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Foreign Direct Investment

National People's Congress Passes Foreign Investment Law

中国全国人民代表大会通过外商投资法

On March 15, 2019, the National People's Congress of China passed the *Foreign Investment Law of the People's Republic of China* (the "*Foreign Investment Law*"), which will come into effect Jan. 1, 2020, and will replace the existing *Sino-Foreign Equity Joint Venture Law*, *Sino-Foreign Cooperative Joint Venture Law* and *Foreign-Owned Enterprise Law* to become the principal law regulating foreign investment activities in China. The newly enacted *Foreign Investment Law* aims to promote protection of foreign investors' legitimate rights and address various issues in the existing foreign investment administration, including the structure of corporate governance, national treatment, negative list, intellectual property protection, and prohibition of mandatory technology transfer.

Highlights of the *Foreign Investment Law*:

- Four types of activities by foreign investors are categorized as foreign investments, to which the *Foreign Investment Law* shall be applicable: (a) setting up an enterprise in China, (b) acquisition of shares, equity interest, property shares, or other similar equitable interest in China, (c) investment in

a new construction project in China, and (d) other types of investment specified by law, administrative regulations, or the State Council.

- The negative list, the foreign investment information reporting system, and the foreign investment security review have been formally incorporated into the *Foreign Investment Law*, jointly establishing a new regulatory framework for the Chinese government to supervise and administer foreign investment admission and related activities.
- The *Foreign Investment Law* repeals the three existing pieces of laws on foreign investments, and explicitly stipulates that the *Company Law* and the *Partnership Law* shall apply to foreign invested enterprises with respect to the form of organization, the organization structure, and principles of activities, eliminating the long-existing difference in the corporate governance structure between foreign invested enterprises and domestic companies in China. A five-year grace period is provided for the existing foreign invested enterprises to transform their corporate governance structure.
- The principle of equal treatment is stipulated in several parts of the *Foreign Investment Law*, including that (a) national supporting policies and national mandatory standards shall be equally applicable to foreign invested enterprises; (b) products and services provided by foreign invested enterprises shall be equally treated in government procurement activities; and (c) unless otherwise stipulated by laws or administrative regulations, the procedures and conditions for foreign invested enterprises' application for governmental permits shall be the same as those applied to the domestic entities.
- The *Foreign Investment Law* also addresses the frequently raised concerns of intellectual property right protection. It emphasizes that the state protects the intellectual property rights of the foreign investors and the foreign invested enterprises, and prohibits imposition of mandatory technology transfer by administrative authorities.

Company Law

Supreme People's Court Issues Judicial Interpretation for Company Law (No. Five)

最高人民法院出台公司法司法解释（五）

On April 28, 2019, the Supreme People's Court issued *Provisions Regarding Several Issues in Application of the Company Law of the People's Republic of China (No. Five)*, which clarifies the law with respect to waiver of liability for affiliated transactions, avoidance and rescission of affiliated transactions, dismissal of directors, time limits for profit distribution, and company deadlock mechanism.

In particular, the People's Supreme Court sought to afford more protection to shareholders in the affiliated transaction by (a) stipulating that merely performing procedural obligations (including making disclosures, seeking approval by shareholders' meetings or other required procedures) are not per se sufficient to discharge the liability owed by the controlling shareholder/controlling person/director/supervisor/ management to the company in affiliated transactions, implying that substantive fairness should also be considered in deciding such matters; and (b) allowing derivative actions brought by shareholders satisfying certain conditions under the *Company Law* where the company refuses to avoid or rescind a contract with affiliated parties.

Compliance

SAFE Adopts New Rules for Multinational Corporation's Cross-Border Funds Management

外汇管理局发布跨国公司跨境资金管理新规

On March 15, 2019, the State Administration of Foreign Exchange (SAFE) issued the *Circular of the State Administration of Foreign Exchange on Issuing the Administrative Provisions on the Centralized Operation of Cross-Border Funds of Multinational Companies (Hui Fa [2019] No.7)* (the "*SAFE Circular No.7*"), which further liberalizes the central operation of cross-border funds by multinational corporations (MNCs).

Highlights of the *SAFE Circular No.7*:

- Under the *SAFE Circular No.7*, MNCs may concentrate the quotas for foreign debts or overseas lending under the macro-prudential management system, and only need to make one-off registrations for the concentrated quotas, instead of registering each instance of borrowing or lending.
- When making payments using capital accounts foreign exchange earnings out of the domestic master account, MNCs do not need to provide advance authentication materials to relevant banks on a case-by-case basis.
- An MNC should make the centralized operation through its domestic master account, and the domestic master account may be a multi-currency (including RMB) account, without limits on the type of currency. There are also no limits on the number of accounts that can be established.

