



里格律师事务所
A&Z LAW FIRM

A&Z Monthly Newsletter
January 2022

Passion - Professionalism - Collaboration

Dear Friends,

This is a monthly newsletter focusing on legal matters in China, and related issues that shape the general business environment for foreign companies operating in China.

Should you have any comments or questions, please do not hesitate to contact Ms. Anna Lukina, BD & Marketing Director at alukina@a-zlf.com.cn visit the [A&Z website](#).

Sincerely,
The Editors



Legal Updates

SAFE Launches High-level Opening-up Pilot Schemes for Cross-border Trade and Investment

Recently, with the approval of the State Council, the State Administration of Foreign Exchange ("SAFE") launched high-level opening-up pilot schemes for cross-border trade and investment in the Lingang New Area of the Shanghai Pilot Free Trade Zone

A&Z Past Events

January 11, Shanghai

The Labor and Social Security Business Research Committee (indeed the "Labor Committee") of the Shanghai Bar Association held its year-end summary

(FTZ), the Nansha New Area of the Guangdong Pilot FTZ, the Yangpu Economic Development Zone of the Hainan Free Trade Port, the Ningbo City Beilun District of Zhejiang Province and more.

The pilot policies cover 9 capital account reform measures, 4 current account facilitation measures, and 2 related requirements for strengthening risk prevention and control and regulatory capacity building. Among them, in terms of capital account reform, firstly, SAFE will broaden the cross-border investment and financing channels of enterprises, support micro, small and medium-sized high-tech enterprises to borrow foreign debts independently within a certain amount, carry out the pilot projects of qualified foreign limited partners (QFLP) and qualified domestic limited partners (QDLP), steadily and cautiously open up the cross-border asset transfer business, and carry out the pilot project of the integrated fund pool of local and foreign currencies of multinational companies. Secondly, SAFE will improve the level of cross-border investment and financing facilitation, exempt foreign-invested enterprises from domestic reinvestment registration, permit banks to directly handle the foreign exchange registration of qualified non-financial enterprises' capital projects, expand the scope of use of capital account income funds, permit qualified enterprises to independently choose cross-border investment and financing currencies, and appropriately increase the upper limit of overseas lending scale of non-financial enterprises.

Thirteen Authorities Revise and Issue the Measures for Cybersecurity Reviews

On January 4, 13 authorities, including the Cyberspace Administration of China ("CAC"), have jointly issued the Measures for Cybersecurity Reviews (the "Measures"). The Measures include the data processing activities carried out by online platform operators, which affect or may affect national security into the scope of cybersecurity review, adding that any online platform operator possessing the personal information of more than one million users shall be subject to the cybersecurity review by the Cybersecurity Review Office if it intends to be listed overseas. Depending on the actual need of the review, the China Securities Regulatory Commission ("CSRC") may become a member authority under the working mechanism of the cybersecurity review; meanwhile, national security risk assessment factor and other contents are improved. According to the Measures, an application for cybersecurity review may lead to three results: (1) there is no need for cybersecurity review; (2) cybersecurity review is initiated, and the applicant may proceed with its overseas listing as national security will not be affected upon analysis and judgement; and (3) cybersecurity review is initiated, and the applicant is banned from overseas listing as national security may be affected upon analysis and judgement.

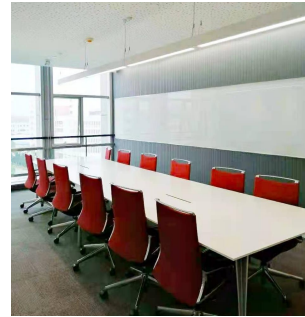
GAC Issued Measures of the People's Republic of China Customs Comprehensive Free Trade Zone Management

On January 5, the General Administration of Customs ("GAC") issued the Measures of the People's Republic of China Customs Comprehensive Free Trade Zone Management (the "Measures"), which shall come into force on April 1, 2022.

Customs will, in accordance with the Measures, implement

meeting for 2021. Peter Zeng, Senior Partner at A&Z Law Firm and Head of the Labor Compliance Team, attended the meeting and was awarded the "Top 10 Members" distinction. He was unanimously recognized and praised by his peers of the Labor Committee.

