeeping Agencies. Taiwanese accounting firms temporarily launching audit services may apply for a Temporary License to Carry Out Audit Services, which is valid for two years.

在医疗方面，大陆开放台湾服务提供者以商业存在形式提供服务，其中包括独资设立医疗机构、疗养院或与大陆医疗机构、公司合资合作。此外，协议允许自然人以合同服务提供者的身份进入大陆提供临时性医疗服务。同时，台湾允许大陆医疗服务提供者在台湾以合资形式捐助设立非盈利的医疗财团法人医院。

With regard to medical services, Mainland China will permit Taiwan service suppliers to provide services through establishing a commercial presence, which include wholly-owned medical institutions and sanatoriums or joint ventures with mainland hospitals and companies. In addition, the Agreement permits natural persons to temporarily provide medical services in Mainland China as contract service suppliers. Meanwhile, Taiwan will permit mainland medical service suppliers to donate and set up joint venture non-profit hospitals.

商务部新闻发言人沈丹阳表示，今后双方还将依据 ECFA 规定，继续推动货物贸易、争端解决两个单项协议的商谈进程。资优势产业目录（2013 年修订）》。该目录自 2013 年 6 月 10 日起施行，2008 年 12 月 23 日国家发展和改革委员会、商务部发布的《中西部地区外商投资优势产业目录（2008 年修订）》（国家发展和改革委员会、商务部令 2008 年第 4 号）同时废止。

MOFCOM spokesman Shen Danyang said, in the near future Mainland China and Taiwan will promote the discussion of goods trade and dispute settlement in accordance with ECFA.

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投资动态
INVESTMENT DEVELOPMENTS

- **逃离北上广新政鼓励外商投资中西部产业（来源：金羊网，2013 年 6 月 19 日）**

  New Rules Encourage Foreign Investment in Industries of Central and Western Regions(Source:www.ycwb.com, June19, 2013)

  具有风向标意义的《中西部地区外商投资优势产业目录（2013 年修订）》自 6 月 10 日起正式实施，在外商投资产业指导目录中已不再出现的整车制造项目，此次入选中西部外商投资优势项目成为了关注重点。

  The Catalogue of Advantageous Industries for Foreign Investment in the Central and Western Regions (Revised in 2013) became effective on June 10, 2013 and provides a look into the state of relevant affairs. Vehicle manufacturing projects that have been removed from the Industry Catalog for Guiding Foreign Investment have been chosen as advantageous projects for foreign investment in the central and western regions, and have come back into focus.

  此次把整车项目列入鼓励范围的一共有 11 个省份，分别是广西、四川、重庆、贵州、云南、陕西、甘肃、青海、新疆、宁夏、内蒙古。对于那些尚未国产落地的国外汽车品牌，以及仍希望在华扩产的合资企业来说，这份名单具有特殊的导向意义。国家在新一轮汽车产业调整中的布局意图也浮出水面。

  Vehicle manufacturing projects are included among the encouraged projects of 11 provinces, namely, Guangxi, Sichuan, Chongqing, Guizhou, Yunnan, Shannxi, Gansu, Qinghai, Ningxia, and Inner Mongolia. For foreign automobile brands that have not been localized yet, as well as joint venture enterprises that are still expected to expand their production in China, the list of the aforementioned provinces provides guidance to them. It also reflects China’s intention in the new round of adjustments to the automobile industry.

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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。

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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.