

Upon examination and approval by the State Council, the Ministry of Commerce has released the Special Administrative Measures (Negative List) for Cross-border Trade in Services of Hainan Free Trade Port (2021 Edition). This is the first negative list published in the field of cross-border trade in services in China. It once again demonstrates the strength and depth of China's opening up. The negative list outlines 70 special administrative measures in 11 categories only. For fields not included in the negative list, domestic and foreign services and providers enjoy equal treatment in Hainan Free Trade Port.

**Special Administrative Measures (Negative List) for Cross-border Trade in Services in
Hainan Free Trade Port (2021)**

Notes

I. The Special Administrative Measures (Negative List) for Cross-border Trade in Services in Hainan Free Trade Port (2021) (the "Negative List") uniformly specify special administrative measures in terms of national treatment, market access, local existence, and cross-border trade in financial services for the cross-border provision of services by overseas service providers (under modes of cross-border delivery, overseas consumption, and movement of natural persons), applicable in Hainan Free Trade Port, with the territorial scope of the entire Hainan Island. Unless otherwise specified, the said measures only apply to the provision of services by overseas service providers for market players and individuals in Hainan Free Trade Port. The fields other than those set forth in the Negative List shall be administrated in accordance with the principle of consistent treatment for domestic and foreign services and service providers in Hainan Free Trade Port.

II. The contents listed in the Negative List for Market Access and the special administrative measures for the provision of services under the mode of commercial existence as listed in the Special Administrative Measures (Negative List) for Foreign Investment Access in Hainan Free Trade Port are not included in the Negative List.

III. Overseas service providers shall not provide any services prohibited in the Negative

List in a cross-border manner; the cross-border provision of services not prohibited in the Negative List shall be administrated in accordance with the corresponding provisions.

IV. The measures related to national security, public order, financial prudence, social services, human genetic resources, humanities and social science research and development, new cultural business forms, aviation business rights, immigration, employment and exercise of functions by the government that are not listed in the Negative List shall be subject to the current provisions.

V. Where there are more preferential arrangements with Hong Kong, Macao and Taiwan on overseas service providers' engagement in cross-border trade in services, or the international treaties or agreements that China has concluded or participated in set forth more preferential provisions on overseas service providers' engagement in cross-border trade in services, such arrangements or provisions may apply.

VI. The Negative List shall be interpreted by the Ministry of Commerce in conjunction with the relevant departments.

**Special Administrative Measures (Negative List) for Cross-border Trade in Services in
Hainan Free Trade Port (2021)**

No.	Special Administrative Measures
I. Agriculture, Forestry, Animal Husbandry and Fishery	
1	Overseas individuals and overseas fishery vessels that intend to investigate fishery resources in the waters under the jurisdiction of China must obtain approval from the Chinese government. If a treaty or agreement has been concluded with China, such treaty or agreement shall apply.
II. Construction Industry	
2	Overseas service providers shall not provide construction and related engineering services.
III. Wholesale and Retail Industries	
3	Overseas service providers shall not directly sell veterinary drugs, feed, feed additives, and pesticides; they shall set up sales agencies in China or entrust qualified agencies in China to sell the said products.
4	Overseas service providers shall not engage in the wholesale, retail, import and export of tobacco leaves or tobacco products in China.
IV. Transport, Warehousing and Postal Services Industries	
5	Overseas service providers are only allowed to engage in international transport in ports open to overseas vessels. Except that, overseas service providers are not allowed to operate domestic water transport business, or operate it in disguised form by renting vessels or shipping spaces with Chinese nationality. Domestic water transport operators may not use vessels with foreign nationality to operate domestic water transport business. However, if a domestic water transport operator has no vessels with Chinese nationality that can meet the requirements for transport applied for in China, and the port or waters where vessels berth is the open port or waters, with the permission of the Chinese government, the domestic water transport operator can temporarily use vessels with foreign nationality for transport during the time limit or voyage stipulated by the Chinese government.
6	Except for yachts, any vessels with foreign nationality that intend to enter or leave Hainan

	Free Trade Port, or navigate in inland rivers or ports, shift berths, or berth at or depart from mooring points or loading and unloading stations outside ports of Hainan Free Trade Port shall apply for pilotage to the local pilotage authority. If China has concluded any another agreement with the country of registry, such agreement shall apply firstly.
7	Overseas individuals are not allowed to register as pilots.
8	Overseas service providers must participate in the salvage of shipwrecks and sunken objects in coastal waters by signing a joint salvage contract with Chinese salvage operators. Overseas service providers shall give priority to leasing and hiring from Chinese salvage operators the vessels, equipment and laborers required for the performance of the joint salvage contract under the same conditions.

