



里格律师事务所
A&Z LAW FIRM

A&Z Monthly Newsletter
March 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

A&Z Past Events

SAMR Releases Implementing Rules of the Administrative Regulations on Registration of Market Entities

On March 1, the State Administration for Market Regulation ("SAMR") released the Implementing Rules of the Administrative Regulations on Registration of Market Entities (the "Rules"). Regarding the business suspension, on the basis of the

February 25, Shanghai

Administrative Regulation of the People's Republic of China on the Registration of Market Entities, the Rules clarify that the market entities, during suspension, should publicize the annual report on time, and require that if the market entities decide to carry out business activities independently during the suspension period, they should announce the termination of suspension on the National Enterprise Credit Information Publicity System within 30 days. In order to ensure that market entities fulfill their disclosure obligations and the formation of the system closed loop, the Rules state that if the termination of business suspension is not publicized as required, the registration authority shall order correction; if there is refusal to correct, a fine of no more than RMB 30,000 shall be imposed. The Rules further suggest that when the market entities resume business, and any of the registration, record-filing matters change, they should promptly apply for change of registration or record-filing. Regarding the matter of using the address for the service of legal documents in lieu of their domicile (or principal business place), market entities should promptly apply for registration of change of domicile.

SPC Issues Judicial Interpretation on Cases Involving Online Consumption Disputes

On March 2, the Supreme People's Court ("SPC") issued the Provisions on Several Issues Concerning the Application of Law in Hearing Cases Involving Online Consumer Disputes (I) (the "Provisions"), with effect on March 15, 2022.

The Provisions, consisting of 20 articles, mainly regulate the rights and obligations of online consumption contracts, the identification of responsible subjects, the civil liability in livestreaming marketing, the civil liability in takeaway catering, among other matters. Indeed, the Provisions clarify the responsibilities of livestreaming marketing platforms, including the responsibilities of such platforms for their self-operated business and the first payment responsibilities in case of failure to provide the real information of the livestreaming room operators, the joint and several liability for failing to fulfill the duty to examine food operation permits, and the joint and several liability in the case that the unlawful practice is known or should be known. The Provisions also state that, if a provider of an online catering service platform fails to conduct real-name registration or to review licenses of an online catering service provider, or fails to perform duties of reporting or of suspending the provision of services on the online service platform, thereby causing damage to consumers, the consumers have the right to claim that the provider of the online catering service platform and the online catering service provider shall bear the joint liability.

NMPA Seeks Comments on the Announcement on Matters Concerning the Record-filing of Class I Medical Devices

On March 2, the National Medical Products Administration ("NMPA") issued the Announcement on Matters Concerning the Record-filing of Class I Medical Devices (Draft for Comment) (the "Draft for Comment") for public comments by March 31, 2022.

According to the Draft for Comment, for the record-filing of domestic Class I medical devices, the applicant shall submit record-filing materials to the authority responsible for drug supervision and administration at the city level with districts. For the record-filing of imported Class I medical devices, the applicant



In cooperation with the Shanghai Institutes for International Studies (SIIS), A&Z Law Firm co-organized a roundtable event on "China's Border Re-Opening: Steps for Success". The event included experts from the SIIS, representatives from the Shanghai government agencies, representatives from the members of Chinese People's Political Consultative Conference (CPPCC), and representatives from foreign-invested companies and foreign chambers of commerce. The invitees discussed the response measures and operational strategies of enterprises under the COVID-19 epidemic. The seminar aimed to facilitate further investment and strategic placement of foreign companies in China, by communicating with representatives of government agencies and exploring the best solutions to effectively reopen China's borders. ±

March 6, Shanghai

To commemorate the 50th anniversary of the normalization of diplomatic relations between China and Japan, A&Z Innovation Think Tank held a special seminar on "Visiting and Tracing: Sino-Japanese Ties in Shanghai's Memory" and invited Mr. Chen Zu'en, Deputy Secretary General of the Shanghai Association for the Study of the History of Sino-Japanese Relations and the Researcher of the Institute of History, Shanghai Academy of Social Sciences, to give a seminar on the inextricable ties

shall submit record-filing materials to the NMPA. The Draft for Comment clarifies that the applicant shall prepare the product technical requirements for filing medical devices as required. The record-filing must be completed after the applicant submits the record-filing materials conforming to the requirements set forth in Appendix 1 of the Draft for Comment. For the filed medical devices, the record-filing authority shall, within five working days from the date of record-filing, make public the relevant information stated in the Form of Class I Medical Device Record-filing Information or the Form of Class I In Vitro Diagnostic Record-Filing Information. The Draft for Comment also requires that the record-filing authorities should carry out the record-filing work in accordance with Record-filing Practices for Class I Medical Devices.

