



## Newsletter

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March 10, 2020

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## Update

### **Administrative Measures for the Public Disclosure of E-commerce Information Issued for Public Comments**

On February 12, 2020, the Ministry of Commerce ("MOFCOM") issued the Administrative Measures for the Public Disclosure of E-commerce Information (Draft for Comment) (the "Draft") for public comments until March 12, 2020.

The Draft focuses on the protection of IP rights in China and requires that (1) e-commerce platform operators, (2) business operators operating on a e-commerce platform, and (3) other e-commerce business operators that sell products or offer services through their self-developed websites or other online services, shall perform the disclosure obligation consistent with their business nature and corporate nature. Meanwhile, the Draft clearly states that an e-commerce operator shall publish its business license or the link for such information all the time in a prominent position on its website. In addition, the Draft clarifies the liabilities for illegal access to information data, falsification and illegal use of information data.

It is expected that the Draft will be improved and officially published soon after the comments period expires.

## **Pilot Program for Cross-border E-commerce Retail Imports Further Expanded**

On January 19, 2020, six governmental departments including the Ministry of Commerce ("MOFCOM") have jointly issued the Circular on Expanding the Pilot Program for Cross-border E-commerce Retail Imports (the "Circular"), which became immediately effective from the date of issuance.

According to the Circular, another 50 cities (regions), including Shijiazhuang, Qinhuangdao, Langfang and Taiyuan, as well as the whole Hainan Island, will be covered by the pilot program for cross-border e-commerce retail imports, and bonded import business for online purchases (Code for Customs Regulatory Means No.1210) may be conducted within these cities (regions) subject to the Circular of Improving the Regulation of Cross-border E-commerce Retail Imports. The Circular requires that the relevant cities and regions shall practically undertake the primary responsibilities for implementing within the local regions the policies for cross-border e-commerce imports on a pilot basis, ensure smooth progress in the pilot program, and jointly promote the sustainable and healthy development of this industry. Any major issues and circumstances arising out of the pilot program should be timely reported to MOFCOM and other relevant departments.

## **China Aims to Stabilize Foreign Trade and Foreign Investment and to Promote Consumption in Coping with the Coronavirus Epidemic**

On February 18, 2020, the Ministry of Commerce issued the "Notice of the Ministry of Commerce on Effectively Stabilizing Foreign Trade and Foreign Investment and Promoting Consumption in Coping with the Epidemic of Novel Coronavirus-infected Pneumonia", and proposed measures to stabilize foreign trade and foreign investment, and minimize the impact of the epidemic on commercial development under the current epidemic situation. The main contents are as follows:

(I). Supporting the orderly work resumption of enterprises. Efforts should be made to coordinate with the departments responsible for review of work resumption to accelerate the process of formalities, support foreign trade, foreign investment, commercial and trade circulation and e-commerce enterprises to resume work in an orderly manner. Foreign trade enterprises are encouraged to import more medical supplies and agricultural products which are badly needed in the country.

(II). Simplifying the administrative procedures for foreign trade. Enterprises should be guided to apply for paperless import and export permits. Relevant government departments should accelerate the implementation of paperless management for the filing (approval) of outbound investments and achieve purely online processing.

(III). Strengthening the export credit insurance support. Relevant government departments should give full play to the role of export and credit insurance, further expand the coverage of export and credit insurance, reasonably reduce short-term insurance rates; open up green channel for claim settlement service, and shall, under the circumstance of actual trade, appropriately loosen the conditions for claim settlement so as to achieve complete and quick settlement of payable claim; actively carry out government + bank + insurance cooperation, and expand the scale of insurance policy financing.

(IV). Actively responding to overseas trade restriction measures. Relevant government departments should strengthen the cooperation with the local business organizations of China Export & Credit Insurance Corporation, give full play to the role of trade remedy and early warning system and legal service mechanism, timely release the trade restriction measures launched by various countries in response to the epidemic, and unblock the channel for enterprises to report problems.

