

Special Administrative Measures for Cross-Border Service Trade at Hainan Free Trade Port

(Negative List) (2021 Edition)

Explanation

1. The *Special Administrative Measures for Cross-border Service Trade at Hainan Free Trade Port (Negative List) (2021 Edition)* (the "Measures") lists the national treatment, market access, local presence, and cross-border trade in financial services that overseas service providers engaged in cross-border service trade (through cross-border delivery, overseas consumption, and movement of people) can enjoy. The measures are applicable to the Hainan Free Trade Port, with a geographic scope of the whole island of Hainan. Unless otherwise specified, the Measures only apply to overseas service providers providing services to market entities and individuals in the Hainan Free Trade Port. Areas outside those stipulated in the Measures are managed in accordance with the principle of consistent treatment of domestic and foreign services and service providers within the Hainan Free Trade Port.
2. The contents listed in the *Market Access Negative List* and the special administrative measures for the provision of services through a commercial presence outlined in the *Hainan Free Trade Port Special Administrative Measures for Foreign Investment Access (Negative List)* are not included in this negative list.
3. Overseas service providers shall not engage in the cross-border trade of any of the services prohibited in the Measures; service areas that are stipulated as not prohibited in the Measures shall be managed in accordance with corresponding regulations.
4. Measures related to national security, public order, financial prudence, social services, human genetic resources, humanities and social science research and development, new cultural formats, aviation business rights, immigration and employment, as well as government functions that have not been listed in the Measures, shall be implemented in accordance with current regulations.
5. Where there are more preferential arrangements for overseas service providers to carry out cross-border service trade with Hong Kong, Macao and Taiwan, or where China has concluded or participated in international treaties and agreements with more preferential provisions for overseas service providers to carry out cross-border service trade, measures shall be implemented following the corresponding regulations.
6. The Ministry of Commerce and relevant departments shall be responsible for the interpretation of the Measures.

Special Administrative Measures for Cross-Border Service Trade at Hainan Free Trade Port (Negative List) (2021 Edition)

Serial No.	Special administrative measures
Section 1: Agriculture, forestry, animal husbandry, and fishery	
1	Overseas individuals and fishing vessels entering Chinese waters for fishery resource surveying shall obtain approval from the Chinese government. Where there is a treaty or agreement with China, the case shall be handled in accordance with the treaty or agreement.
Section 2: Construction	
2	Overseas service providers are not permitted to provide construction and related engineering services.
Section 3: Wholesale and retail	
3	Overseas service providers are not permitted to directly sell veterinary drugs, fodder, fodder additives and pesticides, and are required to set up sales agencies in China or entrust qualified agents in China in order to sell these products.
4	Overseas service providers are not permitted to engage in the wholesale, retail, import and export of tobacco leaves and tobacco products in China.
Section 4: Transportation, storage, and postal services	
5	Overseas service providers are only permitted to engage in international transport at ports open to overseas ships. In addition, overseas service providers are not permitted to operate domestic waterway transportation business, or to operate domestic waterway transportation business by means of renting a Chinese vessel or shipping space. Domestic operators are also not permitted to use foreign vessels to operate domestic waterway transport business. However, when there is no Chinese ship in the country that can meet the transport requirements, and where the port or territorial waters in which the ship is docked is open to international shipping, domestic waterway transport operators are permitted, with the authority of the Chinese government, to temporarily use a foreign shipping vessel for the duration of the voyage or within the time limit prescribed by the government.
6	With the exception of yachts, all foreign vessels must apply for pilotage at a local pilotage agency when entering or leaving the Hainan Free Trade Port, navigating its inland waters and ports, shifting berths, docking at or leaving mooring points, or loading and unloading stations outside the ports. Where there is an existing agreement in place between China and the vessel's country of origin, then the regulations of the relevant agreement shall take precedence.
7	Foreign individuals are not permitted to register as pilots.
8	Overseas service providers must participate in the salvage of sunken ships and articles in coastal waters by signing joint salvage contracts with Chinese salvage operators. Overseas service providers must, under the same conditions, prioritize Chinese salvagers for renting and hiring of the ships, equipment and labor services required to fulfil the obligations of the joint salvage contract.
