



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](mailto:alukina@a-zlf.com.cn) visit the A&Z website.

Sincerely,  
The Editors



### Legal Updates

#### **NISSTC Seeks Comments on Specification on Authentication Technologies for Cross-border Personal Information Processing Activities**

On April 29, the Secretariats of the National Information Security Standardization Technical Committee (NISSTC) issued the Practical Guide to Cybersecurity Standards - Specification on Authentication Technologies for Cross-border Personal Information Processing Activities (Draft for Comment) (the "Draft for Comment") to seek public opinions by May 13, 2022.

The Draft for Comment represents the basic requirements for the authentication institutions to carry out personal information protection authentication for cross-border personal information processing activities, which shall be applicable in two circumstances, including "where the activity of cross-border personal information processing is carried out within a multinational company or the same economic or business entity". It also provides a reference for personal information processors to regulate the cross-border processing of personal information. In such circumstances, as specified in the Draft for Comment, the party within the territory of China may apply for

### A&Z Past Events

#### **May 1, Shanghai**

As the citywide lockdown in Shanghai had been going on for more than a month, A&Z Law Firm held a series of emergency webinars titled "Measures to be taken in the 2022 Shanghai Pandemic" to help companies resolve their difficulties, given that business operations were severely affected by the inability of people to travel normally and the shortage of supplies due to the disruption of supply chains. The first session of the webinar focused on the current situation

authentication and assume the corresponding legal liability. The basic requirements involve four aspects, namely, legal binding, organization and management, rules for cross-border personal information processing, and personal information protection impact assessment. The Draft for Comment also sets out the provisions on protection of rights and interests of the personal information subjects.

### **STA Issues the Announcement on Facilitating Handling of Export Tax Rebates to Promote Stable Growth of Foreign Trade**

On April 29, the State Taxation Administration ("STA") issued the Announcement on Relevant Matters Concerning Further Facilitating the Handling of Export Rebate to Promote Steady Growth of Foreign Trade (the "Announcement"), in which articles one to three have initially taken effect since May 1, 2022.

The Announcement involves improving the classified administration of enterprises eligible for export tax rebate (exemption), optimizing the record-filing documentation for export tax rebate (exemption), perfecting the export rebate policy for processing trade, simplifying the materials submission for export tax rebate (exemption), and expanding the reminders for export tax rebate (exemption). Among others, the Announcement adjusts the classified administration of enterprises eligible for export tax rebate (exemption) in two aspects: (1) requiring taxation authorities to timely complete the assessment work for the administration category; (2) facilitating the re-assessment for enterprises subject to tax payment credit repair. The Announcement specifies that enterprises subject to circumstances of tax payment credit repair may timely apply to taxation authorities for re-assessment of their respective administration category, without regard to the restriction set by the Measures for the Classified Administration of Enterprises Eligible for Export Tax Rebate (Exemption), that is, "a Class 4 export enterprise shall not be assessed as another administration category within 12 months upon its assessment".

### **NMPA Seeks Comments on Revised Draft of Implementing Regulations of the Drug Administration Law**

On May 9, the National Medical Products Administration ("NMPA") issued the Implementing Regulations of the Drug Administration Law of the People's Republic of China (Revised Draft for Comment) (the "Draft for Comment") to solicit public opinions by June 9, 2022.

The Draft for Comment consists of 181 articles in ten chapters, adding 101 articles to the existing regulations. There are new chapters specialized in drug marketing authorization holders and drug supply guarantee, also in the remaining chapters of the regulations, the existing

and policies on entry and exit through Shanghai, the payment of employees' salaries during the pandemic, and the resumption of work and production, as well as the epidemic prevention pass and epidemic prevention policies in major cities across China.

### **May 14, Shanghai**

The second session of the emergency webinar series on "Measures to be Taken in the 2022 Shanghai Pandemic" was held, and the topic of this session was the "Regulations and Interpretation of Wage Payment during the Pandemic". Peter Zeng, Senior Partner and Head of Labor Compliance Department of A&Z Law Firm, gave a legal analysis on the regulations of wage payments during the pandemic, specific issues regarding wage payment, and suggestions for enterprises' response measures.

### **May 15, Shanghai**

The third session of the emergency webinar series on "Measures to be taken in the 2022 Shanghai Pandemic" was held, which focused on interpreting the latest updates of the current situation and policies on entry and exit through

contents are revised and enriched. The Draft for Comment adjusts some contents in the existing regulations, which are no longer applicable, and refines the specific administrative rules. It covers the general provisions, drug development and registration, drug marketing authorization holders, drug manufacturing, drug operation, drug management in medical institutions, drug supply guarantee, supervision and administration, legal liability, and supplementary provisions. Among others, the Draft for Comment notes that China will encourage the development and innovation of drugs for rare diseases and, for those new drugs for rare diseases with marketization authorization, may grant an exclusivity term for up to seven years on condition that the marketization authorization holders undertake to guarantee the supply of such drugs.