No.	Special Administrative Measures
9	The provision of services of computer reservation systems under the mode of cross-border delivery is allowed only under the following circumstances: (1) If an overseas computer reservation system has concluded an agreement with a Chinese air transport enterprise and a Chinese computer reservation system, it may provide services for Chinese air transport enterprises and Chinese air agents by connecting with the Chinese computer reservation system; (2) An overseas computer reservation system may provide services for representative offices or business offices set up by overseas air transport enterprises that have the right to operate in accordance with the bilateral air transport agreement in cities of China covered by air transport; (3) The direct access to and use of an overseas computer reservation system by Chinese air transport enterprises and sales agents of overseas air transport enterprises must be approved by the competent department of civil aviation of China.
10	Overseas service providers shall not engage in air traffic management services related to China's civil aviation including air traffic control, communication, navigation and surveillance, and aeronautical information, or engage in training services related to air traffic control and aeronautical information in the field of civil aviation.

11	Overseas individuals shall not apply for the license for civil aviation intelligencers or civil aviation-related air traffic controllers.
12	An overseas pilot school that conducts pilot license and level training for Chinese aviation operators and from which qualified pilots after training return to China and gain the corresponding pilot license for civil aviation of China in accordance with the simplified procedures shall meet the following conditions: (1) The country where the school is located is a party to the convention on international civil aviation and the school has obtained an aviation operation certificate or similar approval issued by the competent department of civil aviation of the country; (2) The school has obtained permission from the Chinese government.
13	Without the approval of the Chinese government, any vessel with foreign nationality shall not operate towage between Chinese ports in any way.
14	The captain of a vessel with Chinese nationality shall be a crew member with Chinese nationality.
15	Overseas international road transport operators shall not engage in road passenger transport between places of departure and arrival in China.
16	Overseas service providers shall not engage in domestic express delivery of letters.
17	Overseas service providers shall not provide postal services.
V. Information Transmission, Software and Information Technology Service Industries	
18	China implements a licensing system for telecommunication business operations. Only a company established in China in accordance with the law can engage in telecommunication business operations after obtaining the telecommunication business license.
19	The international communication business must be operated through international communication gateway exchanges established upon approval by the competent department of information industry of China. Wholly state-owned telecommunication business operators shall apply for the establishment of international communication gateway exchanges, and undertake the operation and maintenance of international communication gateway exchanges, and the competent department of industry and

	information technology shall approve the establishment of international communication gateway exchanges.
20	Overseas organizations or individuals shall not test radio wave parameters or monitor radio waves.
21	Overseas entities that intend to lease communication satellite resources to domestic entities in China shall, on the premises of complying with China's administrative provisions on satellite radio frequency and completing the coordination with the satellite radio frequency declared by China, lease communication satellite resources to those domestic entities with the corresponding business qualifications that then sub-lease such resources to domestic users and are responsible for technical support, marketing, user service, and user regulation. Overseas satellite companies shall not directly lease satellite transponders to domestic users without the approval of the Chinese government.

No.	Special Administrative Measures
22	Overseas service providers shall not engage in Internet news information services or Internet public information release services.
23	If the requirements for establishment of commercial existence and related equity ratio are not met, overseas service providers shall not provide Internet information search services.
VI. Finance Industry	
24	Only insurance companies established in China in accordance with Chinese laws and other insurance organizations prescribed by laws and administrative regulations can operate insurance business. Insurance services other than insurance brokerage provided by means of overseas consumption and the following insurance services provided by means of cross-border delivery are not subject to the above restrictions: reinsurance; international sea transport, air transport and transport insurance; large-scale commercial insurance brokerage, international sea transport, air transport and transport insurance brokerage and reinsurance brokerage.
25	Without the approval of the banking regulatory authority of China, overseas service