9	For the cross-border delivery of computer reservation systems, the following provisions are stipulated: (1) If an agreement has been made with a Chinese air transport company and a Chinese computer reservation system, then the foreign service providers can provide services to Chinese air transportation companies and Chinese aviation agents by connecting the overseas computer reservation system with the Chinese computer reservation system. (2) Overseas computer reservation systems are permitted to provide services to representative or business offices of overseas air transport companies established in destination cities. The air transport companies must have the right to operate under relevant bilateral aviation agreements. (3) The direct access and use of foreign computer reservation systems by sales agents of Chinese and overseas air transport companies must be approved by the competent civil aviation authorities of China.
10	Overseas service providers are not permitted to engage in Chinese civil aviation air traffic management services, including air traffic control, communications, navigation and surveillance, and aeronautical information. They are also not permitted to engage in civil aviation air traffic control and aeronautical information training services.
11	Overseas individuals are not permitted to apply for civil aviation intelligence officer or civil air traffic controller licenses.
12	Overseas pilot schools that conduct pilot license and different levels of training for Chinese aviation operators and that complete training for returned qualified Chinese pilots to exchange licenses for corresponding Chinese pilot licenses under the simplified procedures, must (1) be an entity of a country that is a signatory of the International Civil Aviation Convention and have an aviation operation certificate or similar approval certificate from its host country's civil aviation authority; and (2) receive permission from the Chinese government.
13	Overseas vessels are not permitted to engage in any kind of towing operations between Chinese ports without the approval of the Chinese government.
14	The captain of a Chinese ship must be a crew member of Chinese nationality.
15	Overseas international road transport operators are not permitted to engage in the transport of passengers to and from destinations within China.
16	Overseas service providers are not permitted to operate domestic express mail business.
17	Overseas service providers are not permitted to provide postal services.
Section 5: Information transmission, software, and information technology services	
18	China implements a licensing system for telecommunication business operations. Only companies that have been legally established in China and have obtained a telecommunication business license are permitted to engage in telecommunications business activities.
19	International telecommunication business must be conducted through an international communication service import and export bureau approved by the competent departments of the Ministry of Industry and Information Technology (MIIT). The international communication service import and export bureau must be applied for and set up by a wholly state-owned telecommunications enterprise, which must also be responsible for its operations and maintenance, the establishment of which must be approved by the relevant departments of the MIIT.
20	Overseas organizations or individuals are not allowed to conduct radio wave parameter testing or radio wave monitoring.
21	Overseas entities providing communication satellite resources leasing services to entities in China shall, on the premise of complying with China's satellite radio frequency management regulations and completing the coordination with the satellite radio frequency declared by China, lease the communication satellite resources to those with corresponding business qualifications in the country. The domestic satellite company should then sublease the communication satellite resources to the domestic user and be responsible for technical support, marketing, user service, and user supervision. Overseas satellite companies are not allowed to directly operate satellite transponder rental services to domestic users without the approval of the Chinese government.
22	Overseas service providers shall not engage in Internet news information services or Internet public information release services.
23	Overseas service providers shall not provide Internet information search services if they fail to meet the requirements for establishing a commercial presence and relevant share ratio.
Section 6: Financial industry	
24	Insurance companies established in accordance with Chinese law and other insurance organizations prescribed by laws and administrative regulations may operate insurance businesses only within the territory of China.
25	Insurance services other than insurance broking provided by means of overseas consumption and the following insurance services provided by means of cross-border delivery are exempt from the above restrictions: reinsurance; international maritime, air, and transportation insurance; large commercial insurance brokers, international marine, air, and transportation insurance broking, and reinsurance broking.
26	Without the approval of China's banking regulatory authority, overseas service providers shall not engage in business activities of banking financial institutions, financial asset management companies, trust companies, finance companies, financial leasing companies, consumer finance companies, auto finance companies, and other financial institutions established with the approval by China's banking regulatory authority by means of cross-border delivery.
27	Only approved currency brokerage companies established within the territory of China may engage in currency brokerage business.
28	A limited liability company or a joint stock limited company established only within the territory of China which is a non-financial institution legal person can apply for a Payment Business License to engage in non-financial institution payment services.
29	Securities companies established in China only under Chinese law may, upon approval, operate the following securities businesses: (1) securities brokerage; (2) securities investment consultation; (3) financial advisers related to securities trading and securities investment services; (4) securities underwriting and recommendation; (5) securities margin trading and short selling; (6) market-making transactions in securities; (7) self-management of securities; (8) other securities business.