New Measures for Online Transactions Seeks Public Comments

网络交易新规向社会征求意见

On April 30, 2019, the State Administration for Market Regulation announced *Measures for the Supervision and Administration of Online Transactions (Draft for Comments)* (the "*Draft Measures*") and sought public comment. The *Draft Measures* provide more detailed rules in implementing the *E-Commerce Law* with respect to online transactions and obligations owed by online transaction operators (including online platform operators and business owners operating on online platforms or self-built websites).

Highlights of the *Draft Measures*:

- The *Draft Measures* provide more detailed guidance regarding the information disclosure requirements imposed on the online transaction operator, requiring it to disclose certain specific information of its business license, identity and contacts, close of business, and specifies the penalty for violation of laws and regulations.
- Additional obligations are imposed on online transaction operators, including the obligations (a) to clearly mark the prices for goods or services provided by such operator; and (b) for the platform

operators to review the completeness and authenticity of information provided by the business operators on its platform.

- The *Draft Measures* further specify the rules relating to information collection and privacy during online transactions, including that (a) collection and use of information by operators shall (i) follow the principles of legality, justification, and necessity, (ii) disclose the purpose, method, scope, and rules for collection and use of information, and (iii) obtain customer consent; (b) consent to collect and use customers' personal information shall be obtained each instance of collecting or using such information, and one-time authorization for information collection is not allowed; (c) online transaction operators may not refuse to sell goods or provide services if a customer refuses to provide personal information which is not related to the online transaction; (d) online transaction operators are obliged to keep the personal information and trade secrets received strictly confidential, take necessary measures to protect such information, and take remedial actions with respect to any loss or leakage of information once occurred.

State Council Promulgates Administrative Regulations on Human Genetic Resources

国务院颁布人类遗传资源管理条例

On May 28, 2019, the State Council promulgated *Administrative Regulations of the People's Republic of China on Human Genetic Resources* (the "*HGR Regulations*"), which repeal and replace the previous *Interim Measures for Administration of Human Genetic Resources* as the governing regulations regarding collection, preservation, utilization, and export of the materials and information related to human genetic resources in China.

Highlights of the *HGR Regulations*:

- Although sale and purchase of human genetic resources are prohibited, supply or utilization of human resources for scientific research (even with reasonable payment to cover costs) are allowed.
- For foreign organizations, individuals, or their established or controlled entities, collection, preservation, and export of China's human genetic resources are not allowed, while utilization of China's human genetic resources for scientific research may be allowed by way of cooperation with Chinese scientific research institutes, universities, medical institutions, or enterprises. Such scientific cooperation shall be approved by the Chinese governmental authority in advance, except for international cooperation on clinical trials for the purpose of obtaining marketing authorization, in which case the cooperation needs be filed with the governmental authority.
- When carrying out international scientific cooperation utilizing China's human genetic resources, the Chinese party shall be substantively involved in the whole course of study, and all records and data shall be accessible to and filed with the Chinese party; any patent arising therefrom shall be jointly owned and applied for by both parties.
- Export of the materials of human genetic resources shall be approved by the governmental authority; while export of information of human genetic resources only need be filed with the governmental authority, it shall not jeopardize the public health, national security, or social interest, and the government may conduct a security review where there is a risk of such jeopardy.

Vaccine Administration Law Formally Enacted

疫苗管理法正式出台

On June 29, 2019, the *Vaccine Administration Law of the People's Republic of China* (the "*Vaccine Administration Law*") was enacted by the Standing Committee of the National People's Congress, and will become effective Dec. 1, 2019. The *Vaccine Administration Law* strengthens the state administration of the development, manufacture, distribution, application, adverse reaction monitoring, safeguard, and supervision of vaccine products, and imposes stricter requirements on vaccines than general drug products.

