



Newsletter

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December 31, 2023

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Update

MIIT Issues Interim Measures for the Radio Management of Civil UAVs

On December 27, 2023, the Ministry of Industry and Information Technology (MIIT) issued the *Interim Measures for the Radio Management of Civil Unmanned Aerial Vehicles (UAVs)* (the “Measures”).

The Measures consist of five chapters and 24 articles as well as a schedule, which regulate the management of radio frequencies, stations and radio transmitting equipment for civil UAV communication systems, as well as the management of foreign-related situations and transitional policies. It also regulates the range of radio frequencies that can be used in the civil UAV communication systems, and the licensing for the setting and use of radio frequencies and stations.

Shanghai Customs Issues New Regulations for Integrated Circuit Industry Supervision

Recently, Shanghai Customs issued the *Implementation Measures of Shanghai Customs to Support Supervision and Innovation in the Development of the Integrated Circuit Industry* (the “Implementation

Measures”).

According to the Implementation Measures, the customs comprehensively promotes the deployment, control and inspection model of high-tech goods such as vacuum packaging, and adopts pre-risk assessment filing, in-process control and post-risk verification management model for imported and exported high-tech goods such as vacuum packaging, light-proof packaging, dust-proof packaging, and constant temperature storage.

NMPA to Further Implement the Measures for the Supervision and Management of Drug Distribution and Use Quality

On December 22, 2023, the National Medical Products Administration (NMPA) issued the *Guidelines on Soliciting Public Opinions on the Implementation of the Measures for the Supervision and Administration of Drug Distribution and Use Quality* (the “Measures”), to further implement the requirements of the Measures and regulate drug distribution behaviors.

The document clarifies that drug regulatory authorities at all levels must make full use of technological means such as 5G networks, big data, and artificial intelligence to achieve iterative upgrades of drug circulation market elements, structures, processes, and services, and focus on vaccines, anesthetics, psychotropic drugs, selected drugs for centralized procurement, biological products, botulinum toxin type A for injection, and other drug varieties to accelerate the IT-based traceability of drugs.

Judicial Openness Does Not Mean Mandatory Release of All Judicial Information Online, Says SPC

On December 22, 2023, the Supreme People’s Court (SPC) issued the *Circular on Soliciting Reference Cases for the People’s Court Case Database*, and responded to public concerns about the case database, the court judgment document website (www.court.gov.cn), and openness of judgment documents.

Responding to relevant questions from reporters, SPC stated, “After the case database is completed, it will surely be made open to the public, including experts, scholars, lawyers, concerned parties, etc. Judicial openness does not mean the mandatory release of all judicial information on the Internet. Both the Civil Procedure Law and the Administrative Procedure Law have stipulated that the public can access effective judgment documents, but they do not require that effective documents be centrally disclosed on the same online platform. In the next step, we will adopt a combination of online disclosure and offline query. People’s courts at all levels will continue to regularly release their judgment documents on www.court.gov.cn, and we will strengthen supervision and make face-to-face caution meetings with relevant commercial agencies that make improper use of judgment document data.”

Shanghai Continues to Implement the Adjusted Property Tax Deduction Ratio

On December 20, 2023, the Shanghai Municipal Government website published the *Notice on Continuing Implementation of the Adjusted Property Tax Reduction Ratio of the Original Value of Property* (the “Notice”).

The Notice clarifies that after evaluation, Shanghai continues to implement the adjusted property tax deduction ratio of the original value of the property. That is, for taxpayers in this city who pay property tax based on the residual value of the property, the deduction ratio of the original property value will be adjusted to 30%.

MIIT to Release the 2023 Version of the *Solar Photovoltaic Industry Comprehensive Standardization Technology System*

On December 19, 2023, the Ministry of Industry and Information Technology (MIIT) announced the *Solar Photovoltaic Industry Comprehensive Standardization Technology System* (2023 Edition) (draft for comments). The deadline for feedback is January 2, 2024.

