

国家发展和改革委员会公布《国家发展改革委关于做好对外转让债权外债管理改革有关工作的通知》，进一步明确境内金融机构向境外投资者转让不良债权的外债登记工作。

中国证券监督管理委员会与香港证券及期货事务监察委员会原则上批准深圳证券交易所、香港联合交易所有限公司、中国证券登记结算有限责任公司、香港中央结算有限公司建立深港股票市场交易互联互通机制。

商务部、海关总署联合公布《商务部、海关总署公告2016年第45号》，自2016年9月1日起在全国范围内取消加工贸易业务审批。

一、进一步明确境内金融机构向境外投资者转让不良债权的外债登记工作

2016年8月8日，国家发展和改革委员会（下称“**国家发改委**”）公布《国家发展改革委关于做好对外转让债权外债管理改革有关工作的通知》（发改外资【2016】1712号，下称“《**对外转让债权外债管理的通知**》”），进一步明确境内金融机构向境外投资者转让不良债权的外债登记工作。

（一）背景

境内金融机构向境外投资者转让不良债权使得境内机构的债务由对内负债变更为对外负债，该不良债权纳入外债管理，需要受到国家发改委和国家外汇管理局（下称“**外管局**”）的监管。

国家发改委和外管局曾于2007年2月1日联

合公布的《关于规范境内金融机构对外转让不良债权备案管理的通知》（发改外资[2007]254号）要求境内金融机构在对外转让不良债权协议签订后20个工作日内，将对外转让债权有关情况报送国家发改委备案；国家发改委在收到完整备案材料后20个工作日内，向对外转让不良债权的境内金融机构出具备案确认书。该通知已于2016年1月1日被废止。

为了简化企业发行外债备案登记，国家发改委于2015年9月14日公布了《国家发展改革委关于推进企业发行外债备案登记制管理改革的通知》，要求企业在发行外债前须向国家发改委办理备案登记手续，国家发改委自受理之日起7个工作日内，在外债总规模限额内出具《企业发行外债备案登记证明》。但是该通知并没有就境内金融机构向境外投资者转让不良债权是否亦应办理备案登记手续作出明确规定。

国家发改委公布《对外转让债权外债管理的通知》，明确规定境内金融机构向境外投资者转让不良债权，形成境内企业对外负债，亦应适用《国家发展改革委关于推进企业发行外债备案登记制管理改革的通知》有关规定，据此将境内金融机构向境外投资者转让不良债权统一纳入国家发改委规管的企业外债备案登记制体系中。

（二）法律点评

《对外转让债权外债管理的通知》要求境内金融机构对外转让不良债权登记申请材料应包括以

下内容：

- 1、 对外转让不良资产情况（账面本金、利息总额、主要构成、地域分布、第三方评估意见）；
- 2、 对外转让协议；
- 3、 在新闻媒体上公开发布的处置公告；
- 4、 境外投资者企业注册证明、有关书面承诺及资信业绩情况证明文件。以境外特殊目的公司（SPV）形式购买不良债权，不能充分证明资信业绩状况的，要提供控股母公司的证明文件；
- 5、 公证机构对转让过程出具的公证书（不良债权简况，转让方式，参与转让的主要境内外投资者，相关报价）；
- 6、 律师事务所出具的法律意见书。

我们注意到，该通知规定的申请材料与已废止的《关于规范境内金融机构对外转让不良债权备案管理的通知》规定的相比少了国家发展改革委要求的其它材料这一项，这将限制国家发改委受理申请时行使自由裁量权，有利于加快完成对外转让不良债权的备案手续。

对外转让不良债权的境内金融机构收到国家发改委出具的登记证明后，可向外汇主管部门申请办理资金汇兑。

（三）关注要点

据近日中国银监会发布的主要监管数据，2016 年二季度末，我国商业银行不良贷款余额 14,373 亿元，较上季末增加 452 亿元。一方面，快速增长的巨额不良贷款余额吸引了众多境外投资

