



Newsletter

Update

November 30, 2025

- **CNIPA Issues Measures for Promoting Private Economic Development Through Intellectual Property Rights**
- **Two Departments Revise Measures for Administration of Securities Settlement Risk Fund**
- **State Council Issues Multiple Measures to Promote the Development of Private Investment**
- **CNIPA Revises Patent Examination Guidelines to Strengthen Examination Standards for New Business Forms Such as Artificial Intelligence**
- **NDRC Released Measures for Credit Repair Management**
- **Shanghai Municipal People's Congress Standing Committee Again Amends Shanghai Regulations on Optimization of Business Environment**
- **SAMR Proposes to Issue Internet Platform Antitrust Compliance Guidelines**
- **State Council Issues Document to Accelerate AI Scenario Cultivation and Opening to Promote Large-Scale Application of New Scenarios**

Article(s)

- **Interpretation (II) on the Application of the Law on the Application of Laws to Foreign-Related Civil Relations — Key Developments and Legal Significance**

Update

CNIPA Issues Measures for Promoting Private Economic Development Through Intellectual Property Rights

On October 30, the China National Intellectual Property Administration (CNIPA) issued the *Measures for Promoting Private Economic Development Through Intellectual Property Rights* (the “Measures”), which took effect on November 1, 2025.

The Measures specify content in seven aspects, including: improving systems for the authorization and affirmation of intellectual property rights, enhancing the quality and efficiency of examination, and innovating patent and trademark examination models; protecting intellectual property rights of private economic organizations in accordance with the law, strictly punishing infringement, and prohibiting the abuse of intellectual property rights to restrict competition; providing “one-stop” services for fast-track

pre-examination, authorization, and protection of rights, improving diversified dispute resolution mechanisms, and strengthening risk prevention and control and information services related to foreign affairs; encouraging private economic organizations to diversify the use of intellectual property rights, supporting cooperation models such as patent pools and open licensing, and promoting the commercialization of scientific and technological achievements; improving public service platforms, promoting data openness and sharing, and enhancing digital service capabilities; strengthening personnel training, especially the development of teams for foreign-related legal matters; and clarifying legal responsibilities, including administrative, civil, and criminal liability for infringement in accordance with the law.

Two Departments Revise Measures for Administration of Securities Settlement Risk Fund

On November 1, the China Securities Regulatory Commission (CSRC) and the Ministry of Finance issued the *Measures for Administration of Securities Settlement Risk Fund* (the “Measures”), which will take effect on December 8, 2025.

The Measures stipulate that the Securities Settlement Risk Fund is used to advance or make up losses caused by default delivery, technical failures, operational errors, and force majeure. Fund sources include an extraction of 9% from the business income and earnings of Securities Registration and Settlement Institutions, as well as daily contributions by Settlement Participants based on transaction amounts. For equity products, contributions are at 9 parts per million; for fixed-income cash bonds, contributions are at 3 parts per million; and for pledge-style repos, contributions are tiered by different maturities. The Measures require that the Fund’s net assets total shall be no less than RMB 3 billion yuan, and participants that have reached one year may be exempt from contributions.

Use of funds is limited to bank deposits and the purchase of government bonds of key maturities, and the balance of bank deposits shall not be lower than 70% of the net assets total at the end of the previous month. Utilization of the Fund requires post-reporting, and the minimum payment threshold is RMB 20 million yuan. The Measures clarify requirements for risk prevention, internal management, and recourse and accountability for Settlement Participants and Institutions.

State Council Issues Multiple Measures to Promote the Development of Private Investment

On November 3, the General Office of the State Council issued *Several Measures on Further Promoting the Development of Private Investment* (the “Measures”), setting out thirteen policy initiatives and requiring all regions and departments to strengthen services and standardize administration, which took effect immediately.

The Measures include: encouraging private capital to participate in key projects in fields such as railways and nuclear power and clarifying shareholding ratios; cleaning up access restrictions in the service sector and supporting private enterprises’ participation in concession projects and government procurement;

safeguarding the lawful rights and interests of private enterprises in infrastructure fields such as electricity and oil and gas; accelerating digital empowerment and the construction of pilot-scale test platforms; increasing support through central budgetary investment and policy-based financial instruments; requiring Banking Institutions to set annual service targets for private enterprises and improve credit mechanisms; supporting the issuance of REITs for private investment projects; and continuously implementing the “green channel” policy for listing and financing of technology-based enterprises.

CNIPA Revises Patent Examination Guidelines to Strengthen Examination Standards for New Business Forms Such as Artificial Intelligence

On November 10, the China National Intellectual Property Administration (CNIPA) issued the *Decision on Amending Patent Examination Guidelines* (the “Decision”), which will take effect on January 1, 2026. The Decision improves examination standards for new fields such as Artificial Intelligence and bitstream, clarifies the definition of plant varieties, and optimizes rules on handling same-day applications, statements of priority in divisional applications, and requests for invalidation.

