

# ThinkBridge Newsletter 2019 4th Quarter 2019

## 国务院常务会议审议通过《优化营商环境条例（草案）》

### China to improve business environment through government legislation

10月8日国务院常务会议中，审议通过了《优化营商环境条例（草案）》，以政府立法为各类市场主体投资兴业提供制度保障。

会议通过了《优化营商环境条例（草案）》，围绕市场主体需求，聚焦转变政府职能，将近年来“放管服”改革中行之有效的经验做法上升为法规，并对标国际先进水平，确立对内外资企业等各类市场主体一视同仁的营商环境基本制度规范。

会议要求，更大力度放权，持续放宽市场准入，实行全国统一的市场准入负面清单制度，推进“证照分离”，压减企业开办和注销手续。加强市场主体保护，依法保护市场主体经营自主权和企业经营者人身财产安全，保障各类市场主体平等使用生产要素、平等享受国家支持政策。突出政务公开透明，制定与市场主体生产经营活动密切相关的法规、规章、行政规范性文件，应按规定听取市场主体和行业协会商会意见。严格责任追究，对政府及其工作人员相关违法违规和不作为乱作为行为要依法追责。

The State Council, China's cabinet, on October 8th passed a draft of regulations on improving the business environment by offering market entities institutional guarantees when they invest and develop business in China.

The draft focuses on the demand from market players, and establishes basic institutional norms in business environment that give equal treatment to all market entities, including domestic and foreign enterprises.

The meeting called for further efforts in delegating power to lower-level governments. China will continue to expand market access, implement a unified nationwide negative list, and further simplify administrative licensing.

In terms of the protection of the market entities, the meeting demanded that the government should guarantee the business autonomy of market players, protect the personal and property safety of business operators, and ensure equal access for all market entities to the country's favorable policies.

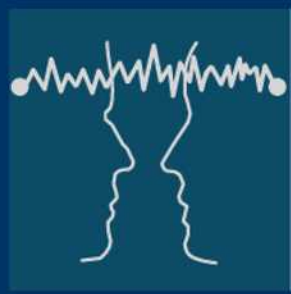
We need to highlight transparency in government affairs, said Premier Li Keqiang, adding that the country should solicit advice from market players, industrial organizations and chambers of commerce when formulating regulations, rules and normative documents related to business activities. Li also underlined that the government and its staffs should be held accountable for violations of relevant regulations and law.

## 国税总局：严禁以各种形式提前征税收费

### STA Places Ban on Advance Collection of Taxes and Fees in Any Form

国家税务总局办公厅日前下发《关于坚持组织收入原则确保减税降费政策进一步落地见效的通知》，要求严格依法依规征税收费，严禁以各种形式提前征税收费，努力营造良好组织收入环境，配合地方政府合理调整预算。

通知要求各地税务机关务必把该减的税减到位、把该降的费降到位、把该征的税费依法依规征收好，坚决打击虚开骗税、不收“过头税费”、做好留抵退税工作。



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## 国税总局：严禁以各种形式提前征税收费（续）

### STA Places Ban on Advance Collection of Taxes and Fees in Any Form (con't)

通知同时要求各地税务机关严格规范组织收入和税收征管行为，严禁以各种形式提前征税收费，不折不扣落实各项税费减免政策。不得违规向企业预征税款，不得在年度内随意变更征收方式，不得在法定申报期前征收税款，不得采取大规模集中清欠、行业性大面积检查等与减税降费大势不符的做法。

The General Office of the State Taxation Administration ("STA") has recently issued the Circular on Adhering to the Principle of Organizational Revenues and Ensuring the Further Implementation of Policies for Tax and Fee Cuts with Concrete Results (the "Circular"). The Circular calls for efforts to:

- collect taxes and fees in strict accordance with applicable laws and regulations;
- strictly ban the advance collection of taxes and fees in any form;
- endeavor to create a sound environment for organizational revenues; and
- cooperate with local governments in making proper adjustments to the budget.

Among others, the Circular states that, the taxes and fees that should be reduced must be cut as required, while other taxes and fees that are leviable must be collected in compliance with laws and regulations, and firm actions will be taken to crack down upon practices of issuing false invoices to swindle tax reliefs, say no to excessive collection of taxes and fees, and work effectively on refund of uncredited tax.

Additionally, the Circular stresses that tax authorities shall fully standardize their behaviors in relation to organizational revenues and administration of tax collection, will be strictly prohibited from advance collection of taxes and fees in any form, and shall carry out all policies for tax and fee cuts to the letter. Moreover, they will be banned from the unlawful early collection of tax payments from enterprises, changing the forms of tax and fee collection within the current year at will, collecting tax payments prior to the statutory filing deadline, launching large-scale intensive settlement of tax arrears or extensive inspections within the industries, among other acts incompatible with the main trend for tax and fee cuts.