者的关注，但另一方面，境内金融机构在最近一两年内向境外投资者转让不良债权的交易数量十分有限。《对外转让债权外债管理的通知》的发布是否能够促进境外投资者更多地参与境内不良债权的处置，值得我们持续关注。

二、深港股票市场交易互联互通机制正式启动

2016 年 8 月 16 日，中国证券监督管理委员会（下称“**证监会**”）与香港证券及期货事务监察委员会共同签署了《中国证券监督管理委员会 香港证券及期货事务监察委员会联合公告》（下称“**《联合公告》**”），原则批准深圳证券交易所（下称“**深交所**”）、香港联合交易所有限公司（下称“**联交所**”）、中国证券登记结算有限责任公司（下称“**中登公司**”）、香港中央结算有限公司（下称“**香港结算**”）建立深港股票市场交易互联互通机制（简称“**深港通**”），标志着深港通的实施准备工作正式启动。

（一）背景

2014 年 4 月 10 日，证监会、香港证券及期货事务监察委员会发布联合通告，原则批准上海证券交易所（下称“**上交所**”）、联交所、中登公司、香港结算开展沪港股票市场交易互联互通机制（简称“**沪港通**”）试点。2014 年 11 月 17 日，沪港通试点开通仪式在上海、香港同时举行，沪港通试点正式启动。

经过近两年的试点，2016 年 8 月 16 日，证监会与香港证券及期货事务监察委员会共同签署了《联合公告》。随后，证监会于 8 月 26 日发布通知，拟将《沪港股票市场交易互联互通机制试点若干规定》修改为《内地与香港股票市场交易互联互通机制若干规定》，并向社会公开征求意见。于同日，

深交所发布了《深圳证券交易所深港通业务实施办法（征求意见稿）》（下称“《**实施办法**》”）、《深圳证券交易所港股通投资者适当性管理指引（征求意见稿）》（下称“《**适当性指引**》”）以及《港股通交易风险揭示书必备条款（征求意见稿）》三项细则及其说明，并向社会公开征求意见。

（二）法律点评

1、深港通主要内容

《实施办法》是深港通基础性业务规则，是深交所会员和投资者参与深港通业务的主要规则依据，主要内容包括：

（1）深股通交易。明确了联交所证券交易服务公司的参与要求和相关义务责任；深股通标的股票范围和调入调出规则等。

（2）港股通交易。规定了深交所会员开展港股通业务的要求和职责；港股通标的股票的范围和调入调出规则；每日额度的计算及监控方式等。

（3）交易异常情况处理。参照深交所和联交所《交易规则》等相关规定，明确了处置主体、处置措施、市场公告、责任豁免等事项。

（4）自律管理。针对深港通可能出现的异常交易、违反信息披露要求及其他违规行为，明确了认定标准、监控责任主体、违规行为调查等自律监管内容及其他内容。

深港通虽设置了每日额度的限制，但不再设总额度限制，有利于进一步推动金融市场对外开放，有利于推动人民币国际化和资本项目可兑换。

2、坚持“与沪港通保持基本框架和模式不变”的原则

2016年8月29日，深交所就深港通相关业务规则公开征求意见答记者问表示，深港通方案设计坚持“与沪港通保持基本框架和模式不变”的原则，充分尊重市场习惯，保持制度连续性，吸取了沪港通成功经验，在交易结算方式、投资额度管理、港股通投资者适当性要求、市场监察、自律管理等主要运作机制和制度安排均参照沪港通。

《实施办法》体例架构、规则表述与上交所《上海证券交易所沪港通试点办法》（下称“《**沪港通办法**》”）基本保持一致，深港通下的港股通《适当性指引》与沪港通完全一致。

3、与沪港通的主要差别

（1）深港通股票范围以A股日均值确定

深港通股票范围包括（1）深证成份指数及深证中小创新指数的成份股，且成份股定期调整考察截止日前六个月A股日均市值不低于人民币60亿元，上市时间不足六个月的按实际上市时间计算市值；（2）A+H股上市公司在本所上市的A股，且H股在联交所主板上市。