30	The provision of services in the form of overseas consumption and the provision of the following services in the form of cross-border delivery are not subject to the restrictions of Article 28: (1) Overseas domestically operating institutions that have been approved to obtain the qualifications for the business of domestically listed foreign shares (B shares) can engage in the brokerage business of domestically listed foreign shares by signing an agency agreement with domestic securities operating institutions, or by other methods prescribed by the stock exchange; (2) Overseas securities operating institutions that have obtained the qualification for the business of domestically listed foreign stocks can act as lead underwriters and deputy lead underwriters and international advisor coordinators of domestic listed foreign stocks; (3) An approved qualified domestic institutional investor (QDII) which conducts overseas securities investment business may entrust overseas securities service institutions to buy and sell securities on behalf of them; (4) An approved QDII can entrust qualified overseas investment consultants to make overseas securities investment; (5) Overseas QDII as custodian entrusted by the custodian to take charge of overseas assets custody business shall meet legal conditions.
31	The following services shall not be provided through cross-border delivery: (1) a fund management company established only in accordance with Chinese law or other institutions approved by the Chinese securities regulatory authority in accordance with the provisions can act as the manager of a publicly offered securities investment fund; (2) Only companies or partnerships established in China that meet the legal conditions can apply for securities as private equity fund managers; (3) Commercial banks or other financial institutions approved by China's securities regulatory authorities that are established in accordance with Chinese law and have obtained the trusteeship qualification of securities investment funds can act as custodians of securities investment funds; (4) When an approved QFII invests in domestic securities and futures, it shall entrust a qualified domestic institution as its custodian to keep the assets. When approved domestic institutional investors conduct overseas securities investment business, domestic commercial banks shall be responsible for asset custody business. (5) Only institutions (including public fund managers) established in accordance with the Laws of China and registered with the Securities regulatory authorities of China and their dispatched offices qualified for selling public funds may engage in the business of selling funds; (6) Without approval or registration, no domestic institution or individual shall engage in the issuance and trading of securities overseas.
32	Securities operating institutions and other consulting institutions established in accordance with Chinese law may engage in securities investment consulting business upon approval.
33	Futures companies established in China only in accordance with Chinese laws can operate the following futures business in accordance with the licenses issued by the China futures regulatory authorities based on their commodity futures and financial futures business types: domestic futures brokerage business, overseas futures brokerage, futures investment consultation, and other stipulated by the futures regulatory authority of China futures business. Futures companies established in China only in accordance with Chinese laws may engage in asset management business after registration and record-filing in accordance with the requirements of China futures regulatory authorities.
34	Commercial banks established only in China can apply for the qualification of China futures regulatory depository banks.
35	Unless otherwise stipulated by China's securities regulatory authorities or other relevant departments, no domestic entity or individual shall engage in the business of overseas futures and other derivatives. No entity or individual outside China shall engage in domestic futures and other derivatives business.
36	Futures companies and other futures operating institutions established only in accordance with Chinese law may engage in futures investment consulting business. Overseas individuals living in Hainan free trade Port can apply for the qualification of futures investment consulting.
37	The legal person trustee, custodian, and investment manager of corporate annuity shall be approved by the Chinese financial regulatory authorities and shall be a legal person in China.
38	The corporate annuity account manager shall be approved by the Chinese government and be a legal person in China.
39	Overseas enterprises or individuals may not become an ordinary member of a stock exchange. Overseas enterprises or individuals are not allowed to become members of the futures exchange. Overseas enterprises or individuals are not allowed to open securities or futures accounts unless otherwise stipulated by the state or for overseas individuals working in Hainan free trade Ports. No more than one regional equity market operation institution shall be established in Hainan free trade Port, and the regional equity market shall not provide services for the financing and transfer of private equity securities or equity of enterprises outside Hainan Free Trade Port.
40	Overseas futures exchanges and other overseas institutions shall not designate or set up warehouses for commodity futures delivery in China or engage in other activities related to commodity futures delivery business.
41	Offshore RMB business clearing bank, overseas central bank institutions (including overseas central banks/monetary authorities, and other official reserves management agencies, international financial organizations, sovereign wealth funds), and overseas participating banks that meet qualifications for RMB purchases and sales businesses can become overseas members of China's inter-bank foreign exchange market after application, to participate in the inter-bank foreign exchange market transaction.