MIIT Issues Guide to the Building of the Framework of Network Security and Data Security Standards for the Internet of Vehicles

On March 7, the General Office of the Ministry of Industry and Information Technology ("MIIT") issued the Guide to the Building of the Framework of Network Security and Data Security Standards for Internet of Vehicles (the "Guide").

The Guide envisions that, by 2025, a relatively sound framework of network security standards and data security standards for internet of vehicles (IoV) will be established. The research and development of more than 100 standards will be completed, the coverage of standards in subdivided fields realized, service capabilities for standards enhanced, and the level of standard application raised, so as to support the safe and healthy development of the IoV industry. The Guide clarifies that, the contents to be developed include a diagram for the framework of standards, key areas and directions, which can be divided into six parts, namely, general and basic commonality, terminal and facility network security, network communication security, data security, application service security, and security guarantee and support. Among others, data security standards mainly focus on the data security and personal information protection requirements for intelligent connected vehicles, IoV platforms and in-vehicle application services. They include five types of standards, namely, general requirements, grading and classification, cross-border transfer security, personal information protection, and application data security.

SAMR Releases the Work Plan for the National Pilot Program for Innovative Protection of Trade Secrets

On March 7, the State Administration for Market Regulation ("SAMR") released the Work Plan for the National Pilot Program for Innovative Protection of Trade Secrets (the "Plan").

According to the Plan, a number of areas will be selected to carry out the pilot program for innovative protection of trade secrets; the governance level and the effectiveness of protection will be continuously improved in a three-year period to bring the trade secret protection to a new stage. To this end, the Plan sets forth tasks in six aspects, including strengthening the innovation of the trade secret protection system, improving the working mechanism for trade secret protection, and strengthening the supervision and law enforcement of trade secret protection. Among others, the Plan calls for perfecting the systems and rules. Pilot areas are

between Shanghai and Japan.

March 10, Online and Shanghai



Elena Gómez, Consultant and BD Manager at A&Z Law Firm, was invited to participate in a webinar organized by ICEX Spain, on the topic of "China's fashion market: distribution, online commerce, brand promotion and product regulation", and provided advice in Spanish on company registration, trademark registration and how to resolve problems related to counterfeiting. The webinar focused on the opportunities and challenges for foreign companies entering the Chinese market. [+](#)

March 31, Online and Shanghai



Andrew Zhang, Senior Partner at A&Z Law Firm spoke at the webinar "Risks you might be facing without knowing it". Co-organized with WTS China, full-service specialist in tax advisory, the professionals from both firms addressed the topic of corporate risks when doing business in China. These experienced legal and tax professionals discussed tangible solutions and real case studies, focusing on topics linked to international trade, import valuation, royalty assessment,

required to study and introduce the protection systems and rules that meet their development needs based on their respective economic development trends and features. Efforts shall be made to enhance the protection for key industries and characteristic industries, especially for new economies, new industries, new forms, and new models; and to enhance the protection for knowledge-intensive enterprises, technology-intensive enterprises, innovative enterprises, and time-honored enterprises. All localities shall form a uniform and standardized guide to trade secret protection nationwide based on their practice.

MEE Seeks Comments on Guideline on Available Techniques of Water Pollution Prevention and Control for the Electronic Industry

On March 8, the General Office of the Ministry of Ecology and Environment ("MEE") issued the Guideline on Available Techniques of Water Pollution Prevention and Control for Electronic Industry (Draft for Comment) (the "Draft for Comment") to solicit public comments by April 11, 2022.

The Draft for Comment proposes the available techniques of water pollution prevention and control for electronic industry, which can provide reference in conducting environmental impact assessment for the enterprises engaged in electronic industry or for the production facilities' construction projects, in formulating or revising the national standards for pollutant discharge, in managing pollutant discharge permits, or in selecting the techniques of water pollution prevention and control. The Draft for Comment covers industrial production, generation of pollutants, pollution prevention techniques, pollution control techniques, environmental measures, and available techniques for pollution prevention and control. Among others, regarding the environmental measures, the Draft for Comment sets forth six environmental administrative rules, including "continuously carrying out clean production, conducting strict material management, strengthening plating solution management, saving the consumption of raw and auxiliary materials, and reducing the quantity of pollutants generated".