相较于《沪港通办法》下沪股通股票范围中要求应为上证180指数成份股和上证380指数成份股，《实施办法》更具有灵活性。

（2）深港通下的港股通股票范围更大

深港通下的港股通股票范围是（1）恒生综合大型股指数的成份股；（2）恒生综合中型股指数的成份股；（3）市值在50亿港元及以上的恒生综合小型股指数的成份股，以及；（4）联交所主板上市的A+H股公司的H股，但不包括A股被深交所实施风险警示、被暂停上市或者进入退市整理期的相应H股，也不包括A股在上交所风险警示板交易的

相应 H 股。

与沪港通相比，深港通扩大了港股通股票的范围，在沪港通基础上新增了市值在 50 亿元港币及以上的恒生综合小型股指数成份股，并且包含了在深、沪交易所和联交所主板上市的全部 A+H 公司的 H 股。

（三）关注要点

从 2016 年 8 月 16 日起至深港通方案正式实施，还有四个月左右的准备时间，我们期待深港通的细则尽快公布。同时，我们也期待沪港通、深港通进一步推动我国资本项目可兑换程度的提高。

三、在全国范围内取消加工贸易业务审批

2016 年 8 月 25 日，商务部、海关总署联合公布《商务部、海关总署公告 2016 年第 45 号》，2016 年 9 月 1 日起在全国范围内取消加工贸易业务审批，建立、健全事中及事后监管机制。

（一）背景

《中华人民共和国海关法》（下称“《海关法》”）和《加工贸易审批管理暂行办法》要求企业从事加工贸易业务必须先报外经贸主管部门审批，再向海关备案；加工贸易保税进口料件或者制成品转内销，亦须先报外经贸主管部门审批，再由海关征税。

2012 年 12 月 28 日，全国人民代表大会常务委员会授权国务院在广东省暂时调整部分法律规定的行政审批，其中包括暂时停止实施《海关法》规定的从事加工贸易业务审批和加工贸易保税进口料件或者制成品转内销审批，通过海关、外经贸主管部门现有其他监管措施进行管理。暂时调整的行政审批在三年内实施，对实践证明可行的，应当修改完善有关法律；对实践证明不宜调整的，恢复施

行有关法律规定。

从 2013 年 7 月 15 日起，广东省暂时停止了对加工贸易业务和加工贸易保税进口物料或者制成品转内销审批，试行期为 3 年；试点期间内，广东省企业凭外经贸主管部门出具的《加工贸易企业经营状况和生产能力的证明》和海关要求提供的相关文件办理海关加工贸易货物备案手续。加工贸易保税进口物料或者制成品如需转内销的，主管海关依法征收税款和缓税利息。

2016 年 1 月 4 日，国务院要求总结广东省取消加工贸易业务审批的试点工作经验，全面推进取消加工贸易行政审批的改革进程。

2016 年 8 月 25 日，商务部、海关总署联合公布《商务部、海关总署公告 2016 年第 45 号》，规定在全国范围内取消加工贸易业务审批。

（二）法律点评

《商务部、海关总署公告 2016 年第 45 号》在广东省暂时停止对加工贸易业务和加工贸易保税进口物料或者制成品转内销审批的实践经验基础上，在全国范围内取消商务主管部门对加工贸易合同审批和加工贸易保税进口料件或者制成品转内销审批。开展加工贸易业务的企业，凭商务主管部门或海关特殊监管区域管委会出具的有效期限内的《加工贸易企业经营状况和生产能力的证明》到海关办理加工贸易手（账）册设立（变更）手续。海关特殊监管区域外加工贸易保税进口料件或者制成品如需转内销的，海关依法征收税款和缓税利息。