(V). Stabilizing confidence of foreign-invested enterprises. It is imperative to guide foreign-invested enterprises to effectively make full use of various supporting policies and measures to deal with the epidemic, treat domestic and

foreign-invested enterprises equally without discrimination, strengthen the role of foreign-invested enterprise complaint mechanism, and ensure the equal application of supporting policies for foreign-invested enterprises.

(VI). Strengthening the tracking service of large foreign investment projects. Relevant government departments should closely track the large foreign investment projects that are under discussion, implement classified policies and "one policy for one enterprise", precisely study supporting policies, and timely coordinate and solve the difficulties and problems arising from project promotion. For large foreign investment projects under construction, relevant government departments should carry out "point-to-point" service to coordinate and solve issues such as land use, employment, water and electricity, and logistics and to ensure that enterprises make investment according to plans.

(VII). Innovating and optimizing investment attraction methods. Efforts should be made to integrate all kinds of investment attraction resources and constantly promote work of investment attraction through online negotiation, video conference, signing contract online and other ways. In addition, relevant government departments should strengthen the cooperation with various foreign commerce associations and other intermediary organizations, actively carry out entrusted investment attraction and investment attraction by relying on businesses that has been established, organize flexible and various investment attraction activities.

### **CSRC Revises Refinancing Rules for Listed Companies**

On February 14, 2020, the CSRC issued the "Decision on Amending the Administrative Measures for the Issuance of Securities by Listed Companies", the "Decision on Amending the Interim Measures for the Administration of Securities Issuance by Listed Companies on the Growth Enterprise Market" and "Decision on Amending the Detailed Implementation Rules for the Non-public Issuance of Shares by Listed Companies" which will take effect as of the date of issuance.

Key adjustments to the terms of the refinancing system include: (1) Streamlining the conditions for issuance and broadening the coverage of GEM refinancing services; (2) Cancelling the conditions for the recent issue of GEM's public offering of securities with a debt-asset ratio higher than 45% at the end of the last period; (3) Cancelling the conditions for the GEM's non-public offering of shares to be profitable for 2 consecutive years.

### **Arrangements for Obtaining Evidence of Documents for Service of Civil and Commercial Affairs in Macao and Chinese Mainland Revised**

China has recently issued the Amend of Arrangement concerning Mutual Entrustment of the Service of Judicial Documents and the Obtainment of Evidence in Civil and Commercial Cases between the Chinese Mainland and the Macao Special Administrative Region (the "Amend").

According to the Amend, where the courts of the Mainland and of the Macao entrust each other with service of judicial documents and evidences, the documents and information shall be transmitted electronically through the Mainland-Macao judicial assistance network platform.

At present, this platform has been basically completed. It will be officially launched upon the effectiveness of the Amend. Once in operation, the platform will enable documents and information throughout full process of delivering evidence cases in both Chinese Mainland and Macao to be transmitted, reviewed, handled and followed up online.

The revised arrangement also shortens the process of serving documents and evidence by allowing some intermediate courts and primary courts to serve judicial documents and evidence under the authority of the Supreme Court with the Court of Final Appeal of Macao without examination and transmission by high courts. New provisions have been added to Amend that allows witnesses to testify by video or audio. The revised arrangement took effect on March 1, 2020.

# Article(s)

## **Analysis of measures to enhance Shanghai's international financial center status**

*by Jenny Chu*

On February 14, 2020, China issued the “Opinions on Further Accelerating the Construction of Shanghai's International Financial Center and Financial Support for the Integrated Development of the Yangtze River Delta” ( “Opinions” ).

The Opinions were officially approved by the State Council, and jointly issued by the People's Bank of China ( “PBC” ), the China Banking and Insurance Regulatory Commission, the China Securities Regulatory Commission, the State Administration of Foreign Exchange, and the Shanghai Government. The Opinions proposed a number of specific measures, including actively promoting the financial pilot of the Lingang New Area, accelerating the opening up of Shanghai's financial industry at a higher level, and supporting the integrated development of the Yangtze River Delta.

