



浦瑞律师事务所
CENLAW & PARTNERS

Legal Express

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International trade & Foreign Investment

MOFCOM Promotes Foreign Trade Development through E-commerce Platforms

The Ministry of Commerce (MOFCOM) on 12 March issued its Several Opinions on Developing Foreign Trade through E-commerce Platforms in a move to enhance the service function of e-commerce platforms in foreign trade. According to the Opinions, the international market will be further researched and expanded, the management of foreign trade information will be enhanced, the foreign trade operational order will be safeguarded, and the value-added services of foreign trade will be improved. In addition, the use of e-commerce platforms to carry out foreign trade will be enhanced and supported, and the important role of e-commerce platforms in foreign trade will be actively performed.

GAC Releases Revised Inward Article Classification and Duty-paid Value Forms

The General Administration of Customs (GAC) has announced the newly revised Form for the Classification of Inward Articles of the People's Republic of China and the Form for Duty-paid Values of Inward Goods of the People's Republic of China, both of which are due to take effect on 15 April 2012. It is clarified in the announcement that an article not specified in the Classification Form shall be classified according to the main function (or purpose) of the article, and, for an article for which the duty-paid value is not specified in the Duty-paid Value Form, the duty-paid value of the article shall be determined based upon the latest market retail price of the same article of same origin.

Company Law

Details of Annual Inspection of Foreign-Invested Enterprises 2012 Announced

The Ministry of Commerce has released the "Notice on Implementing the Joint Annual Inspection of Foreign-Invested Enterprises in 2012" together with five other authorities including the Ministry of Finance. Under the Notice, the time period for the joint annual inspection of foreign-invested enterprises (FIEs) is from 1 March to 30 June 2012 and the inspection will focus on the business operations of FIEs in 2011. FIEs established and registered in China upon approval according to the law and with legal person status shall be subject to the annual inspection within the specified time.

China and U.S. Antitrust Authorities Agree on Merger Review Cooperation

On 29 November 2011, a delegation from China's Ministry of Commerce (Mofcom) met with representatives of the main U.S. antitrust authorities in Washington to discuss developments in relation to their respective merger control regimes, and opportunities for enhanced cooperation on antitrust issues. Hannah Ha and her colleagues of Mayer Brown JSM briefly discuss the significance of the cooperation between the PRC and U.S. in merger control and anti-monopoly issues.

Finance & Taxation

Forex Rules on Domestic Individuals Joining Overseas Equity Incentive Schemes Released

The State Administration of Foreign Exchange (SAFE) has released the "Notice on Issues concerning the Foreign Exchange Management in Equity Incentive Schemes of Overseas Listed Companies Participated in by Domestic Individuals". Under the Notice, individuals may join equity incentive schemes with their own foreign currencies or renminbi in their personal foreign exchange savings accounts. If a domestic agency needs to remit funds overseas for individuals who participate in the equity incentive schemes, it shall apply for the amount of foreign exchange payment to the local foreign exchange bureau annually by presenting a written application, a certification of foreign exchange registration for the equity incentive scheme, the latest Foreign Exchange Registration Form, etc.

SAFE Clarifies Process for Filing Receipts of Payments Overseas By Banks in China

The General Affairs Department of the State Administration of Foreign Exchange has issued the "Notice concerning the Process for Filing Receipts of Payments Made and Received Overseas by Banks in China" which will be binding upon all urban commercial banks, rural commercial banks, rural cooperative banks, rural credit cooperatives, urban credit cooperatives, township banks and local banks as well as foreign-invested banks, stating that the legal representatives of these affected banks shall have the duty of filing the required details with the local authorities of foreign exchange, which will maintain these details such that the offices and departments of the SAFE are no longer required to collect such details and file them with the SAFE.

SAFE Clarifies Control of Forex Rate Exposure of Banks' Precious Metal Trading

The State Administration of Foreign Exchange (SAFE) has issued a notice to clarify several issues related to the control of the foreign exchange rate exposure in connection with trading in precious metals by banks. In addition, the notice provides that, for foreign exchange rate exposure in connection with trading in precious metals not within the scope of this notice, the interested banks shall obtain approval from the SAFE in advance. This notice has immediate effect and repeals the "Notice of the State Administration of Foreign Exchange on Several Issues concerning the Control of the Foreign Exchange Rate Exposure of Banks' Gold Trading" (Huifa [2007] No. 42).

Miscellaneous

Rules on Inspection of Imported & Exported Pre-Packed Food Labels Announced

The State Administration of Quality Supervision, Inspection and Quarantine has released the "Provisions on Administering the Inspection and Supervision of Imported and Exported Pre-Packed Food Labels" which will govern the inspection of imported and exported pre-packed food labels (including instructions) with effect from 1 June 2012. Under the Provisions, the authorities and officially designated bodies shall have the duty to check the format and content of affected labels as well as to inspect whether such labels comply with the relevant rules. With regard to pre-packed foods which are imported for the first time, the authority responsible for the inspection will keep a record and issue a certificate if the labels of such foods pass the inspection.

Certain New Zealand Agricultural Products Subject to MFN Tariff Rate

The General Administration of Customs of China (GACC) has released Announcement [2012] No. 11, stating that from 15 March, butter and other fats and oils derived from milk (HS Codes 04051000 and 04059000) originating in New Zealand shall be subject to the Most-Favored-Nation (MFN) tariff rate. The applicable tariff rate and related issues with regard to the agricultural products in transit shall be governed by the provisions of GACC Announcement [2008] No. 91.

Two Draft Amendments to Imported Feedstuff & Feed Additives Rules under Consultation

The Ministry of Agriculture has amended the “Administrative Measures for the Registration of Imported Feedstuff and Feed Additives” and the “Administrative Measures for the Approval Reference Number of Feed Additives and Addictive Premix Products” and released the draft amendments for public consultation by 31 March 2012.

Rules on Inspection of Imported & Exported Pre-Packed Food Labels Announced

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Hong Kong's Property Regulation Bill to Be Tabled

The Residential Properties (First-hand Sales) Bill (“the Bill”) was gazetted today and will be tabled at the Legislative Council on 21 March for its first reading. The Bill will regulate the sale of all first-hand residential properties; it sets out the detailed requirements for sales brochures, price lists, show flats and sales arrangements. The Bill stipulates the timely disclosure of accurate transaction information, i.e. within 24 hours of signing a preliminary agreement for sales and purchases; the Bill makes acts of misrepresentation and disseminating false or misleading information offences, and also sets out the penalties for such offences, with the maximum penalty being a fine of HKD5 million and imprisonment for up to seven years.

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