（三）关注要点

现行的《海关法》仍然规定企业从事加工贸易，应当持有关批准文件和加工贸易合同向海关备案；

加工贸易保税进口料件或者制成品因故转为内销的，海关凭准予内销的批准文件，对保税的进口料件依法征税。由于《商务部、海关总署公告 2016 年第 45 号》只是部门规章，不具备修订《海关法》

的效力。我们期待全国人民代表大会尽快修订《海关法》，删除并修订加工贸易业务和加工贸易保税进口料件或者制成品转内销审批的有关规定。

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The National Development and Reform Commission issued the *Notice of the National Development and Reform Commission on Effectively Conducting the Reform of Foreign Debt Administration concerning Outbound Credit Assignment*, to further clarify the foreign debt registration formalities of the assignment of non-performing credits by domestic financial institutions to overseas investors.

The China Securities Regulatory Commission and the Hong Kong Securities and Futures Commission in principle approved the Shenzhen-Hong Kong mutual stock market access established by the Shenzhen Stock Exchange, the Hong Kong Exchange and Clearing Limited, the China Securities Depository and Clearing Corporation Limited and the Hong Kong Securities Clearing Company Limited.

The Ministry of Commerce and the General Administration of Customs jointly issued the *No. 45 Announcement of the Ministry of Commerce and the General Administration of Customs of 2016* which stipulates that from September 1 2016, the approval for processing trade shall be abolished nation-wide.

1. Further Clarification of the Foreign Debt Registration Formalities of Assignment of NPC by DFIs to Overseas Investors

On August 8 2016, the National Development and Reform Commission (the “**NDRC**”) issued the *Notice of the National Development and Reform Commission on Effectively Conducting the Reform of Foreign Debt Administration concerning Outbound Credit Assignment* (Fa Gai Wai Zi [2016] No.1712, the “**FDR Notice**”), to further clarify the foreign debt registration formalities of the assignment of non-performing credits (the “**NPC**”) by domestic financial institutions (the “**DFIs**”) to overseas investors.

1.1 Background

The assignment of NPC by DFIs to overseas investors will change the nature of NPC from domestic debt to foreign debt, which is regulated under the foreign debt administration and supervised by the NDRC and the State Administration of Foreign Exchange (the “**SAFE**”).

On February 1 2007, the NDRC and the SAFE jointly issued the *Notice on Record-Filing Administration of the Outbound Assignment of Non-performing Credits by the Domestic Financial Institution* (Fa Gai Wai Zi [2007] No.254), which requires the DFIs to file the relevant information concerning outbound credit assignment with the NDRC within 20 working days after signing the agreement of NPC outbound assignment; and the NDRC to

issue record-filing confirmation to the DFIs assigning the NPC to overseas investors within 20 working days after receiving all the filing materials. However, such notice was abolished on January 1 2016.

On September 14 2015, to simplify the foreign debt record-filing and registration formalities, the NDRC issued the *Notice of the National Development and Reform Commission on Advancing Administrative Reform of the Record-Filing and Registration System for the Issuance of Foreign Debts by Enterprises*, which requires the enterprises to conduct record-filing and registration formalities with the NDRC before issuing foreign debts; and the NDRC shall issue the Record-filing and Registration Certificate of Enterprises' Issuance of Foreign Debts in compliance with the limitation of overall foreign debts quota, within seven working days of receiving the application. However, such notice does not clarify whether the assignment of NPC by the DFIs to overseas investors is subject to the record-filing and registration formalities.

The NDRC issued the FDR Notice which clearly states that the assignment of NPC by the DFIs to overseas investors causes domestic enterprises to owe debts to overseas investors, and therefore such assignment is subject to relevant provisions in the *Notice of the National Development and Reform Commission on Advancing Administrative Reform of the Record-Filing and Registration System for the Issuance of Foreign Debts by Enterprises*. Accordingly, the assignment of NPC by the DFIs to overseas investors shall be regulated under the NDRC's Record-Filing and

Registration System for Enterprises' Foreign Debts.