	<p>providers shall not, by means of cross-border delivery, 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 upon approval by the banking regulatory authority of China.</p>
26	<p>Only currency brokerage companies established in China upon approval can engage in currency brokerage business.</p>
27	<p>Only limited liability companies or joint stock limited companies established in China as non-financial corporate institutions can apply for the Payment Business License to engage in payment services of non-financial institutions.</p>
28	<p>Only securities companies established in China in accordance with Chinese laws can operate the following securities business upon approval: (1) Securities brokerage; (2) Securities investment consultation; (3) Financial advisors related to securities transactions and securities investment activities; (4) Securities underwriting and sponsorship; (5) Securities margin trading; (6) Securities market-making transactions; (7) Securities self-operation; (8) Other securities business.</p>
29	<p>The provision of services by means of overseas consumption and the provision of the following services by means of cross-border delivery are not subject to Article 28: (1) Overseas securities operators that have been approved to obtain the qualifications for the business of domestically listed foreign shares (B-shares) may engage in the brokerage business of domestically listed foreign shares by signing an agency agreement with domestic securities operators or in other ways prescribed by stock exchanges; (2) Overseas securities operators that have been approved to obtain the qualifications for the business of domestically listed foreign shares act as lead underwriters, co-lead underwriters and international affairs coordinators for domestically listed foreign shares; (3) Approved qualified domestic institutional investors that invest in overseas securities may entrust overseas securities service agencies to buy and sell securities as agents; (4) Approved qualified domestic institutional investors may entrust qualified overseas investment consultants to invest in overseas securities; (5) Overseas asset custodians entrusted by</p>

	custodians to be responsible for the overseas asset custody business must meet the statutory conditions.
30	The provision of services by means of cross-border delivery is not allowed under the following circumstances: (1) Only fund management companies established in accordance with Chinese laws or other institutions approved by the securities regulatory authority of China in accordance with provisions can act as managers of publicly offered securities investment funds; (2) Only companies or partnerships established in China that meet the statutory conditions can apply for registration as managers of privately offered securities funds; (3) Only commercial banks established in accordance with Chinese laws and qualified for the custody of securities investment funds or other financial institutions approved by the securities regulatory authority of China can act as custodians of securities investment funds; (4) Approved qualified foreign institutional investors who invest in domestic securities and futures shall entrust qualified domestic institutions as custodians of assets; for approved domestic institutional investors who invest in overseas securities, domestic commercial banks shall be responsible for the asset custody business; (5) Only institutions (including managers of publicly offered funds) established in accordance with Chinese laws and registered with the securities regulatory agency of China and its local offices to obtain the qualifications for the sale of publicly offered funds can engage in fund sales; (6) Without approval or registration, domestic institutions and individuals shall not engage in the issuance and trading of negotiable securities overseas.

No.	Special Administrative Measures
31	Securities operators established in accordance with Chinese laws and other institutions engaged in consulting business may engage in securities investment consultation upon approval.
32	Only futures companies established in China in accordance with Chinese laws can operate the following futures business in accordance with the license issued by the futures regulatory authority of China by business categories of commodity futures and financial futures: domestic futures brokerage, overseas futures brokerage, futures investment

	consultation, and other futures business specified by the futures regulatory authority of China. Only futures companies established in China in accordance with Chinese laws can, in accordance with the requirements of the futures regulatory authority of China, engage in asset management business after registration and record-filing in accordance with the law.
33	Only commercial banks established in China can apply for the qualifications of futures margin depository banks.
34	Unless otherwise specified by the securities regulatory authority of China or other relevant departments, domestic entities or individuals shall not engage in business related to overseas futures and other derivatives; overseas entities or individuals shall not engage in business related to domestic futures and other derivatives.
35	Only futures companies and other futures operators established in accordance with Chinese laws can engage in futures investment consultation. Overseas individuals residing in Hainan Free Trade Port can apply for the qualifications for futures investment consultation.
36	Corporate trustees, custodians, and investment managers of enterprise annuities shall be approved by the financial regulatory authority of China and be Chinese legal persons.
37	Enterprise annuity account managers shall be approved by the Chinese government and be Chinese legal persons.
38	Overseas enterprises or individuals may not become ordinary members of stock exchanges. Overseas enterprises or individuals may not become members of futures exchanges. Except overseas individuals employed in Hainan Free Trade Port or unless other stipulated by China, overseas enterprises or individuals shall not apply for opening securities accounts or futures accounts. There shall be no more than one regional equity market operator established in Hainan Free Trade Port; the regional equity market shall not provide services for the financing and transfer of privately offered securities or equity by enterprises outside Hainan Free Trade Port.
39	Overseas futures exchanges and other overseas institutions shall not designate or set up commodity futures delivery warehouses or engage in other activities related to commodity futures delivery in China.
40	Overseas RMB business clearing banks, overseas central bank institutions (including