## 证监会：2020年1月起先后取消期货、基金和证券公司外资股比限制

### China to scrap foreign ownership limits in finance firms between Jan and April, 2020

10月11日的例行新闻发布会上，中国证监会明确期货、基金和证券公司外资股比限制的时点，其中自2020年1月1日起，取消期货公司外资股比限制，符合条件的境外投资者持有期货公司股权比例可至100%；此外自2020年4月1日起取消基金管理公司外资股比限制，2020年12月1日起取消证券公司外资股比限制。

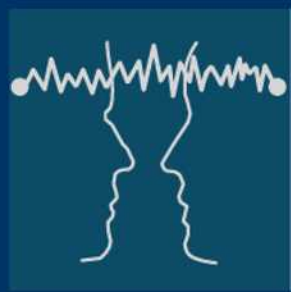
证监会发言人称，下一步，证监会将坚定落实中国对外开放的总体部署，积极推进资本市场对外开放的进程，继续依法合规高效地做好合资证券公司、基金管理公司的设立或变更实际控制人的审核工作。

On October 11 China Securities Regulatory Commission (CSRC) announced the timetable for scrapping foreign ownership limits in futures, securities and mutual fund companies.

Limits on foreign ownership of futures companies will be scrapped January. 1, 2020. Limits on foreign ownership of securities firms will be removed on Dec. 1, 2020, while such limits will be scrapped for mutual fund companies on April 1, 2020.

"CSRC will continue to implement China's opening-up measures, actively boost the opening up of China's capital markets and continue to approve the establishment and change of control of fund firms and securities firms, in line with law and regulations," the statement read.





## 海关总署规范处理主动披露涉税违规行为

### GAC Standardizes Handling of Voluntary Disclosure of Tax-related Irregularities

海关总署近日发布《关于处理主动披露涉税违规行为有关事项的公告》。该公告就进出口企业、单位在海关发现前主动披露影响税款征收的违反海关监管规定行为（以下简称涉税违规行为）处理有关事项作出规定。

The General Administration of Customs ("GAC") has recently issued the Announcement on Matters Concerning the Handling of Voluntary Disclosure of Tax-related Irregularities (the "Announcement"), immediately effective from the date of issuance. The Announcement provides clarity on the following matters:

一、进出口企业、单位主动披露涉税违规行为，有下列情形之一的，不予行政处罚：（一）在涉税违规行为发生之日起三个月内向海关主动披露，主动消除危害后果的；（二）在涉税违规行为发生之日起三个月后向海关主动披露，漏缴、少缴税款占应缴纳税款比例 10%以下，或者漏缴、少缴税款在人民币 50 万元以下，且主动消除危害后果的。

First, in case an import and export enterprise or entity voluntarily discloses its tax-related violations, no administrative penalty will be imposed, as stipulated by Article 27 of the Law of the People's Republic of China on Administrative Penalties, provided that one of certain conditions is met, such as "where the voluntary disclosure is made to the customs office within three months upon the occurrence of the tax-related irregularity, and it has taken proactive actions to eliminate the harmful consequence".

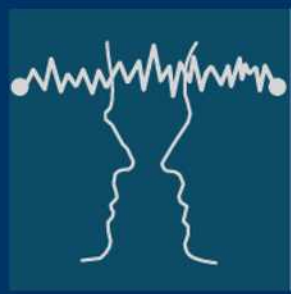
二、进出口企业、单位向海关主动披露的，需填制《主动披露报告表》，并随附账簿、单证等材料，向原税款征收地海关或企业所在地海关报告。

Second, for the purpose of the voluntary disclosure of tax-related violations to the customs office, an import and export enterprise or entity needs to fill out the Voluntary Disclosure Report, with the corresponding account book, vouchers and other relevant materials attached, and submit the same to the customs office with jurisdiction over the tax arrears or the customs office at its locality.

三、进出口企业、单位主动披露且被海关处以警告或者 50 万元以下罚款行政处罚的行为，不列入海关认定企业信用状况的记录。

Third, where an import and export enterprise or entity is given a warning or an administrative penalty of less than CNY500,000 as a result of the voluntary disclosure of its tax-related irregularity, such irregularity will not be added into the customs records for credit standing of enterprises.





# ThinkBridge Newsletter 2019 4th Quarter 2019

## 央行和外汇局进一步便利境外机构投资者投资银行间债券市场

### PBC and SAFE Further Facilitate Foreign Institutional Investors' Investment in the Interbank Bond Market

日前，中国人民银行和国家外汇管理局发布《关于进一步便利境外机构投资者投资银行间债券市场有关事项的通知》（下称《通知》）。

《通知》主要包括：一、同一境外机构投资者可以将其在合格境外机构投资者（QFII）或人民币合格境外机构投资者（RQFII）项下债券账户和银行间债券市场直接投资项下的债券账户中所持有的银行间市场债券进行双向非交易过户。二、同一境外机构投资者QFII/RQFII托管账户内资金与直接投资资金账户内资金可以在境内直接双向划转。三、同一境外机构投资者分别通过QFII/RQFII和直接投资渠道投资境内银行间债券市场的，只需通过QFII/RQFII境内托管行或者直接投资结算代理人向中国人民银行上海总部备案一次等。

The People's Bank of China ("PBC") and the State Administration of Foreign Exchange ("SAFE") have recently issued the Circular on Matters Concerning Further Facilitation of Investment of Foreign Institutional Investors in the Interbank Bond Market (the "Circular").

