

# CHINA BUSINESS 商 LAW JOURNAL 法

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# 做好国际资产的多元化管理

## Getting it right with international portfolio diversification



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尽管人们对过渡到消费和服务驱动型经济期待已久，中国经济很大程度上还是由投资拉动。中国日益增长的富裕个人和公司在境外管理其财富，在全球多元化配置其资产，从而为海外资产管理专业人士提供了巨大的市场空间。全世界很多司法管辖区，通过公共或私有举措，开始系统地建立对中国高净值人士核心市场的理解，并且在很大程度上已经成功地使他们接受其具有税收优惠和资产保护作用的新型财富管理模式和服务。

特别是在英联邦国家和前英联邦国家的司法管辖区，现有服务在概念上的相似表达，使高净值人士及其顾问对如何选择资产管理架构中的顶层司法管辖区感到很难。选择过程包括合理衡量一些变量和建议，并结合考虑执行和长期维护的费用，以最终进行审查和确定。是否能取得外国公民身份和护照或许是目前决定司法管辖区的考虑重点，因为更多的高净值人士追求的不仅是投资收益，更包括为他们自己和眷属实现财富的代际相传。

一旦确定了司法管辖区，选对在该地域管理服务的被委托人同等重要。由于资产管理主要涉及法律人士、税务顾问和公司服务供应商，他们远离高净值人士所在地，发展水平和规模不一，因此在选择合适的被委托方过程中，确定正确的决策变量更加重要。

### 公司足迹

衡量的首要因素是海外专业服务机构在中国市场上的足迹。在中国，以分支机构或代表处的形式而非仅是以象征性的实体存在，在和中國高净值人士建立值得信任的

商业和专业联系方面，有不可估量的好处。参加在中国举办的受认可的社交活动也能够有力传达出对中国市场的兴趣。关键是要持续参加这些活动，而非一次性的投机之举。

专业服务机构在中国市场上没有实体存在，不一定有害，尤其是当可以通过其他形式表示对中国市场总体的兴趣时。在主要营业地建立经训练有素的中国工作团队可以生动地传达这种兴趣。其本身就证明，专业服务机构已经出手投资招募全职雇员和配置资源，准备好以中国高净值人士本土语言回应其需求，为其传达信息。总之，这意味着客户服务的高基准，体现了对中国客户习惯和市场的尊重。

### 全方位服务

不同领域投资资产的整合需要突显了在同一项目中获取公司、法务和会计服务的重要性。不仅在决策方面，而且也是为了风险评估，全面理解高净值人士的投资资产非常重要。资产管理是一个很严格的过程，专业服务机构受托维护资产的良好状况，且必须实际上能达到这一标准。除了履行所有的管理义务和法定手续，专业服务机构也需要同等尽职和同样准确的市场预期。当资产实体在全球不断受到税务主管机构的审查，如有需要时，专业服务机构应该能建议和调适到可靠的公司。

对于将敏感商业信息和个人数据的取得和披露保持在最低限度，和单一的供应商进行交易会起到一定作用。客户身份和资金来源的尽职调查过程信息，一般和资产管理专业服务机构约定相关，因为披露仅面向一家公司，因此实际上被降到最少。

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LEADING. EVOLVING. ACHIEVING.

如果信息泄露是主要的关切，高净值人士必须自始明确要求，聘请的专业服务机构不应该是代理商，亦非仅将他人服务转手销售的一般供应商。加强高净值人士资产保密和正常功能的可选择的服务，如提供个人和公司董事、被任命股东、银行帐户采用、协助开办海外银行帐、资料保管和转寄服务，也由同一家专业服务机构处理。

### 共同和既得权益考虑

因为高净值人士从发挥作用方面在意资产和相应架构的决策过程，有必要确保高净值人士和专业服务机构就彼此间交流渠道达成一致。高净值人士应选择能够展示和维护其自身业务的既得权益以及高净值人士资产既得权益的专业人士。这些专业人士，因为为客户和他们的资产增值提供顶级服务而获得殊荣，因此从高净值人士在市场上的成功中受益。

### 进一步保证

高净值人士应以合理的注意和确定性，进行查问并明确要求，专业服务机构应建立起全部资产价值的大范围覆盖的补偿保险。专业服务机构如律师事务所和会计师事务所受到监管，无疑能够使高净值人士较为放心，因为，他们的经营行为本质上使他们必须遵守其主管机构制定和审查的规则。为了基于实践认识专业服务，现有客户的反馈和独立评级机构的认证也应加以考虑。专业服务机构拥有驰名客户如历史悠久的公司和机构团体，无疑可以表明其突出的专业服务水平以及在高端领域持续的卓越表现。■

**D**espite the much awaited transition to a consumption and service-driven economy, the pulse of the Chinese economy is very much still investment led. The increasingly affluent population of Chinese individuals and corporations structuring their wealth offshore and diversifying their portfolios internationally presents a huge market potential for overseas portfolio management professionals. A great number of jurisdictions worldwide, either through public or private initiative, have taken the time to methodically build an understanding of the key market of Chinese high net worth individuals (HNWIs) and, to a great extent, have succeeded in getting them on board their showpiece tax-attractive and asset-protective structures and services.