1.2 Legal Review

According to the FDR Notice, the application materials for the assignment of NPC by the DFIs to overseas investors shall include the following:

- (1) Information of the NPC to be assigned to overseas investors (book capital, total interests, main composition, geographic distribution, and evaluation opinion by a third party);
- (2) Agreement of assignment to overseas investors;
- (3) Disposal announcement issued publicly via news or media;
- (4) Enterprise registration certificate of overseas investors, relevant written undertakings and credit and achievements supporting documentation. Purchasing NPC via special purpose vehicles (the "SPV"), such SPV shall submit supporting documents of the controlling parent company where it fails to prove its credit or achievement conditions;
- (5) Notarization Certificate issued by the notarization organization regarding the assignment process (brief of the NPC, method of assignment, major domestic and foreign investors participating the assignment, and relevant offers); and
- (6) Legal opinions issued by the law firm.

We noticed that compared with the abolished *Notice on Record-Filing Administration of the*

Outbound Assignment of Non-performing Credits by the Domestic Financial Institution, the FDR Notice does not include other materials that may be required by the NDRC for application, which limits the discretionary power of the NDRC when receiving the application and contributes to the efficiency of conducting the record-filing formalities of the assignment of NPC.

After receiving a registration certificate issued by the NDRC, the DFIs assigning the NPC may apply for capital remittance with the foreign exchange authorities.

1.3 Next Steps

Based on the main regulatory data issued by the China Bank Regulatory Commission, by the end of the second quarter of 2016, the balance of the non-performing debts of commercial banks in China was 1,437.3 billion, an increase of 45.2 billion compared with the last quarter. On one hand, the fast-increasing enormous amount of balance of non-performing debts attracts the attention of many foreign investors. On the other hand, the assignment amount of NPC by the DFIs to overseas investors is rather limited. It is worth our continuous attention on whether issuance of the FDR Notice may increase the participation of overseas investors in the disposal of domestic non-performing credits.

2. Formal Launch of Shenzhen-Hong Kong Stock Connect

On August 16 2016, the China Securities Regulatory Commission (the “**CSRC**”) and the Hong Kong Securities and Futures Commission (the “**SFC**”) signed the *Joint Announcement of*

the China Securities Regulatory Commission and the Hong Kong Securities and Futures Commission (the “**Joint Announcement**”), which in principle approves the Shenzhen-Hong Kong mutual stock market access (the “**SZHK Stock Connect**”) established by the Shenzhen Stock Exchange (the “**SZSE**”), the Hong Kong Exchange and Clearing Limited (the “**HKEX**”), the China Securities Depository and Clearing Corporation Limited (the “**ChinaClear**”) and the Hong Kong Securities Clearing Company Limited (the “**HKSCC**”), and marks the formal launch of the preparation and implementation of the SZHK Stock Connect.

2.1 Background

On April 10 2014, the CSRC and HKSFCC issued a joint announcement, which in principle approves the trial of Shanghai-Hong Kong mutual stock market access (the “**SHHK Stock Connect**”) by the Shanghai Stock Exchange (the “**SHSE**”), the HKEX, the ChinaClear and the HKSCC. On November 17 2014, the launching ceremonies of SHHK Stock Connect took place simultaneously in Shanghai and Hong Kong, when the SHHK Stock Connect was formally launched.

After two years of trials, on August 16 2016, the CSRC and the SFC signed the Joint Announcement. Shortly after, the CSRC issued a notice on August 26, seeking public opinion for amending the *Several Provisions on the Pilot Program of an Interconnection Mechanism for Transactions in the Shanghai and Hong Kong Stock Markets* to become the *Several Provisions on the Interconnection Mechanism for Transactions in the Mainland and Hong*

Kong Stock Markets. On the same day, the SZSE issued the *Implementation Rules of Shenzhen Stock Exchange on Conducting Shenzhen-Hong Kong Stock Connect Services (Exposure Draft)* (the “**Implementation Rules**”), the *Administrative Guide of Shenzhen Stock Exchange on Fitness of Shenzhen-Hong Kong Stock Connect Investors (Exposure Draft)*, and the *Mandatory Clauses of Risk Disclosure Statement of Hong Kong Stock Connect (Exposure Draft)* (the “**Fitness Guide**”) for public opinions.