Highlights of the Circular touch upon three aspects as below. First, a foreign institutional investor may transfer, for non-transactional purposes, the bonds circulated in the interbank bond market, that are held in its bond account under the qualified foreign institutional investor (QFII) or Renminbi qualified institutional investor (RQFII) mechanism, to its bond account for direct investment in the interbank bond market, and vice versa. Second, funds in the QFII/RQFII escrow account of a foreign institutional investor may be transferred, in the Chinese mainland, directly from or to its capital account for direct investment. Third, in case a foreign institutional investor intends to invest in the domestic interbank bond market both under the QFII/RQFII mechanism and through direct investment, it only has to file a record with the PBC's Shanghai Head Office once, either through its QFII/RQFII custodian bank in China or its clearing agent for direct investment.

## 市场监管总局拟规范外商投资企业登记管理

### SAMR to Standardize Administration of Registration of Foreign-invested Enterprises

近日，国家市场监督管理总局发布《关于依法做好外商投资企业登记管理工作的指导意见（征求意见稿）》。

该《征求意见稿》规定，外国投资者或外商投资企业应当通过网上企业登记系统申请登记注册，填报信息，提交材料。在申请设立或变更登记时应当申报是否符合《外商投资准入特别管理措施（负面清单）》要求。

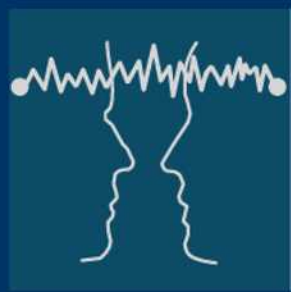
同时，《征求意见稿》明确，根据《外商投资法》，自2025年7月1日起，外商投资企业的组织形式、组织机构等不符合《公司法》《合伙企业法》强制性规定，且未依法申请变更登记或章程、高管备案的，登记机关不予办理该企业其他登记事项的变更登记或备案等事宜。

The State Administration for Market Regulation ("SAMR") has recently issued the Guiding Opinions on Ensuring Effective Law-based Administration of Registration of Foreign-invested Enterprises (Draft for Comment) (the "Draft for Comment") for public comment.

The Draft for Comment reads that foreign investors or foreign-invested enterprises shall file registration applications, provide relevant information and submit other materials through the online enterprise registration system. For applications for registration of new enterprises or of changes to existing ones, they shall specify whether the requirements set out in the Special Administrative Measures for Access of Foreign Investments (Negative List) are fulfilled.

In addition, the Draft for Comment expressly states that from July 1, 2025, where the organizational form or organizational structure of a foreign-invested enterprise does not conform to the mandatory provisions of the Company Law or the Partnership Enterprise Law, and it has not yet applied for registering the changes or filing a record for its articles of association or senior executives, as required by law, the registration authority will not process the registration of changes to any other registered items, the record-filing and other matters, proposed by such enterprise.





# ThinkBridge Newsletter 2019 4th Quarter 2019

## 国务院部署个税汇算清缴新举措，为纳税人减负

China to further lower tax burden on individuals by exempting low- and medium-income groups from the obligation to declare the settlement and payment of IIT

国务院总理李克强11月20日主持召开国务院常务会议，确定有关税收优惠政策减轻纳税人负担。

会议指出，自去年10月建立综合与分类相结合的个人所得税制，引入教育、养老等六项专项附加扣除以来，今年前9个月累计减税4400多亿元，惠及2.5亿纳税人。

会议决定，为进一步减轻纳税人特别是中低收入群体负担，暂定两年内对综合所得年收入不超过12万元或年度补税金额较低的纳税人，免除汇算清缴义务。



China will continue to reduce the tax burden on individuals by improving and better implementing the special individual income tax deduction mechanism, according to a statement released after a State Council executive meeting chaired by Premier Li Keqiang.

Launched in October 2018, special individual income tax deductions are designed to lower the tax burden for those who have certain expenditures. Those expenditures cover six areas, including children's education, continuing education, medical treatment for serious diseases, housing loan interests, rent and elderly care. The mechanism had slashed taxes by over 440 billion yuan (\$62.5 billion) for 250 million taxpayers in the first nine months of this year.

The meeting decided to further lower the tax burden on low- and medium-income groups. It passed a temporary decision to exempt those whose aggregate annual income is no higher than 120,000 yuan within a period of two years from the obligation to declare the settlement and payment of individual income taxes.



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