The main revisions include:

1. Clarifying that Inventors must be Natural Persons, and that Patent Agencies shall verify the identity information of Applicants;
2. Providing that where a Divisional Application does not declare priority, it shall be deemed as not claiming priority;
3. Adjusting the scope of patent protection for animal and plant varieties, with Genetically Modified animals and plants remaining subject to restrictions;
4. For same-day applications of Invention and Utility Model patents, the Utility Model must be abandoned before the Invention patent may be granted;
5. Requiring, for the examination of Inventive Step, that the technical features of the Claims contribute to the technical problem;
6. For patents related to Artificial Intelligence, Big Data, Algorithms, and Business Rules, where they violate laws or public morals they shall not be granted, and the Specification must sufficiently disclose the technical solution;
7. Adding a new chapter on examination of Bitstream patents, clarifying the objects of protection and requirements for drafting Claims;
8. Requiring that proof documents for assignment of priority bear the signatures or seals of all Applicants;
9. Clarifying that a request for Invalidation that is not a genuine expression of intent shall not be accepted,

and that where the Patentee amends the Claims, replacement pages and a comparison table must be submitted;

10. Clarifying on-demand examination, expedited examination, and related procedures.

NDRC Released Measures for Credit Repair Management

On November 20, the National Development and Reform Commission (NDRC) released the *Measures for Credit Repair Management* (the “Measures”), which will take effect on April 1, 2026.

The Measures clarify that dishonest information is categorized into three types — minor, general, and serious — with respective publicity periods set. After the credit subject meets the minimum publicity period, corrects the dishonest conduct, and fulfills relevant obligations, it may apply for repair via the Credit China website. The repair process includes submission of materials, review, and feedback, with a maximum time limit of no more than 20 working days. Upon repair, the relevant dishonest information will cease to be publicized, shared, and used, and disciplinary measures will be lifted. Third-party credit service institutions must simultaneously update the information. False applications will be recorded and restricted from repair. No fees may be charged for repair. The original trial measures are abolished simultaneously.

Shanghai Municipal People’s Congress Standing Committee Again Amends Shanghai Regulations on Optimization of Business Environment

On November 26, the Standing Committee of the Shanghai Municipal People’s Congress adopted the *Decision on Amending Shanghai Regulations on Optimization of Business Environment* (the “Decision”), which will take effect on January 1, 2026.

The amendments include: benchmarking against international high-standard economic and trade rules and expanding opening-up in service trade and digital trade; prohibiting Large Enterprises from abusing advantageous positions to delay payments to Small and Medium-Sized Enterprises and strengthening coordinated regulation; strengthening Intellectual Property protection and curbing malicious litigation and trademark hoarding; prohibiting fabrication and dissemination of false information that infringes enterprise rights and interests, with Online Service Providers required to improve complaint mechanisms; optimizing full-process services for enterprise-benefiting policies and promoting direct and expedited delivery of policies; deepening talent development mechanisms and attracting domestic and overseas talent; strictly controlling special inspections and improving filing and publicity procedures; standardizing policymaking and Fair Competition Review; and strengthening regulation of Professional Compensation Claims and reporting conduct.

SAMR Proposes to Issue Internet Platform Antitrust Compliance Guidelines

On November 15, the State Administration for Market Regulation (SAMR) released the *Announcement on Public Solicitation of Comments on Internet Platform Antitrust Compliance Guidelines (Draft for Comments)* (the “Announcement”), with the feedback deadline set for November 29, 2025.

The Announcement clarifies that Platform Operators shall prevent risks related to Monopoly Agreements, Abuse of Market Dominant Position, Concentration of Undertakings, and Abuse of Administrative Power, and refine eight categories of new monopolistic risks, including Horizontal and Vertical Monopoly Agreements, Algorithmic Collusion, “Choose One of Two,” Across-the-Network Lowest Price, and Differential Treatment. The Announcement requires the establishment of Full-Chain Compliance Management, including Rule Review, Algorithm Screening, Risk Assessment, Compliance Rectification, Cooperation with Investigations, and Compliance Incentives. Platform Operators are encouraged to establish Compliance Management Institutions and improve mechanisms for Reporting, Training, Assessment, Supervision, and Informatization. The Announcement provides general compliance recommendations and are not mandatory.

State Council Issues Document to Accelerate AI Scenario Cultivation and Opening to Promote Large-Scale Application of New Scenarios

On November 2, the General Office of the State Council issued the *Implementation Opinions on Accelerating Scenario Cultivation and Opening to Promote Large-Scale Application of New Scenarios* (the “Opinions”), which took effect on the same day.

