

# China Tax Center China Tax & Investment Express

*China Tax & Investment Express (CTIE)\** brings you the latest tax and business announcements on a weekly basis. We selected some comparatively key announcements to provide for a synopsis and we also provide a link that leads you to the full content of each latest announcement (in Chinese). Please feel free to contact your EY client service professionals for further assistance if you find the announcements have an impact on your business operations.

CTIE does not replace our *China Tax & Investment News\** which will continue to be prepared and distributed to provide more in-depth analyses of topical tax and business developments in China.

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## Business circulars

- **Approval on temporarily adjusting the application of relevant administrative regulations and documents issued by the State Council in the pilot areas to fully deepen the innovative development of trade in services (Guohan [2021] No. 94)**

### Synopsis

According to Guohan [2020] No. 111 ("Circular 111", i.e., Approval on fully deepening the pilot program of the innovative development of trade in services) which aims to further promote trade in services of China in the global value chain and stabilize foreign trade and foreign investment, the State Council released Guohan [2021] No. 94 ("Circular 94") on 15 September 2021 to adjust the application of certain administrative regulations and documents in 21 pilot areas including Hainan, Beijing, Tianjin, Shanghai and Chongqing, etc. from the promulgation date till 1 August 2023.

The adjustments include but not limited to the following:

Applicable areas	Contents of adjustments in brief
Hainan Province	A franchisor engaging in commercial franchises is not required to complete record filing for commercial franchises.  The relevant government authorities shall enhance interim and ex-post supervision in this regard.
All 21 pilot areas	The authority for record filing for import/export of non-restricted technology shall be delegated to competent commerce authorities at the local level.

The relevant government authorities shall implement the relevant adjustments and establish mechanisms to adapt to such changes. The abovementioned adjustments shall be reviewed and further modified by the state council after the period of the pilot (i.e., three years after 2 August 2020 as prescribed in Circular 111).

Relevant parties are advised to observe the changes and enjoy the convenience to promote their trade in services.

You can click this link to access the full content of Circular 94:

[http://www.gov.cn/zhengce/content/2021-10/09/content\\_5641577.htm](http://www.gov.cn/zhengce/content/2021-10/09/content_5641577.htm)

You can click this link to access the full content of Circular 111:

[http://www.gov.cn/zhengce/content/2020-08/11/content\\_5534081.htm](http://www.gov.cn/zhengce/content/2020-08/11/content_5534081.htm)

► **Notice regarding Measures for the Regulation of Behaviors of Major Shareholders of Banking and Insurance Institutions (Trial) (Yinbaojianfa [2021] No. 43)**

**Synopsis**

In order to enhance the corporate governance of banking and insurance institutions and regulate major shareholders' behaviors, on 30 September 2021, the China Banking and Insurance Regulatory Commission (CBIRC) released the Measures for the Regulation of Behaviors of Major Shareholders of Banking and Insurance Institutions (Trial) (hereinafter referred to as the "Measures") via Yinbaojianfa [2021] No. 43.

Key features of the Measures are as follows:

**Recognition standards**

A shareholder will be regarded as a major shareholder if the shareholder falls under one of the following conditions:

- Holds more than 15% equity of large state-owned commercial banks, national joint-stock commercial banks, foreign-funded corporate banks, private banks, insurance institutions, financial asset management companies, financial leasing companies, consumer finance companies and auto finance companies. (*Note: The shareholding ratio of shareholders, their related parties and persons acting in concert shall be calculated together.*)
- Holds more than 10% equity of urban commercial banks and rural commercial banks.
- Holds the highest ratio of shares of a banking or insurance institution with a shareholding ratio of no less than 5% (including shareholders with the same number of shares).

- ▶ Nominates two or more directors.
- ▶ The board of directors of a banking or insurance institution have a common view that the shareholder has a controlling impact on the operation and management of the institution.
- ▶ Other circumstances as determined by the CBIRC or its dispatched branches.

### Regulatory requirements

- ▶ Shareholding behaviors

Major shareholders shall obtain shares with their own funds, the equity relationship shall be true and transparent. Cross shareholding, equity pledge and other behaviors are further regulated.

- ▶ Governance behaviors

Major shareholders shall support independent operation, strictly prohibit improper intervention, support the organic integration of Party leadership and corporate governance, and regulate the exercise of shareholder rights, e.g., voting rights and nomination rights.

- ▶ Transaction behaviors

Major shareholders shall observe the code of conduct of transactions, prohibit improper related-party transactions, and perform relevant obligations such as transaction management and cooperation in providing materials.