Highlights of the *Vaccine Administration Law*:

- A marketing authorization holder system has been established whereby the vaccine marketing authorization holder shall obtain both the drug registration certificate for the vaccine and the drug manufacture license. A vaccine marketing authorization holder must have manufacturing capacity, which shall be approved by competent medical product administrative authority at the provincial level. Commissioned manufacture of vaccine products by a third party may only be allowed if the marketing authorization holder has limited manufacturing capacity and such commissioned manufacture has been approved by governmental authority.
- Each vaccine marketing authorization holder must establish a vaccine e-trace system, connecting with the state vaccine e-trace collaboration platform, so as to achieve the traceability and verifiability of vaccines at the minimum packaging unit level throughout the manufacture, distribution, and vaccination processes.
- The *Vaccine Administration Law* imposes requirements on the marketing authorization holders to purchase the mandatory vaccine liability insurance to cover the liabilities incurred from quality issues of their vaccine products.

Newly Amended Drug Administration Law Passes

新修订药品管理法获通过

On Aug. 27, 2019, the Standing Committee of the National People's Congress passed the newly amended *Drug Administration Law of the People's Republic of China* (the "*Drug Administration Law*"), which will come into force Dec. 1, 2019. The *Drug Administration Law* introduces a nationwide marketing authorization holder system and further strengthens regulations over online drug sales and penalties for violative acts.

Highlights of the *Drug Administration Law*:

- The *Drug Administration Law* expands the marketing authorization holder system from several pilot regions to the whole nation, replacing the previous good manufacturing practice certification system. Under the new drug marketing authorization holder system, the holder of the drug registration certificate is the drug marketing authorization holder and shall be responsible for the safety, effectiveness, and quality control of the drug throughout the entire process of development,

manufacture, business operation, and use. Where the drug marketing authorization holder is an overseas enterprise, it shall designate a Chinese enterprise to fulfill its obligations and bear joint and several liability.

- After receiving a clinical drug trial application, the drug administration authority shall within 60 working days decide whether to approve a clinical drug trial; if the authority does not notify the applicant of its decision within such 60-working-day period, the clinical drug trial shall be deemed approved. Clinical drug trial institutions only need to make record-filings with the government, which will further facilitate the clinical drug trial process.
- The *Drug Administration Law* clearly prohibits online sales of drugs under special administrative measures (including vaccines, blood products, narcotics, psychotropic drugs, medically toxic drugs, radioactive drugs, and pharmaceutical precursor chemicals), but it leaves open the issue of whether sale of prescription drugs on the Internet is allowed, pending future clarification from the governmental authority.

Privacy and Data Protection

Special Working Group for Rectification of Applications Releases Draft for Comments of the Methods for Identifying Unlawful Acts of Applications (Apps) to Collect and Use Personal Information

App 专项治理工作组发布《App 违法违规收集使用个人信息行为认定方法》的征求意见稿

On May 5, 2019, the Special Working Group for Rectification of Applications ("App Group") released the *Methods for Identifying Unlawful Acts of Applications (Draft for Comment)* ("*Draft*"). The *Draft* lists seven major unlawful acts by apps. The App Group was established in January 2019 to promote and implement assessment of the unlawful collection and use of personal information. At that time, the Office of the Central Cyberspace Affairs Commission, Ministry of Industry and Information Technology, Ministry of Public Security, State Administration for Market Regulation released a notice that the special rectification of apps would be conducted through 2019 nationwide.

The *Draft* identifies several types of acts by apps that may be considered unlawful collection and use of personal information, and specifies what may constitute each such unlawful act, including:

- Failure to publish rules for the collection and use by apps, which among others, include: (1) no privacy policy or user agreement or relevant rules regarding collection and use of information of app exists; (2) users may need take multiple actions (i.e., more than four) to locate such rules.
- Failure to explicitly indicate the purpose, manner, and scope of collecting and using personal information, which can be reflected in multiple ways, including: (1) collecting personal information under the guise of improving user experience, where that is not the real purpose; (2) failing to list one-by-one the type of personal information collected and the frequency of collection.
- Other types of unlawful collection and use of personal information as listed in the *Draft* include: (a) collection or use of personal information without consent; (b) collection of personal information that is not related to the service provided by the app; (c) provision of the collected personal information to others without consent; (d) failure to provide the function to delete or correct personal information; (e)

collection or use of information of minors under the age of 14 without their own or their guardians' consent, in various situations.

Cyberspace Administration of China Seeks Public Comments on Draft Administrative Measures for Data Security

国家互联网信息办公室发布《数据安全管理办法》的征求意见稿

On May 28, 2019, the Cyberspace Administration of China released the *Circular of the Cyberspace Administration of China on Seeking Public Comments on the Administrative Measures for Data Security* ("*Draft*"), which contains 40 articles in five sections: (1) General Provisions, (2) Data Collection, (3) Data Processing and Use, (4) Data Security Supervision and Management, and (5) Supplementary Provisions.