The conceptual alliteration of the services available, particularly in Commonwealth and ex-Commonwealth jurisdictions, makes it a challenging task for HNWIs and their advisers in getting the top-tier jurisdiction of their structure right. The selection process will entail reasonably weighing up a number of variables and advice, all of which will ultimately be scrutinised against, and decided alongside with, implementation and long-term maintenance costs. The potential of acquiring a foreign citizenship and passport has arguably moved centre stage in jurisdiction decision making nowadays, as ever more HNWIs are seeking to couple investment returns with a generation-surviving legacy for themselves and their dependants.

Once the jurisdiction has been decided upon, it is of equal importance to consider who can be entrusted with administering the services in that jurisdiction. With the portfolio management landscape predominantly coloured in by legal professionals, tax advisers and corporate service providers of all shapes and sizes operating far from the locality of the HNWI, putting together the right decision-making variables becomes ever more important in choosing the right person for the job.

### Corporate footprint

The footprint of the overseas professional in the Chinese market tops the selection considerations. Presence by way of branch or representative office in China rather than a mere token presence pays unquantified dividends in terms of building business and professional ties of trust with Chinese HNWIs. Interest in the Chinese market can also be firmly conveyed by a

proven participation record of the professional in accredited networking events taking place on Chinese soil. Consistency in keeping up appearances in such events is the key consideration, rather than a one-off opportunistic dip of success.

The absence of actual physical presence from the Chinese market should not be deemed as detrimental, particularly where it can be compensated by other manifestations asserting the professional's interest in the Chinese market overall. The existence of a fully fledged China desk set up at the locality where the professional mainly carries out its operations may vividly furnish such an interest. This in its own right constitutes evidence that the professional has legged out by capitalising on full-time staff and resources readily available to follow up on requests and convey information to Chinese HNWIs in their native language. Overall, this purports a high threshold of customer service and a sense of commitment to the Chinese client's custom and market.

### Full service

The integration of investment portfolios in many sectors fleshes out the importance of having corporate, legal and accounting services provided under the same roof. Comprehensive understanding of a HNWI's portfolio is essential not only in decision-making terms, but also for risk assessment purposes. Portfolio handling is a demanding process and it is essential that the professional entrusted with maintaining it at a good standing can in fact deliver to that standard. Apart from keeping up with all administrative duties and compulsory formalities, the professional would need to show an equal diligence and anticipation in market awareness. With substance of the portfolio being a recurring ground of scrutiny with tax authorities worldwide, the professional should be in a position to advise, cater and switch to credible corporate lodging alternatives, if and when required.

Dealing with a sole provider further impacts on keeping access and disclosure of sensitive business information and personal data to a minimum. Client identification and source of funds due diligence processes, universally associated with the engagement of any portfolio management professional, are practically kept to a minimum as disclosures are made to one firm. Should the devolution of information be a prime concern, it is

imperative for the HNWI to establish from the outset that the professional engaged is not an agent or a universal provider who merely acts as a reseller of services of others. Optional services enhancing confidentiality and functionality of a HNWI's portfolio, such as the provision of individual and corporate directors, nominee shareholders, bank account introductions and assistance with offshore bank account openings, document custody and re-mailing services are also dealt with by the same professional.

### Mutual and vested interest considerations

With HNWIs functionally fixated in the decision-making process of their portfolio and underlying structures, it is necessary to ensure that the channel of communication between HNWI and professional is complemented by mutual understanding. HNWIs should seek out professionals who are able to show and maintain a vested interest of their business with that of a HNWI's portfolio. These would be professionals who also stand to benefit from the HNWI's success in the market by being credited as delivering top quality services to their client and his/her portfolio enlargement.

### Further assurances

HNWIs should enquire and establish with reasonable care and certainty that the professional has in place an indemnity cover of a substantial surface when compared to the overall portfolio value. Professionals operating in a regulated environment, such as law and accounting firms, will undoubtedly be in a position to provide a higher level of comfort to HNWIs, since by the very nature of their activities they will have to adhere to rules set forth and reviewed by their regulatory body. Feedback from existing clients and accreditations by independent rating agencies should also be taken into account in establishing a hands-on consensus of the professional's services. A resounding clientele comprised of longstanding corporate and institutional conglomerates is undoubtedly indicative of incisive professional services and constantly performing well in the high end. ■

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