The Technical System plans to formulate more than 40 new national and industry standards by 2025, support social groups in independently developing advanced group standards, and achieve full coverage of basic general standards and key standards in the photovoltaic industry.

MIIT to Issue Regulations on the Comprehensive Utilization of NEV Power Batteries

On December 15, 2023, the Ministry of Industry and Information Technology (MIIT) released the *Rules Governing Comprehensive Utilization of Power Batteries of New Energy Vehicles* (NEV) (Exposure Draft) (the “Rules”) for public comment until January 15, 2024.

The Rules, which include eight chapters and 43 articles, regulate the comprehensive utilization of used power batteries left behind from the research and development, design, production, assembly, use, maintenance, replacement, scraping, recovery, processing, storage, and transportation of power batteries that are conducted within the territory of China. The Rules stipulate that the main responsibility for the recovery of assembled power batteries shall be borne by automobile manufacturers, the recovery of power batteries to be directly sold in the market shall be borne by battery manufacturers, and the recovery of products for cascade utilization shall be borne by cascade utilization enterprises.

CSRC Revises the Measures for the Supervision and Management of PE Investment Funds

On December 8, 2023, the China Securities Regulatory Commission (CSRC) released the revised Measures for the Supervision and Management of Private Equity Investment Funds (Exposure Draft). The deadline for public feedback is January 8, 2024.

The draft document has 82 articles in ten chapters, which clarifies the scope of the application, improves the whole chain supervision, refines classified supervision, standardizes the identification of qualified investors, strictly supervises and manages raised funds, clarifies requirements on investment operation, information disclosure and submission, and raises the costs of violating laws and regulations.

The document retains the current requirement that a single private equity investment fund’s paid-in capital be no less than RMB 1 million, but increases the paid-in capital of a single private equity fund and venture capital fund from RMB 1 million to RMB 3 million. At the same time, it is required that the paid-in

capital of private equity funds investing in special circumstances is not less than RMB 5 million, and the actual payment amount of natural persons investing in a single investment target is not less than RMB 10 million.

Article(s)

Introduction on Domestic and Overseas Trust Company Bankruptcy System

by Esther Lin

I. Domestic Laws and Provisions Relating to the Insolvency of Trust Companies

(i) Enterprise Bankruptcy Law (implemented on 1 June 2007)

Pursuant to Article 2, if an enterprise is unable to settle its debts as they fall due, and its assets are insufficient to settle all its debts or it clearly lacks the capacity to do so, it shall liquidate its debts in accordance with the provisions of this Law.

Article 134 stipulates that where a financial institution such as a commercial bank, a securities company or an insurance company has any of the circumstances provided for in Article 2 of this Law, the National Financial Regulatory Administration (NFRA) under the State Council may make an application to the People's Court for the financial institution to undergo reorganization or bankruptcy and liquidation.

(ii) Measures for the Administration of Trust Companies (implemented on March 1, 2007)

According to Article 14, if a trust company is unable to settle its debts as they fall due and its assets are insufficient to settle its debts or it obviously lacks the ability to do so, it may, with the consent of the China Banking Regulatory Commission (CBRC) (which is revoked in March 2023, now is the NFRA), file an application for bankruptcy with the people's court. The CBRC (which is revoked in March 2023, now is the NFRA) may directly files with the people's court an application for reorganization or bankruptcy liquidation of the trust company.

According to Article 55, if a trust company has or is likely to have a credit crisis that seriously affects the legitimate rights and interests of beneficiaries, the CBRC (now is the NFRA) may, in accordance with the law, impose a takeover of the trust company or supervise the reorganization of the institution.