- ▶ Responsibility and obligation

Major shareholders shall take the responsibility of observing regulatory provisions, cooperating with risk disposal, information reporting, reputation risk control, support proper capital management, shareholders' rights negotiation, etc.

### Equity management

The board of directors of a banking and insurance institution shall bear the ultimate responsibility for equity management. The chairman of the board shall be the first person responsible for handling equity affairs of the institution. The secretary of the board of directors shall assist the chairman and is the person directly responsible for handling equity affairs.

The Measures became effective on its promulgation date, i.e., 30 September 2021. Relevant parties are advised to read the Measures for details and observe the regulations and obligations. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of the Measures:

<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1012488>

## Customs circular

- ▶ **Public notice (PN) regarding fully promoting the supervision mode of the processing trade on a group basis of enterprise groups (GAC PN [2021] No. 80)**

### Synopsis

For the development of enterprises engaging in processing trade, on 9 October 2021, the General Administration of Customs (GAC) released GAC PN [2021] No. 80 ("PN 80") to fully promote the supervision mode of processing trade on a group basis.

According to PN 80, processing trade enterprises under the same group may apply to be supervised by the Customs on a group basis if they can meet certain criteria, e.g., the enterprise being selected by the group as the initiator for such application should be an advanced authorized enterprises (高级认证企业) under the Customs and it should have authorizations by the other group members with none of the member enterprises under the category of enterprises acting in bad faith (失信企业); there are complete and thorough internal control measures and not involving goods that are subject to special monitoring or quotas, etc.

Where the application is approved by the Customs, the group members shall be granted with the following conveniences:

- ▶ The group members may keep one Customs handbook for all member enterprises or set up multiple customs handbooks for each member enterprise on a group basis.
- ▶ The bonded materials for processing trade purpose can be circulated among the group members.
- ▶ The member enterprises can store the bonded materials in venues that have been registered with the Customs and keep the relevant record for further references.
- ▶ Exchange and deployment of bonded and non-bonded materials under the same group shall not be subject to record filing with the Customs but only required to be recorded for future references.
- ▶ Outward processing within the group shall not be subject to record filing with the Customs, and the guarantee shall be waived by the Customs where all the processing procedures are under outward processing within the same group. Finished goods, surplus materials and scraps/defects under outward processing are not required to be transported back to the original enterprises. However, the enterprises should still keep proper records for processed goods delivery/receipt.

It is obvious that the group basis supervision mode of the above qualified processing trade enterprise group would be welcomed by the processing industry. It would not only ease the administrative burden of processing trade enterprises but also help to save costs for certain processes, e.g. waiving the guarantee for outward processing within the same group.

PN 80 took effect on 15 October 2021. Relevant enterprises are encouraged to read PN 80 and evaluate if they can qualify for the application so as to enjoy the benefits launched nationwide. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 80:

<http://www.customs.gov.cn/customs/302249/2480148/3944815/index.html>

## **Other business and customs-related circulars publicly announced by central government authorities in the past week:**

- ▶ **Outlines for the Development of National Standardization**  
[http://www.gov.cn/zhengce/2021-10/10/content\\_5641727.htm](http://www.gov.cn/zhengce/2021-10/10/content_5641727.htm)
- ▶ **Notice regarding measures for the supervision and administration of accident insurance business**  
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1012238>
- ▶ **Guiding opinions on optimizing services and conducting risk prevention and control for bank accounts of small and micro-sized enterprises**  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4360811/index.html>
- ▶ **Notice regarding the "Compliance and Prudence Evaluation of Banking Foreign Exchange Business" (Huizongfa [2021] No. 64)**  
<http://www.safe.gov.cn/safe/2021/1014/20044.html>

- ▶ **PN regarding clarifying the same standard of gold ore as that of gold concentrate in implementing the tax policy for gold imports (GAC PN [2021] No. 79)**  
<http://www.customs.gov.cn/customs/302249/2480148/3942903/index.html>
- ▶ **PN regarding the Chinese version of the 2022 revised catalog of the “Harmonized Commodity Description and Coding System” (GAC PN [2021] No. 78)**  
<http://www.customs.gov.cn/customs/302249/2480148/3941861/index.html>
- ▶ **PN regarding adjusting the catalog of import and export commodities subject to mandatory inspection (GAC PN [2021] No. 81)**  
<http://www.customs.gov.cn/customs/302249/2480148/3946909/index.html>



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