### **NDRC Seeks Comments on Catalog of Industries for Encouraged Foreign Investment (2022 Edition)**

On May 10, the National Development and Reform Commission ("NDRC") and the Ministry of Commerce ("MOFCOM") jointly released the Catalog of Industries for Encouraged Foreign Investment (2022 Edition) (Draft for Comment) (the "Draft for Comment") to solicit public opinions by June 10, 2022.

Compared with the 2020 edition, the Draft for Comment adds 238, revises 114 (mainly expanding the scope of the previous items) and deletes 38 items. The Draft for Comment mainly proposes the following revisions: (1) Continuously encouraging foreign investment to be made in manufacturing. Such items as components, parts, and equipment manufacturing are added or expanded in the national catalog. (2) Continuously encouraging foreign investment to be made in producer services. Such items as professional design, technical service and development are added or expanded in the national catalog. (3) Continuously encouraging foreign investment to be made in central and western region and the northeast region. Relevant items are added or expanded in the catalog on central and western region according to the labor force, the characteristic resources, and other advantages as well as the need for investment in each locality.

### **SAFE Revises and Issues Measures of the State Administration of Foreign Exchange for Administrative Penalties**

On May 19, the State Administration of Foreign Exchange ("SAFE") released the Measures of the State Administration of Foreign Exchange for Administrative Penalties (Revised in 2022) (the "Measures") for implementation from June 1, 2022.

The Measures, consisting of 93 articles in eight chapters, mainly revise and improve the implementation procedures for the penalties in foreign currency-related cases, based

Shanghai, payment of employees' salaries, the resumption of work and production during the pandemic, as well as epidemic prevention pass and epidemic prevention policies of major cities across China. Satoru Sakuma, Director of Client Management at A&Z Law Firm, gave a bilingual presentation on these policy trends in Chinese and Japanese, which was highly appreciated by the participants.

### **May 18, Shanghai**

The fourth session of the emergency webinar series on "Measures to be taken in the 2022 Shanghai Pandemic" was held. In cooperation with the managers of Shanghai ADP Customs Declaration Co., Ltd. and Shanghai Moxiangjing Information Technology Co., Ltd., Andrew Zhang, Senior Partner and Head of Investment & Logistics Department of A&Z Law Firm, gave a presentation and explanation on customs clearance, logistics, remote system control, electronic seals, and other problems encountered by enterprises during working from home in the logistics industry.

### **May 19, Shanghai**

At the invitation of the Chinese Chamber of

on the newly revised Law of the People's Republic of China on Administrative Penalties (Revised in 2021) and the judicial practice of administrative department of foreign exchange, with a view to safeguarding legal compliance and good order. The revisions focus on: (1) refining the standards for jurisdiction and case filing, standardizing electronic evidence collection and other activities, clarifying the time limit for handling cases, and enhancing the transparency of law enforcement; (2) fully implementing the administrative law enforcement publicity system, the legal system review system for law enforcement decisions, and the whole-process law enforcement recording system, and strengthening law enforcement supervision; and (3) improving the statement, defense and hearing procedures, refining the hearing standards, and fully protecting the legitimate rights and interests of administrative counterparts.

### **SAFE Introduces Measures to Prompt Foreign Exchange Market to Serve Real Economy**

On May 20, the State Administration of Foreign Exchange ("SAFE") issued the Circular on Relevant Measures to Further Prompt Foreign Exchange Market to Serve Real Economy (the "Circular") for implementation from the date of issuance.

The Circular mainly involves: (1) guiding financial institutions to continuously strengthen the capacity to serve the foreign exchange risk management of the real economy, and fully respond to the needs of enterprises for foreign exchange services; (2) enriching the types of RMB-foreign exchange derivatives, and adding ordinary American options and Asian options; (3) improving the bank-enterprise service platform and raising the infrastructure and service level of the foreign exchange market; (4) expanding the scope of cooperation in handling RMB-foreign exchange derivatives business, and supporting qualified small and medium-sized financial institutions to better serve the foreign exchange risk management of micro, small, medium enterprises; (5) supporting the banks to improve their own foreign exchange risk management, and allowing the banks to conduct their own exchange rate exposure hedging based on their actual needs.