### **1. Actively promoting the financial pilot of the New Lingang Area**

The Opinions pays great attention to key internationally competitive industries located in the Lingang New Area and shows its support for further international opening of these industries.

(I) According to Opinions, financing subsidiaries of qualified commercial banks are allowed to set up professional subsidiaries in Shanghai and to invest into the equity of key projects in Lingang New Area and Yangtze River Delta and the equity of unlisted enterprises under commercial voluntariness.

(II) The insurance institutions will be encouraged to invest in sci-tech investment funds or invest directly in sci-tech enterprises in Lingang New Area. Meanwhile, qualified commercial banks will be able to set up financial asset investment companies in Shanghai. Such financial asset investment companies will be enabled to establish specialized investment subsidiaries in the city, to participate in businesses such as corporate restructuring, equity investment and direct investment which are related to the construction of the Lingang New Area as well as the economic restructuring, industrial upgrading, and coordinated development of the Yangtze River Delta.

(III) The Opinions also reflect the government's efforts to promote investment and trade liberalization and facilitation. For instance, in accordance with related rules and market principles, financial institutions shall be encouraged to provide long-term credit funds for the development of high-tech industry, shipping industry, and other key industries in the Lingang New Area.

(IV) The Opinions stated that the government shall support major scientific and technological innovation and R&D projects in the Lingang New Area as well as the development of new types of international trade. The establishment of fin-tech companies will also be supported. New technologies, such as artificial intelligence, big data, cloud computing and block chain, have also been attached great importance to the application in the financial field and the cultivation of fin-tech talents.

(V) In the Lingang New Area, for qualified enterprises, banks can directly handle the cross-border trade RMB settlement business and directly handle the cross-border RMB income from foreign direct investment, cross-border financing,

overseas listing and other businesses to be paid and used in China, according to the enterprise receipt and payment instructions. The special RMB capital account for foreign direct investment will be canceled in the Lingang New Area. Eligible transnational enterprise groups will be allowed to carry out centralized adjustment and collection of surplus and shortage of local and foreign currency funds among their members at home and abroad, and the funds shall be converted according to actual needs. New regulations of cross-border transfer of pilot domestic trade financing assets will be conducted in the Lingang New Area. The business of cross-border transfer of trade financing assets will be handled through a new platform based on Shanghai Commercial Paper Exchange and related digital technology research and development to promote the development of RMB cross-border trade financing business.

## **2. Accelerating the construction of Shanghai's international financial center**

Further opening up Shanghai's financial sector to a higher level is also a key point highlighted by the Opinions.

(I) According to the Opinions, under the premise of legal compliance and commercial voluntariness, qualified commercial banks can set up financial management subsidiaries in Shanghai, pilot foreign investment institutions and large banks to set up joint venture financial management companies in Shanghai. Commercial banks and bank financial management subsidiaries are encouraged to choose eligible asset management institution registered in Shanghai to serve as a financial investment cooperation institution.

(II) The Opinions also mentioned the foreign-funded institutions will get better support to establish or hold securities operation institutions and fund management companies to land in Shanghai. The Opinions also removed the limit on the proportion of foreign investment in life insurance allowing 100% foreign ownership in Shanghai.

(III) Foreign financial institutions will also be approved to invest in Shanghai to establish and participate in pension management companies. Insurance asset management companies can also set up professional asset management subsidiaries in Shanghai. Pilot insurance asset management companies can participate in overseas asset management institutions and other wealth management companies established in Shanghai. The government will explore insurance funds to invest in gold, oil and other commodities on a trial basis through Shanghai-related exchanges.