SPC Releases Judicial Interpretations on Anti-Unfair Competition Law

On March 17, the Supreme People's Court ("SPC") released the Interpretations on Relevant Issues Concerning the Application of the Anti-Unfair Competition Law of the People's Republic of China (the "Interpretations").

The Interpretations, consisting of 29 articles and based on the revised Anti-Unfair Competition Law, mainly detail Article 2 of the Anti-Unfair Competition Law, and address such issues as "counterfeiting and confusion", false publicity, and unfair competition behaviors online. Among others, regarding the "counterfeiting and confusion", the Interpretations offer 11 articles to provide detailed interpretations, as specified in Article 6 of the Anti-Unfair Competition Law, from the following three perspectives. Firstly, Article 4 of the Interpretations clarifies the definition of the mark with "influence to a certain extent", and the factors to be considered when identifying such mark. Secondly, Article 7 of the Interpretations stipulates that if a mark is among those prohibited from use and registration under the Trademark Law, it will not be protected under the Anti-Unfair Competition Law.

export control and the latest data protection measures. [+](#)

March 31, Spain

Data governance is undoubtedly one of the big discussion topics in both the business and the academic communities, and A&Z Law Firm was delighted to support an international conference of this subject. The speakers, both highly experienced on the topic, included Mireia Paulo, Senior Consultant at A&Z Law Firm and Dr. Javier Plaza Penadés, Data Protection Delegate and Professor of Civil Law, University of Valencia. They shared their insights regarding their respective jurisdictions of interest, Spain and China (in Spanish). [+](#)

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

Thirdly, by following Article 2 of the Administrative Regulations on the Registration of Market Entities, the Interpretations refine the scope of the market entities, whose names can be protected.

SAMR Releases Measures for the Supervision and Administration of Medical Device Production

On March 22, the State Administration for Market Regulation ("SAMR") released the Measures for the Supervision and Administration of Medical Device Production and the Measures for the Supervision and Administration of the Business Operations of Medical Devices (collectively, the "Measures"), both with effect from May 1, 2022.

The Measures fully implement the system of medical device registrants and record-filing persons, optimize the administrative licensing process, strengthen supervision and inspection approaches, improve supervision and inspection methods, consolidate the main responsibilities of the enterprises, and impose greater penalties for illegal acts. Among others, in order to consolidate the main responsibilities of the enterprises, the Measures establish a medical device production reporting system, which stipulates the requirements on product variety report, production progress report, production condition change report and annual report on self-inspection of quality management system. Meanwhile, the Measures call for optimizing the license filing process, adjusting the requirements for business licenses and record-filing under the medical device registrant system, cancellation of submitting business licenses and relevant certification documents in case of license application, shortening the time limit for verification and approval, and clarifying the circumstances for exemption from submitting application materials and making business record-filing; in terms of application for registration and record-filing at the same time, materials submission and other procedures are simplified.

Social Security, Dispute Resolution, Compliance and CSR, Finance and Capital Markets, Customs Logistics and Maritime Commerce, and Environment, Health and Safety (EHS).

Industry News

China set to approve 3rd batch of localities for digital yuan trials

Reuters, March 2

Chinese manufacturer unveils new generation of commercial maglev train

Xinhua, March 10

China's Hainan to install 20,000 charging piles in 2022

Xinhua, March 17

Xiaomi beats estimates with 21.4% rise in Q4 revenue

Reuters, March 22

Nearly 900 mln 5G connections in China by 2025: GSMA

Xinhua, March 29

China's biggest bank ICBC posts 10.7% rise in Q4 profit

Reuters, March 30

China to roll out policies to stabilise economy as fast as possible: CCTV cites cabinet meeting

Reuters, March 30

China's farmers face fertiliser crunch as COVID measures hamper deliveries

Reuters, April 1

China to maintain yuan flexibility, brace for external shocks

Reuters, March 25

Sino Biopharm profit surges 427.2% year-on-year

China Daily, April 1

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.

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