### **The Standing Committee of Shanghai Municipal People's Congress Adopts the Revised Regulations of Shanghai Trade Unions**

On May 25, the Standing Committee of the Shanghai Municipal People's Congress adopted the revised Regulations of Shanghai Municipality on Trade Union ("the Regulations"), which will come into effect as of June 1, 2022.

Commerce in Japan (CCCJ), A&Z Law Firm co-organized a webinar with CCCJ on the theme of "China's Economy and Sino-Japanese Economic Relations after the annual session of the National People's Congress". Yasuo Ohnishi, Consultant at A&Z Law Firm, also a special researcher of the Japan Science and Technology Agency, and a visiting faculty researcher of the Asia Eurasia Institute, delivered the speech. During the webinar, Mr. Ohnishi gave an objective presentation on China's economic trends by using data and shared the latest economic information with the participants, which was well received by the participants, including CCCJ members and Japanese companies.

### **May 21, Shanghai**

The fifth session of the emergency webinar series on "Measures to be Taken in the 2022 Shanghai Pandemic" was held, and the topic of this session was "Force Majeure Provisions and Interpretations during the Pandemic". Eric Zhang, the Deputy Director and Senior Partner of A&Z Law Firm gave professional legal opinions on the nature of force majeure and the specific issues related to force majeure during the pandemic.

The Regulations is a reflection of Shanghai's implementation of the newly revised Trade Union Law of the People's Republic of China. The Regulations make adjustments to the protection of the rights and interests of workers in new employment forms, the role of trade unions in dealing with urgent and difficult tasks, promoting the construction of harmonious labor relations and the implementation of the whole process of people's democracy, and actively respond to the new situation, new requirements and new challenges facing the current trade union work. The revision mainly involves: (1) clarifying the trade unions to serve to protect the new employment patterns of workers, especially the take-away deliveryman and other groups who have the right to participate in trade unions. (2) increasing the responsibility of providing legal assistance to the affiliated trade unions and workers so that trade unions can be more proactive in promoting a sound coordination mechanism for labor relations and building harmonious labor relations. (3) expanding the scope of meetings involving the vital interests of employees that require the attendance of trade union representatives, based on the original provisions, for working hours, rest and leave, protection of female workers, labor protection-related meetings, also clarify the requirement of attendance of trade union representatives, especially those involving the protection of female workers, should also be attended by female worker's representatives. (4) for employer to unilaterally terminate the employee's employment contract, based on the original provisions, which require that after receiving the union's request to consider again, the enterprise should consider the union's views and notify the union in writing of the final results, adding the requirement of attaching relevant materials.

### **MOT Seeks Comments on Administrative Provisions on International Road Transport**

On May 13, the Ministry of Transport ("MOT") released the Administrative Provisions on International Road Transport (Revised Draft for Comment) (the "Draft for Comment") for public comments by June 13, 2022.

The Draft for Comment, which is presented in the form of a comparison table, includes the following highlights: the first is to clarify the conditions, procedures and requirements for the record-filing of international road freight transport operations, as well as the legal liability for failure to file for record as required. The second is to require drivers engaged in international road transport activities to comply with the Administrative Provisions on Road Transportation Workers in a uniform manner. The third is to improve the materials submitted for the international road passenger transport operation license and simplify the certification items. The fourth is to cancel the requirement of "approval for the establishment of permanent representative offices in

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### **About A&Z Law Firm**

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

China by foreign international road transport operators". The fifth is revise the wording "road transport administration" except for the port international road transport administration to be the "transport authority". The sixth is to delete the provisions on collection of production costs of permits and licenses for international road transport administration. The seventh is to optimize and improve the content of relevant attachments.

## Industry News

### **Interview: China set to remain world's largest NEV market, says BMW CFO**

Xinhua, May 6

### **Across China: Camping becomes burgeoning trend in China's holiday tourism market**

Xinhua, May 6

### **Ferragamo CEO promises quick turnaround despite China hit**

Reuters, May 11

### **China says it will use various policy tools to support employment**

Reuters, May 12

### **Brazil's JBS says China lockdowns won't affect demand, logistics a concern**

Reuters, May 12

### **China to strengthen multiple supports for small, medium enterprises**

Xinhua, May 18

### **China greenlights two sci-tech innovation IPOs**

Xinhua, May 21

### **Global automakers face electric shock in China**

Reuters, May 26

### **Shanghai eases return to work, moves to support economy**

Reuters, May 29

### **Shanghai embarks on road to recovery following lockdown**

China Daily, June 1

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**The information contained in this Newsletter is for reference on matters of interest only, and is not intended to be comprehensive. Although we try to ensure accuracy, please note that the 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 practices, and valuable events.

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