Section 7: Leasing and business services	
42	Overseas law firms, other organizations or individuals abroad shall not engage in legal services in China under any other name than the representative office of an overseas law firm in China (except when Hainan Law firm employs foreign lawyers as foreign legal advisers and lawyers from Hong Kong and Macao as legal advisers).
43	The representative offices of foreign law firms in China and their representatives shall not engage in Chinese legal affairs (except that the representative offices of foreign law firms in Hainan shall engage in some non-litigation legal affairs related to Hainan commercial affairs). Representative offices of foreign law firms in China shall not employ Chinese practicing lawyers; The auxiliary personnel employed shall not provide legal services for the parties concerned. The representative of the representative office and its auxiliary personnel shall not provide Chinese legal services to clients in the name of "Chinese legal counsel".
44	The representative offices in China of foreign law firms and their affiliated foreign law firms shall not send personnel to enter Chinese law firms to engage in legal services.
45	Only notarial offices established within the territory of China may provide notarial services. The total number of notarial offices shall be controlled. Only Chinese citizens who have passed the Chinese judicial examination or the unified legal professional qualification examination can serve as notaries.
46	Overseas individuals are not allowed to participate in the national uniform legal professional qualification examination to obtain the legal professional qualification certificate.
47	Only legal persons or other organizations established within the territory of China can apply to engage in forensic expertise. Only Chinese citizens can apply to engage in forensic expertise.
48	Overseas service providers can only provide statutory audit services through commercial presence; Overseas service providers can only provide agency bookkeeping services through commercial presence.
49	Investigations or individuals outside the country may not directly conduct social investigations or conduct social investigations through institutions that have not obtained a foreign-related investigation permit. Overseas service providers who have been qualified and obtained a foreign-related investigation license may conduct market research.
50	Overseas service providers shall not provide human resources services (including but not limited to intermediary services and career intermediaries), and shall not directly recruit (labor) personnel to work abroad.
51	Overseas individuals are not allowed to serve as security guards to engage in security services, and overseas service providers can only provide security services through commercial presence.
52	The holding of international exchange and trading activities shall be approved by China's radio and television administrative departments and shall be undertaken by designated entities. The holding of international film festivals (exhibitions) and national film festivals (exhibitions) with awards shall be approved by the Chinese film authorities. With the approval of Hainan film authorities, film screening activities of a single country or Hong Kong, Macao, and Taiwan regions can be held.
53	Foreign individuals are not allowed to apply for the national tour guide qualification examination.
Section 8: Scientific research and technical services	
54	Overseas service providers may provide urban planning services other than master planning services, but they must cooperate with Chinese professional institutions. Urban design other than statutory planning and preliminary study of statutory planning are exempt from this restriction.
55	Other than scheme design, the preliminary design (basic design), construction drawing design (detailed design), engineering and centralized engineering services of construction projects provided by overseas service providers through cross-border delivery must cooperate with Chinese professional institutions.
56	The application of foreigners to participate in the national unified examination and registration of registered architects in China and the application of foreign architects to carry out the business of registered architects shall be handled in accordance with the principle of reciprocity.
57	Without approval, no overseas organization or individual may engage in surveying and mapping, meteorological, hydrological, seismic and ecological environment monitoring, marine scientific research, laying of submarine cables and pipelines, exploration and exploitation of natural resources, and other activities in the Chinese territory or in other sea areas under China's jurisdiction.
Section 9: Education	
58	The institutions providing overseas education services shall not hold educational examinations independently, except for the educational examinations for non-academic qualifications held in cooperation with Chinese educational examination institutions.
59	Overseas personal education service providers who are invited or employed by schools and other educational institutions in Hainan Free Trade Port can enter China to provide education services. They must have a bachelor's degree or above and corresponding professional titles or certificates.
Section 10: Health and social work	
60	For foreign doctors who have obtained the legal right to practice medicine in foreign countries, if they are invited, applied for, or approved by China for clinical diagnosis, treatment, or other activities, the registration period is not more than one year. If the registration period needs to be extended, they can re-register according to the regulations.
Section 11: Culture, sports, and entertainment	
61	Newspapers, periodicals, audio-visual products, and electronic publications, and shall not engage in online publishing (including online games) services, except for the contents of China's WTO accession commitments.