(IV) Qualified non-financial enterprise groups are allowed to establish financial holding companies in Shanghai. Multinational companies are encouraged to set up headquarter-type institutions such as global or regional fund management centers in Shanghai. The fund management center established by a multinational company in Shanghai can enter the inter-bank foreign exchange market for transactions upon approval. The financial lease parent companies and subsidiaries registered in the Shanghai Pilot Free Trade Zone are allowed to share the amount of foreign debt.

(V) The Opinions stated that bond market shall be more open to the world. It will be more convenient for foreign investors to register and enter the market to increase the types and amount of foreign investors. The government would like to promote the transformation of domestic settlement agent banks into custodian banks gradually and provide diversified services for overseas investors to enter the inter-bank bond market.

(VI) The market of RMB interest rate and foreign exchange derivatives will gain more importance. RMB interest rate options will be launched, and foreign exchange options and other products will be more diversified.

(VII) The management of exchange rate risks under financial investments by overseas institutions shall be improved to facilitate overseas institutions' positions resulting from investment in the domestic bond market to enter the inter-bank foreign exchange market.

(VIII) Overseas institutions will be allowed to sign the main derivatives agreements of NAFMII, SAC or ISDA to improve the efficiency of the connection between the Shanghai international financial center and the legal system of the international financial market.

(IX) In addition, there are certain measures on how to build an international financial business environment in Shanghai. Shanghai shall accelerate the development of financial rule of law as well as the establishment of a system of financial rules in line with international standards, and shall increase penalties for illegal financial activities and encourage pilot financial science and technology innovation. The financial court and the bankruptcy court in Shanghai should better conform to the development trend of the financial market, follow the high international standards, strengthen capacity building, improve the professional level of case adjudication, and enhance the international credibility and influence of case adjudication.

### **3.Supporting the integrated development of the Yangtze River Delta in finance**

For the Yangtze River Delta, the Opinions highlighted three points:

- (1) the cross-regional collaboration of financial institutions;
- (2) better financial supporting services;
- (3) the new mechanism for financial policy coordination and information sharing.

(I) For example, the Opinions put an eye on the level of cross-provincial mobile payment services in the Yangtze River Delta, and promote the connectivity of payments in public services in the Yangtze River Delta.

(II) The legal person banks in the Yangtze River Delta shall be connected to the special verification channel for personal bank account opening of legal and qualified clearing institutions, and mutual verification service should be provided for binding account information.

(III) The cooperation and coordination of the banking financial institutions in the Yangtze River Delta in project planning, project evaluation and rating, credit line verification, repayment arrangement, credit management and risk reduction are emphasized. Under the current policy framework, the Opinions support financial institutions to extend credit to "agriculture, rural areas and farmers" in the Yangtze River Delta, enterprises engaged in pollution prevention and control, science and technology enterprises, high-end manufacturing enterprises, small and micro enterprises and private enterprises by using re-loans and re-discount funds. Moreover, an integrated, market-oriented Yangtze River Delta credit investigation system will be completed in the future to provide professional credit investigation services to the society.

### **4.Supporting measure**

The Opinions also mentioned safeguard measures related to the PBC.

(I) For instance, the headquarters of the people's bank of Shanghai could launch a pilot project to strengthen its ability to

monitor payments and settlements.

(II) A database for reporting transactions in China's financial markets will be set up in Shanghai too.

(III) Finally, the Opinions make it clear that the financial policies that have been issued and will be issued in the pilot free trade zone, as well as the policies and measures to support the liberalization and facilitation of trade and investment issued by the state financial regulatory authorities are applicable to the actual situation in Shanghai, and priority should be given to pilot in Shanghai.

The Opinions is clearly committed to improving the financial position of Shanghai and the Yangtze River Delta. Related requirements may be further clarified by subsequent elaboration rules. It is anticipated that a series of new laws and regulations will be introduced to strengthen the financial internationalization and regional integration in Shanghai and Yangtze River Delta.

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