January 18, Tianjin, Xiamen



In order to better serve the investment and development of domestic and foreign enterprises in China, A&Z Law Firm has formally established two more offices in January 2022, located in Tianjin and in Xiamen. Following in the footsteps of A&Z's offices in Shanghai, Dalian, Tokyo (Japan), Wuhan and Beijing, the Tianjin and Xiamen offices are presently the newly established service points of A&Z Law Firm. All our offices are part of the long-term layout of A&Z's active response to the national "double circulation" strategy, aiming to further upgrade and better implement our services, and to strengthen the effective linkage of our legal expertise among China's three major economic circles - Yangtze Delta, Pearl River Delta and Beijing-Tianjin-Hebei. ±

January 18 and 19, Shanghai

supervision and management on means of transport, goods and its outer packaging, containers, articles of entering and leaving the comprehensive free trade zone (hereinafter referred to as the Zone) and enterprises in the Zone. Enterprises in the Zone can carry out financial leasing, cross-border e-commerce, bonded delivery of futures and other businesses in accordance with the law. Unless otherwise specified, three types of goods from abroad into the Zone, may be exempted from import tariff and import related taxes from customs, including: (1) machinery and equipment required for productive infrastructure construction projects in the Zone, and Infrastructure materials required for the construction of production plants and storage facilities; (2) machines, equipment, molds and their spare parts for maintenance required by enterprises in the Zone to carry out the businesses listed in Article 5 of the Measures; (3) a reasonable amount of office supplies for the self-use of administrative institutions and enterprises in the Zone.

NMPA Releases the Goods Manufacturing Practice for Cosmetics

On January 7, the National Medical Products Administration ("NMPA") has enacted and issued the Goods Manufacturing Practice for Cosmetics (the "GMP"), and simultaneously issued an announcement to make arrangements for related affairs. The GMP shall come into force on July 1, 2022.

According to the GMP, enterprises should establish and implement a traceability management system, formulate clear rules for management of the batch number of raw materials, inner packaging materials, semi-finished products and finished products. All records related to the production of each batch of products should be interrelated to ensure the traceability of all activities such as material procurement, product production, quality control, storage, sales and recall. The announcement clarifies that, from July 1, cosmetics registrants, record-filing applicants and entrusted manufacturers shall organize the production of cosmetics as required by the GMP, and that enterprises which have obtained cosmetics production licenses before July 1 and whose hardware conditions such as premises, facilities and equipment need to be upgraded and renovated, shall complete the upgrading and renovation before July 1, 2023, to ensure that their premises, facilities and equipment comply with the GMP.

MEM Seeks Comments on the Administrative Measures for the List of Enterprises with Seriously Illegal and Dishonest Acts in Work Safety

On January 12, the Ministry of Emergency Management ("MEM") has issued the Administrative Measures for the List of Enterprises with Seriously Illegal and Dishonest Acts in Work Safety (Draft for Comment) (the "Draft for Comment") for public comments by February 11, 2022.

The Draft for Comment clarifies the content in following five aspects: (1) the scope of application; (2) inclusion conditions and management measures; (3) division of management responsibilities; (3) procedures for inclusion in and removal from the list; (5) credit restoration. Among them, the Draft for Comment clarifies the specific situations under which enterprises are included in the list, all such situations are serious in nature and



On January 18, a preparatory meeting was held for the Fifth Session of the 13th Shanghai Committee of the Chinese People's Political Consultative Conference (CPPCC. Sophie An, the Principal Partner at A&Z Law Firm, was awarded the "Shanghai CPPCC Member Outstanding Performance Award", for her performance as a member of the Shanghai Committee of the CPPCC. We are proud to say that only three lawyers in Shanghai were awarded this honor this time. On January 19, the Fifth Session of the 13th Shanghai CPPCC was officially held in Shanghai, and Sophie An attended the session. Her proposals garnered keen attention of the medias, and Dr. An was interviewed by Xinmin Evening News. †

A&Z team wishes you a successful Year of the Tiger!



About A&Z Law Firm

A&Z is a leading Chinese law firm, which employs over 50

circumstance, involving the occurrence of a work safety accident or imposition of administrative penalties for violation of relevant laws and regulations on work safety. The Draft for Comment further clarifies that, the production and operation entities and individuals concerned included in the list shall be subject to disciplinary measures taken by the emergency management authorities, other authorities and agencies under the relevant provisions of the National Basic List of Disciplinary Measures against Dishonest Acts, such as, increasing the frequency of law enforcement inspections, suspending project approval, raising relevant insurance premiums, implementing industry or employment bans.

NISSTC Seeks Comments on the Information Security Technology - Guideline for Identification of Critical Data

On January 13, the National Information Security Standardization Technical Committee ("NISSTC") has issued the National Standards "Information Security Technology - Guideline for Identification of Critical Data" (Draft for Comment) (the "Draft for Comment") for public comments by March 13, 2022.