2.2 Legal Review

(1) Introduction of SZHK Stock Connect

The Implementation Rules are the fundamental rules for the SZHK Stock Connect, and are the main principles for the members of the SZSE and investors to participate in the SZHK Stock Connect. The Implementation Rules mainly include:

(a) Shenzhen Stock Connect: setting out the participation requirements of the stock trade and services companies by the HKEX and their relevant responsibilities, and the scope of stocks eligible for Shenzhen Stock Connect and the rule of inclusion and exclusion of stocks and so on.

(b) Hong Kong Stock Connect: setting forth the requirements and obligations for SZEX members to participate in Hong Kong Stock Connect; the scope of stocks eligible for Hong Kong Stock Connect and the rule of inclusion and exclusion of stocks; the calculation methods of daily quota and supervision

methods and so on.

(c) Management of Abnormal Trading Events: by reference to the Trading Rules of the SZEX and HKEX, stipulating matters including the management body, measures, market announcement and responsibility waiver.

(d) Self-discipline Management: setting identification standards, supervision body, investigation of violation of relevant regulatory rules and other self-disciplinary rules for possible abnormal trade, violation of information disclosure requirements and other violations.

Although the SZHK Stock Connect sets a limitation on daily quota, it no longer sets a total quota for stock trading, which further opens the financial market and facilitates the international and capital account convertibility of RMB.

(2) Principle of Conforming with the Basic Framework and Model of SHHK Stock Connect

On August 29 2016, in its response to news reporters, the SZEX stated that the SZHK Stock Connect is designed on the principle of conforming to the basic framework and model of SHHK Stock Connect for the purpose of keeping institutional continuity by following the successful experiences of SHHK Stock Connect. Therefore trade clearing methods, the management of investment quotas, fitness requirements of Hong Kong Stock Connect investors, market supervision and disciplinary management and other major operation mechanisms and regulatory arrangements conform to the SHHK Stock Connect.

The Implementation Measure basically conforms to that of SHHK Stock Connect regarding its structure and presentation, and the Fitness Guide for Hong Kong Stock Connect is the same as that of the SHHK Stock Connect.

(3) Major Differences

(a) Stock scope of SZHK Stock Connect is ascertained based on the daily average value of A Share

Scope of the SZHK Stock Connect includes (i) constituent stocks of SZSE Component Index and SZSE Innovation Index and subject to regular inspection requiring that the daily average value of such A share shall be not less than RMB 6 billion prior to the inspection date; for shares initially offered on the market for less than six months, calculated based on the actual traded period; and (ii) A shares listed on SZEX of listed companies of A+H shares and their H shares listed on the mainboard of HKEX.

Compared with the scope of SHHK Stock Connect, which requires constituent stocks of SHEX 180 Index and SHEX 360 Index, the Implementation Rules feature more flexibility.

(b) Wider stock scope of Hong Kong Stock Connect under the SZHK Stock Connect

Scope of Hong Kong Stock Connect under the SZHK Stock Connect includes (1) constituent stocks of the HS Composite LargeCap Index; (2) constituent stocks of the HS Composite MidCap Index; (3) constituent stocks of HS Composite SmallCap Index with the market value of no less than HKD 5 billion; and (4) H shares of companies of A+H shares listed on

the mainboard of the HKEX, excluding H shares where its corresponding A shares are subject to risk warning, suspension or delisting procedures by the SZEX.

Compared with the SHHK Stock Connect, the SZHK Stock Connect expands the scope of the shares eligible for Hong Kong Stock Connect by adding constituent stocks of HS Composite SmallCap Index with the market value of no less than HKD 5 billion, and by including H shares of companies of A+H shares listed on the SZEX, SHEX and HKEX.