62	Press and publication cooperation projects conducted by Chinese and foreign press and publication entities shall be approved by the Chinese government, and shall ensure the Chinese side's leading right of operation and the right of final adjudication of content, and shall meet other conditions approved by the Chinese government. The cooperation projects of network publishing service units with foreign-invested domestic enterprises or overseas organizations and individuals for network publishing service business shall be submitted to the Chinese government for approval in advance. Overseas service providers are not allowed to reproduce audio and video products and electronic publications without approval.
63	A film shall be shown in accordance with the proportion of showing time set by the Chinese government for domestic and imported films. The annual length of the cinema showing domestic films shall not be less than two-thirds of the total annual length of movie films. Foreign service providers shall not engage in film import business.
64	The main creators of domestic feature films, cartoons, scientific and educational films, documentaries, and special films shall generally be Chinese citizens. In case of special needs of filming, overseas main actors may be hired upon approval, but the leading and supporting actors from abroad shall not exceed one third of the total number of main actors. For feature films, cartoons, documentaries, scientific and educational films, etc. co-produced with foreign countries, due to special needs of filming, foreign chief filmmakers may be employed upon approval by the competent Chinese film authorities. The number of foreign main actors shall not exceed two-thirds of the total number of main actors, except for countries and regions stipulated in special agreements.
65	China implements a licensing system for film co-productions with foreign countries. No unit within China may co-produce films with any unit outside China without obtaining the approval document. No unit abroad may independently make films without approval.
66	Overseas service providers shall not engage in online audio-visual program services. The total amount of foreign films and TV series introduced by a single website for information network dissemination in a year shall not exceed 30 percent of the total amount of domestic films and TV series purchased and broadcast by the website in the previous year. The introduction of foreign films, TV series, and other audiovisual programs for information network dissemination must be examined and approved by the administrative department of radio and television at or above the provincial level.
67	Foreign films and TV series intended for broadcast by radio and television stations must be examined and approved by China's administrative department of radio and television. Other overseas radio and television programs for broadcast by radio stations and television stations must be examined and approved by China's radio and television administrative departments or their authorized institutions. The import or retransmission of foreign radio and television programs by means of satellite transmission by a radio station or television station must be approved by the Chinese radio and television administrative department. China regulates and plans the introduction of foreign films and TV series. The introduction of foreign films and TV series and the introduction of other foreign television programs by means of satellite transmission shall be declared by the designated units. The broadcasting of overseas radio and television programs introduced in accordance with relevant regulations shall comply with the relevant provisions on time proportion and time period arrangement.
68	Overseas service providers shall not engage in cross-border import business of online cultural products, except for the contents of China's WTO accession commitments.
69	Foreign service providers are not allowed to provide video-on-demand (VOD) services for radio and TV videos, except for hotels and restaurants above three-star level or equivalent. Those engaged in VOD services of radio and TV videos shall obtain a license for VOD services of radio and TV videos according to law. The programs used for VOD services should be mainly domestic programs. The Chinese government implements an examination and approval system for the landing of foreign satellite channels.
70	Overseas service providers are not allowed to engage in radio and television program production and operation (including imported business) services, but domestic radio and television program production (including TV cartoons). No less than 25 percent of the main creators (screenwriters, producers, directors, and main actors) of a TV series co-produced by China and foreign countries shall be Chinese. The employment of overseas individuals to participate in the production of domestic radio and television programs shall be subject to the examination and approval of the radio and television administrative departments.
71	An overseas artistic performance group or individual shall not hold any commercial performance on its own, but may participate in commercial performance organized by a performance brokerage agency within the territory of China, or be invited by an artistic performance group within the territory of China to participate in commercial performance organized by such artistic performance group itself, subject to approval by the cultural and tourism administrative department. No overseas individual shall engage in intermediary or agency activities for commercial performances.
72	Overseas service providers shall not engage in news services, including but not limited to news services provided through news agencies, newspapers, periodicals, radio stations and television stations. However, (1) With the approval of the Chinese government, foreign news agencies may establish resident news offices to engage only in news gathering and dispatch resident journalists to China; (2) With the approval of the Chinese government and under the condition that China's leadership is ensured, Chinese and foreign news organizations may conduct specific business cooperation. With the approval of the Chinese government, overseas news agencies may provide approved news services to domestic news agencies, for example, contributing to domestic news agencies.
73	Overseas service providers are not allowed to carry out social art level examination activities.