The Draft for Comment sets out the basic principles of and considerations for identification of critical data, as well as the format for describing critical data. This guideline, which applies to data processors' identification of critical data in their possession, not only provides support for the security protection of critical data, but also serves as a reference document for various regions and authorities to formulate specific catalogues of critical data for their own regions and authorities, related sectors and fields. The Draft for Comment defines critical data as any data that exists in electronic form and that may endanger national security and public interest once it is tampered with, destroyed, leaked, or illegally accessed or used. In identifying critical data, several factors such as "reflecting national strategic reserves and emergency mobilization capabilities, such as strategic material production capacity and reserves are critical data" can be considered. Data that meets one of the factors is critical data.

SAMR to Promote Enterprise Credit Risk Classification Management

On January 13, the State Administration for Market Regulation ("SAMR") has issued the Opinions on Promoting Enterprise Credit Risk Classification Management and Further Improving Regulatory Efficiency (the "Opinions").

The Opinions put forward the objective of fully implementing the enterprise credit risk classification management through the market regulatory system within three years, to effectively maintain enterprise credit risk monitoring and early warning. The Opinions make it clear that all provincial market regulatory authorities are responsible for the classification of the credit risks of enterprises in their respective jurisdictions, and classify enterprises into four classes from low to high: low credit risk (Class A), general credit risk (Class B), relatively high risk (Class C), and high credit risk (Class D). The Opinions also require the integration of such classification with the "dual random selection and one publication" regulatory approach. For example, the proportion and frequency of random inspections for Class A enterprises can be reasonably reduced to ensure "no disturbance for those under normal operations"; and the oversight of Class D enterprises shall be

experts composed of a team of professionals comprising attorneys, legal assistants, Japanese translators, client managers, and business specialists across 5 offices in 11 legal practices. Having been active in Shanghai since 2004, A&Z's presence was expanded through the establishment of offices in Beijing, Dalian, Wuhan, and Tokyo. A&Z focuses on advising multi-national groups, major corporations, banks, and SMEs on various legal issues relevant to their business endeavors.

A&Z's practices include Foreign Investment, Overseas Investment, Competition and Antitrust, Intellectual Property, M&A and Corporate Restructuring, Labour and Social Security, Dispute Resolution, Compliance and CSR, Finance and Capital Markets, Customs Logistics and Maritime Commerce, and Environment, Health and Safety (EHS).

tightened, and the proportion and frequency of random inspections targeting them significantly increased, when necessary, on-site inspections will be carried out.

SPC Issues the Interpretation on the Application of Punitive Damages in Cases Involving Ecological and Environmental Infringement Disputes

On January 13, the Supreme People's Court ("SPC") issued the Interpretation on the Application of Punitive Damages in the Trial of Cases Involving Ecological and Environmental Infringement Disputes (the "Interpretation"), with effect on January 20, 2022.

The Interpretation includes 14 articles, which mainly (1) clarify the scope of application of punitive damages for ecological and environmental infringement; (2) standardize the applicable requirements of punitive damages for ecological and environmental infringement; (3) determine the specific amount of punitive damages for ecological and environmental infringement; and (4) establish a procedural guarantee that requiring claims for punitive damages for the ecological and environmental infringement should be filed and resolved together. Among them, the Interpretation stipulates the special elements of punitive damages and their consideration factors as well as typical situations: first, the infringer has committed an illegal act; second, the infringer is subjectively intentional; and third, serious consequences have been caused. Meanwhile, it further clarifies that the infringed party bears the burden of proof for the above-mentioned special elements according to the provision "whoever makes a claim has a burden of proof to justify the claim" in the Civil Procedure Law.

Industry News

Hainan becoming known for premier chocolate

China Daily, January 4

China's domestic tourism revenue to near \$600b in 2022: expert

China Daily, January 4

China urges its consumer goods firms to make more 'innovative' products

Reuters, January 10

China's aviation sector aims for profitability this year – regulator

Reuters, January 10

China strives to make food system greener, more sustainable: official

Xinhua, January 20

Apple grabs record China market share as Q4 sales surge-research

Reuters, January 26

Staying put but splurging: China's hotels, restaurants to see Lunar New Year boost

Reuters, January 29

Interview: FedEx China president eyes sustaining China with connectivity

Xinhua, January 30

application and impact of laws can vary based on contextual and circumstantial variables. Before taking any action, please ensure that you obtain professional advice specific to your circumstances.

There are numerous ways for you to keep up-to-date with legal updates, A&Z's practice, and valuable events.

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