II. Current status of domestic trust company bankruptcy system, trust supervision and risk prevention and control

In terms of insolvency administration, the PRC Enterprise Bankruptcy Law (the "Bankruptcy Law") also applies to trust companies, but the Bankruptcy Law is a law dealing with claims and debts, and there are no provisions on how the property entrusted to a trust company is to be dealt with in the event of its bankruptcy. Article 1 of the Bankruptcy Law stipulates that: "This Law is enacted for the purpose of standardizing enterprise bankruptcy procedures, fairly clearing claims and debts, protecting the legitimate

rights and interests of creditors and debtors, and maintaining the order of the socialist market economy.” According to this article, the Bankruptcy Law only provides rules on how a trust company, as a type of corporation, should treat its creditors when it becomes insolvent. Alternatively, the Bankruptcy Law only contains provisions on how to treat the inherent creditors of a trust company, and does not provide for the treatment of trust investors and principals.

Article 14 of the *Measures for the Administration of Trust Companies* (the “Measures”) provides in principle for the bankruptcy of a trust company, i.e., where a trust company is unable to settle its debts and has assets required to settle its debts or is clearly insufficient to do so, it may, with the consent of the China Banking and Insurance Regulatory Commission (“CBIRC”) (which is revoked, now is the NFRA), file an application for bankruptcy with the People’s Court. The CBIRC (which is revoked, now is the NFRA) may also directly file with the People’s Court an application for reorganization or bankruptcy and liquidation of the trust company. However, there are no more specific provisions.

In the area of risk prevention and control, the Chinese government has adopted a variety of measures. For example, it has stipulated that trust companies should implement a risk classification and management system to categorize and manage different types of trust products and assess their risks; it has required trust companies to disclose product information, strengthen risk education and guidance for investors, and prevent violations of the law and malpractice; and it has stepped up supervisory inspections and penalties for trust companies, and penalized and dealt with violations of the law.

In addition to strengthening regulation and risk, the Chinese government has introduced a series of policies to encourage mainland trust companies to strengthen government risk management and innovate their business. For example, China supports trust companies to work together with the community to develop valuable businesses such as investment in infrastructure prevention and control, investment in environmental protection industries, and investment in poverty alleviation, and also encourages trust companies to actively participate in the “One Belt, One Road” Initiative and to expand their international business.

III. Overseas Trust Bankruptcy System

Overseas trust insolvency regimes vary considerably in different countries and regions, but in general, there are several differences in the following aspects when compared with the insolvency regimes of trust companies in mainland China:

Firstly, the trust overseas bankruptcy system pays more attention to the protection of the rights and interests of investors and creditors. In many countries and regions, the insolvency administration and discharge of trust companies are standardized and strict, and the rights and interests of creditors and investors are given higher priority for protection, such as the bankruptcy and liquidation procedures of trust companies in the United States (trustee liquidation procedures) and the dissolution and liquidation procedures in the European Union (winding-up procedures).

Secondly, trust overseas insolvency regimes pay more attention to the regulation and discipline of trust

company managers. Many countries and regions stipulate that trust companies must be supervised by independent regulatory bodies, and also strengthen the supervision and discipline of trust company managers. In addition, they have strengthened the supervision and discipline of trust company managers to prevent the improper behavior of managers from causing losses to investors and creditors.

Thirdly, the trust overseas bankruptcy system pays more attention to the regulation and risk of trust products and business. Many countries and regions require trust companies to file and disclose trust products, and also stipulate the investment scope and limitations of trust products, which strengthens the investment scope and limitations of trust products. regulation and risk prevention of trust products and business.

Overall, overseas trust insolvency regimes are relatively more complete and standardized, and pay more attention to the protection of the rights and interests of investors and creditors. However, the bankruptcy system of trust companies in Mainland China is still being improved and strengthened, and the future wealth is in line with international standards to improve the level of protection for investors and creditors.

IV. Conclusion

Overall, the insolvency regime for trust companies within China is a relatively mature institutional framework, but there is still a lack of experience in dealing with issues such as how to handle insolvency proceedings for financial institutions such as trust companies, and the relevant regulations and systems have not yet been perfected. The government and regulators need to further strengthen their supervision and risk prevention and control efforts, while trust companies need to be encouraged to strengthen their innovation and application of technology in order to inject new momentum into the development of China's financial market.

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