	overseas central banks (monetary authorities) and other official reserve management institutions, international financial organizations, and sovereign wealth funds) and qualified overseas banks participating in RMB purchase and sale business can apply for becoming overseas members in China's inter-bank foreign exchange market and participating in transactions in the inter-bank foreign exchange market.
VII. Leasing and Commercial Services Industries	
41	Overseas law firms, other overseas organizations or individuals shall not engage in legal services in China under the name other than representative offices of overseas law firms in China (unless Hainan's law firms hire lawyers with foreign nationality as foreign legal advisers and Hong Kong's and Macao's lawyers as legal advisers).
42	Representative offices of overseas law firms in China and their representatives shall not engage in Chinese legal affairs (unless representative offices of overseas law firms in Hainan engage in Hainan-related commercial non-litigation legal affairs). Representative offices of overseas law firms in China shall not hire Chinese practicing lawyers; employed auxiliary personnel shall not provide legal services for the parties concerned. Representatives of representative offices and their auxiliary personnel shall not provide Chinese legal services for clients in the name of "Chinese legal advisers".

No.	Special Administrative Measures
43	Representative offices of overseas law firms in China and their overseas law firms shall not send personnel to Chinese law firms to engage in legal service activities.
44	Only notarial institutions established in China can engage in notarization services. The establishment of notarial institutions is under total quantity control. Only Chinese citizens who have passed the Chinese judicial examination or unified legal professional qualification examination can serve as notaries.
45	Overseas individuals shall not participate in the national uniform legal professional qualification examination to obtain the legal professional qualification certificate.
46	Only legal persons or other organizations established in China can apply for engaging in

	judicial authentication business. Only Chinese citizens can apply for engaging in judicial authentication business.
47	Overseas service providers can only provide statutory audit services by means of commercial existence; overseas service providers can only provide bookkeeping agency services by means of commercial existence.
48	Overseas organizations or individuals shall not conduct social surveys directly, or through institutions that have not obtained the foreign-related survey license. Qualified overseas service providers who have obtained the foreign-related survey permit can conduct market surveys.
49	Overseas service providers shall not provide human resource services (including but not limited to talent intermediary services, and career intermediary services), or directly recruit laborers to work abroad.
50	Overseas individuals shall not act as security guards to engage in security services; overseas service providers can only provide security services by means of commercial existence.
51	The organization of international program exchanges and trading activities must be approved by China's radio and television administration and be undertaken by designated entities. The holding of international film festivals (exhibitions) and national film festivals (exhibitions) with awards must be approved by the competent film department of China. With the approval of the competent film department of Hainan, film panorama activities in a single country or Hong Kong, Macao and Taiwan can be held.
52	Overseas individuals shall not register for the national guide qualification examination.
VIII. Scientific Research and Technological Services Industries	
53	Overseas service providers can provide urban planning services other than master planning, provided that they must cooperate with Chinese professional institutions. The urban design other than statutory planning and preliminary scheme study of statutory planning preparation are not subject to the said restriction.
54	Overseas service providers must cooperate with Chinese professional institutions in

	providing preliminary design (basic design), construction drawing design (detailed design), engineering and centralized engineering services for construction projects other than schematic design by means of cross-border delivery.
55	The application of foreigners for participating in the national unified examination and registration of Chinese registered architects and the application of foreign architects for engaging in the business of registered architects shall be handled in accordance with the principle of reciprocity.
56	Without approval, overseas organizations or individuals shall not engage in surveying and mapping, meteorology, hydrology, earthquake and ecological environment monitoring, marine scientific research, laying of submarine cables and pipelines, and exploration and development of natural resources in the territory of China and other sea areas under the jurisdiction of China.

No.	Special Administrative Measures
IX. Education	
57	Except for cooperating with Chinese education examination institutions in organizing non-academic education examinations for the society, overseas education service providers shall not hold education examinations separately.
58	Overseas individual education service providers who are invited or employed by schools and other education institutions in Hainan Free Trade Port can provide education services in China, provided that they must have a bachelor's degree or above, and the corresponding professional title or certificate.
X. Health and Social Work	
59	Doctors with foreign nationality who have obtained the legal right to practice medicine in foreign countries and are invited or employed to engage in or apply for engaging in clinical diagnosis, treatment and other activities in China can apply for registration again in accordance with provisions if the validity period of registration of not more than one year expires and needs to be extended.