The Opinions propose accelerating scenario cultivation in new fields such as the digital economy, Artificial Intelligence, unmanned systems, biotechnology, clean energy, and ocean development, and promoting the construction of transformation and upgrade scenarios in industries including manufacturing, transportation, smart logistics, and modern agriculture. They emphasize the opening of scenario resources and fair and efficient allocation, improving market access and innovative allocation of factors, and supporting participation by multiple entities including State-Owned Enterprises and private enterprises. The Opinions strengthen policy guarantees and innovation in management systems, promote the implementation of lists of major projects and application scenarios in batches, and enhance the pilot role of scenarios in institutional development.

Article(s)

Interpretation (II) on the Application of the Law on the Application of Laws to Foreign-Related Civil Relations — Key Developments and Legal Significance

by Jackson Liu

On 1 December 2023, the Supreme People’s Court (“SPC”) promulgated the *Interpretation of the Supreme People’s Court on Several Issues Concerning the Application of the Law of the People’s Republic of China on the Application of Laws to Foreign-Related Civil Relations (II)* (“Interpretation (II)”), which came into force on 1 January 2024. The Interpretation consists of 13 articles and provides systematic clarification on several long-standing institutional barriers in the ascertainment of foreign law in judicial practice, including unclear allocation of responsibility, limited channels for obtaining foreign law, procedural ambiguity, and inconsistent standards for determining whether foreign law has been successfully ascertained.

Interpretation (II) improves and further codifies China's system for the ascertainment of foreign law in three core aspects:

I. Clarifying the allocation of responsibility for ascertaining foreign law

Pursuant to Article 10(1) of the Law on the Application of Laws to Foreign-Related Civil Relations, people's courts have the duty to ascertain applicable foreign law; provision of foreign law by the parties is only one of the available means to fulfill this duty. Where the parties have agreed to apply foreign law, they bear the obligation to provide it because they are in a better position to do so, which enhances procedural efficiency.

To correct the misunderstanding reflected in certain judicial practice — namely, between the responsibility and the means of ascertaining foreign law — Article 1 of Interpretation (II) expressly affirms that the people's court bears a primary duty to ascertain foreign law, whereas the parties, upon choosing foreign law, bear the obligation to provide it. Meanwhile, Article 2 makes clear that even where parties have not chosen foreign law, courts may still request their assistance in providing it. Further, Article 2(3) stipulates that if a party does not cooperate in assisting with the provision of foreign law, the court shall not rely solely on such non-cooperation to conclude that foreign law cannot be ascertained. Taken together, these rules establish a clear and balanced framework in which courts play the leading role in the ascertainment of foreign law, while party assistance serves a supplementary function.

II. Expanding the channels for ascertaining foreign law

Chinese law does not limit the means by which foreign law may be ascertained. Building on earlier judicial interpretations, Interpretation (II) enumerates in Article 2(1) seven permissible channels for courts to ascertain foreign law, including:

- (a) Provision by the parties;
- (b) Provision through the foreign central or competent authorities via judicial assistance mechanisms;
- (c) Provision through Chinese diplomatic missions abroad or foreign diplomatic missions in China upon request of the SPC;
- (d) Provision through participants of cooperation mechanisms in the field of foreign law ascertainment established or joined by the SPC;
- (e) Opinions issued by experts of the SPC's International Commercial Expert Committee;
- (f) Opinions issued by professional foreign law ascertainment institutions or Chinese or foreign legal experts;
- (g) Other appropriate channels.

The expansion of ascertainment channels significantly increases procedural flexibility and reduces the likelihood that foreign law will be deemed "unascertainable".

III. Standardizing the procedures and forms for providing foreign law

Article 3 clarifies the necessary scope of foreign law documentation provided by parties, including the specific legal provisions, sources, validity status, and relevance to the issues in dispute. Where the applicable foreign law is case law, the full text of relevant judicial precedents must be provided. To enhance efficiency and reduce unnecessary work, Article 6 allows the people's court, before determining foreign law, to convene a pre-trial conference or adopt other appropriate means to define the scope of foreign law requiring ascertainment.

Interpretation (II) also strengthens the professionalism and impartiality requirements for expert legal opinions. Under Article 4, legal ascertainment institutions and legal experts must provide qualification certificates, proof of identity, and a written statement confirming the absence of conflicts of interest, in line with the expert-assistant framework under Article 82 of the Civil Procedure Law of the PRC.

IV. Conclusion

Interpretation (II) marks a significant improvement in China's foreign law ascertainment regime. It ensures that courts will substantively apply foreign law where required, rather than defaulting to Chinese law due to difficulties in ascertainment. This contributes to equal protection of the legitimate rights and interests of Chinese and foreign parties, prevents potential inequities resulting from the rigid application of Chinese law in foreign-related disputes, and enhances trust among foreign parties in China's judicial system. Overall, the Interpretation represents a key step toward strengthening China's foreign-related rule of law, increasing judicial predictability, and improving the global commercial environment.

Contact Us

davidzou@grandwaylaw.com

www.grandwaylaw.com

23F, S2 Building, Bund Financial Center, 600

Zhongshan No. 2 Road (E), Shanghai, 200010, China

© Grandway Law Offices. All Rights Reserved.