2.3 Next Steps

From August 16 2016 to the formal implementation of SZHK Stock Connect, there is a four-month period of preparation. It is expected that the issuance of the detailed rules of SZHK Stock Connect will happen soon and that the SZHK and SHHK Stock Connect will further advance the capital account convertibility of RMO.

3. Nation-Wide Abolishment of Administrative Approval for Processing Trade

On August 25 2016, the Ministry of Commerce (the “**MOC**”) and the General Administration of Customs (the “**GAC**”) jointly issued the *No. 45 Announcement of the Ministry of Commerce and the General Administration of Customs of 2016* (the “**No.45 Announcement**”) which stipulates that from September 1 2016, the approval for processing trade shall be abolished nation-wide, and replaced with interim and ex post supervision.

3.1 Background

According to the *Customs Law of the People's*

Republic of China (the “**Customs Law**”) and the *Interim Measures for the Management of Examination and Approval of Processing Trade*, for enterprises to conduct processing trade, they shall first apply for approval from the foreign trade and economic authorities and then file the record with the customs; and for bonded imported materials and products under processing trade to be sold domestically, such transactions shall be subject to approval from the foreign trade and economic authorities and then the record-filing with the customs.

On December 28 2012, the Standing Commission of the National People’s Congress authorized the State Council to temporarily suspend several administrative approval matters under the laws and regulations in Guangdong Province, including the temporary suspension of approval for enterprises engaging in processing trade and approval for selling domestically bonded imported materials and products under processing trade and replacing such approvals by other supervision measures currently adopted by the customs and foreign trade and economic authorities. The period for such suspension is three years and if proved to be feasible, such measures shall be implemented and the relevant laws and regulations shall be amended accordingly; and if proved to be infeasible, the relevant laws and regulations shall be re-implemented.

Since July 15 2013, Guangdong Province has temporarily suspended the approval for enterprises engaging in processing trade and approval for selling domestically bonded imported materials and products under processing trade for a trial period of three years;

during the trial, enterprises in Guangdong Province shall complete customs processing trade goods recording-filing formalities by providing the Certificate of Operation Condition and Production Ability of Processing Trade Enterprises issued by the foreign trade and economic authorities and other relevant documents required by customs. For bonded imported materials and products under processing trade to be sold domestically, the relevant customs shall levy taxes and defer tax interests in compliance with the law.

On January 4 2016, the State Council summarized the trial experiences of Guangdong Province on abolishing the administrative approval for processing trade and conduct reform on abolishing the administrative approval for processing trade.

On August 25 2016, the MOC and GAC jointly issued the No. 45 Announcement to abolish the approval for processing trade nation-wide.

3.2 Legal Review

Based on the trial experience of Guangdong Province on the temporary suspension of the approval for enterprises engaging in processing trade and approval for selling domestically bonded imported materials and products, the No. 45 Announcement abolishes the commerce approval for enterprises engaging in processing trade and approval for selling domestically bonded imported materials and products nation-wide. For enterprises conducting processing trade, they shall conduct formalities of establishing (changing) the processing trade handbooks (or record books) with the customs by providing the Certificate of Operation

Condition and Production Ability of Processing Trade Enterprises issued by the commerce department or local administrative committee for customs special supervisory district. For bonded imported materials and products under processing trade to be sold domestically, the relevant customs shall levy tax and deferred tax interests in compliance with the law.

3.3 Next Steps

The Customs Law currently applicable still requires enterprises conducting processing trade to file records with the customs by providing the relevant approval documentation and processing trade contract; for bonded

imported materials and products under processing trade to be sold domestically, the customs shall issue approval for domestic sale and levy tax for bonded imported materials in compliance with the law.

Since the No.45 Announcement is issued by the departments of the State Council and therefore does not have the effect of amending the Customs Law. It is expected that the National People's Congress will amend the Customs Law promptly by deleting the relevant provisions requiring approval for enterprises engaging in processing trade and approval for selling domestically bonded imported materials and products

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