XI. Cultural, Sports, and Entertainment Industries	
60	Overseas service providers shall not engage in the editing, publishing, and production of books, newspapers, periodicals, audio-visual products, and electronic publications, or engage in online publishing (including online games) services, except for those set forth in China's commitments to its accession to the WTO. Press and publication cooperation projects of Chinese and foreign press and publishing entities must be approved by the Chinese government, ensure that the Chinese party has the right to lead the management and the right of final review of contents, and meet other conditions for approval required by the Chinese government. Project cooperation in online publishing services between online publishing service entities and domestic foreign-invested enterprises or overseas organizations or individuals shall be reported to the Chinese government for approval in advance. Without examination and approval, overseas service providers shall not copy audio-visual products and electronic publications.
61	The screening of films shall comply with the time ratio of domestic films and imported films stipulated by the Chinese government. The annual length of domestic films shown by cinemas shall not be less than two-thirds of the total annual length of films shown. Overseas service providers shall not engage in film introduction business.
62	Creative staff of domestic feature films, cartoons, science education films, documentaries, and special films shall generally be citizens of China. In case of special filming needs, overseas creative staff may be hired upon approval, provided that overseas leading actors and main supporting actors hired shall not exceed one third of the total number of main actors. For feature films, cartoons, documentaries, and science education films produced in cooperation with the foreign party, in case of special filming needs, overseas creative staff can be hired upon approval of the competent film department of China. Except for countries and regions stipulated by the existing special agreements, the number of overseas main actors shall not exceed two-thirds of the total number of main actors. China implements a licensing system for the production of films in cooperation with the foreign party. Without approval, any domestic entities shall not cooperate with overseas entities to produce films. Without approval, overseas entities may not independently produce films.

63	Overseas service providers shall not engage in online audiovisual program services. The annual total number of overseas films and TV series that a single website introduces exclusively for information network dissemination shall not exceed 30% of the total amount of domestic films and TV series purchased and broadcasted by the website in the previous year. The introduction of overseas films, TV series, and other audio-visual programs for information network dissemination must be examined and approved by the radio and television administration at or above the provincial level.
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No.	Special Administrative Measures
64	Overseas films and TV series used for broadcasting by radio and television stations must be examined and approved by the radio and television administration of China. Other overseas radio and television programs used for broadcasting by radio and television stations must be examined and approved by the radio and television administration of China or its authorized agency. The import and rebroadcast of overseas radio and television programs by radio and television stations by means of satellite transmission must be approved by the radio and television administration of China. China regulates and plans the introduction of overseas films and TV series. The introduction of overseas films and TV series and the introduction of other overseas television programs by means of satellite transmission shall be declared by designated entities. The broadcasting of overseas radio and television programs introduced in accordance with provisions must comply with the provisions on time ratio and time frame.
65	Overseas service providers shall not engage in the cross-border import of online cultural products, except for those set forth in China's commitments to its accession to the WTO.
66	Overseas service providers shall not offer radio and television video-on-demand services, except for hotels and restaurants of three-star level or above or equivalent to three-star level or above. To engage in radio and television video-on-demand business, the License for Radio and Television Video-on-Demand Business shall be obtained according to law. The programs used for radio and television video-on-demand shall be mainly domestic programs. The Chinese government implements an examination and approval system for

	the signal coverage of overseas satellite channels.
67	Overseas service providers shall not engage in radio and television program production and operation (including introduction) services; however, with approval, domestic radio and television program producers may cooperate with overseas institutions and individuals to produce TV series (including TV cartoons). The Chinese creative staff in TV series co-produced by China and foreign countries shall not be less than 25% of creative staff (screenwriters, producers, directors, and main actors). The hiring of overseas individuals to participate in the production of domestic radio and television programs is subject to examination and approval by the radio and television administration.
68	Overseas cultural performance groups and individuals shall not organize commercial performances on their own, but they can participate in commercial performances organized by performance brokerage agencies in China, or are invited by cultural performance groups in China to participate in commercial performances organized by such cultural performance groups, upon approval by the culture and tourism administration. Overseas individuals shall not engage in intermediary or agency services for commercial performances.
69	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, but (1) with the approval of the Chinese government, overseas news organizations can establish permanent news organizations, only engage in news gathering, and send resident reporters to China; (2) Chinese and foreign news organizations can cooperate in specific business with the approval of the Chinese government and under the conditions of ensuring the Chinese party's leadership. With the approval of the Chinese government, overseas news agencies can provide approved specific news services in China, such as feeds to domestic news agencies.
70	Overseas service providers shall not engage in the business of conducting social artistic level examinations.