Aiming to facilitate implementation of the *Cyber Security Law* (in effect since June 1, 2017), the *Draft* specifies data protection obligations of network operators in several areas: (a) requirements for personal information collection and use by the network operator from various perspectives (such as readability, user consent, etc.); (b) filing with the authority if the network operator collects important data or sensitive personal information for business purposes; (c) designating the person responsible for data security; (d) protecting and processing personal information and important data according to national standards. The *Draft* mostly regulates the business operator or network operator for data protection, instead of targeting individual users.

Information Security Standardization Technical Committee Releases Version 1 of Network Security Practice Guide – Essential Information Specifications for Basic Business Functions of Mobile Internet Applications

信息安全标准化技术委员会发布首版《网络安全实践指南—移动互联网应用基本业务功能必要信息规范》

On June 1, 2019, the National Information Security Standardization Technical Committee released the first version of the *Essential Information Specification for Basic Business Functions of Mobile Internet Applications* ("*Specification*"). The *Specification* was based on the requirements stipulated in Article 41 of the *Cyber Security Law of PRC*, requiring that "to collect and use personal information, network operators shall follow the principles of legitimacy, rightfulness and necessity, disclose their rules of data collection and use, clearly express the purposes, means and scope of collecting and using the information, and obtain the consent of the persons whose data is gathered," and "network operators shall neither gather personal information unrelated to the services they provide," etc.

The *Specification* states the range of personal information required for normal business operations for the basic functions of 16 popular kinds of applications, i.e., map navigation, ride hailing, instant messaging and social networking, social networks of local communities, online payments, news information, short videos, online shopping, express distribution, food delivery, transport ticketing, matchmaking, jobhunting, financial loans, real estate trade, and car sales.

Highlights of the *Specification*:

- The *Specification* lists six principles for the collection of personal information by applications: (1) integration of power and responsibility, (2) definite purpose, (3) minimum necessity, (4) availability of option to agree on the authorization, (5) openness and transparency of the rules, and (6) ensuring safety via technology methods and management measures.
- The *Specification* lists the necessary information to be collected for the basic functions of 16 kinds of applications. For map navigation, location information including pinpointing and track progress may be required. For online payment, cell phone number, account number and password, identity (name, identity card category, identity card number, term of validity, photocopy); bank account information (bank name, card number, term of validity, bank reserved mobile number); transaction information (payment instruction, transaction amount, trading object, commodity, transaction time, transaction channel, transaction type, currency), transaction authentication information.

Seeking Public Comment, Cyberspace Administration of China Publishes Draft Measures for Security Assessment for Cross-Border Transfer of Personal Information

国家互联网信息办公室发布《个人信息出境安全评估办法》以公开征求意见

On June 13, 2019, the Cyberspace Administration of China published the *Measures for Security Assessment for Cross-Border Transfer of Personal Information (Draft for Comment)* ("*Draft*") and collected public comment. The *Draft* establishes a security evaluation system for when a network operator exports overseas personal information collected during its business operations within PRC. Such system would facilitate the functioning of the *Cyber Security Law*, in effect since June 2017, and specifically regulate the outbound transfer of personal information.

Highlights of the *Draft*:

- Before personal information is exported, the network operator shall conduct the security assessment and report such cross-border transfer of personal information to the local-level cyberspace department every two years or whenever the purpose or type of personal information is changed.
- The materials for the report prepared by the network operator shall include: (a) the report form, (b) the contract signed by and between the network operator and the recipient, (c) the analysis report for security risks of the cross-border transfer of personal information and security guarantee measures, etc.
- The network operator shall keep records of the cross-border transfer of personal information, and retain such records for at least five years. The following information shall be included in the records: (a) date and time of cross-border transfer of personal information, (b) identity of the recipient, such as name, address, and contact information, (c) type, quantity, and degree of sensitivity of the personal information involved in the cross-border transfer, etc.
- The network operator shall on an annual basis before Dec. 31, report its cross-border transfer of personal information, contract performance, and other information for the current year, to the local-level cyberspace departments.

Seeking Public Comment, Ministry of Industry and Information Technology Releases Draft Administrative Provisions on Network Security Vulnerabilities

工业和信息化部公开征求对《网络安全漏洞管理规定》的意见

On June 18, 2019, the Ministry of Industry and Information Technology released the *Administrative Provisions on Network Security Vulnerabilities (Draft for Comment)* ("*Draft*") and collected public comments. The *Draft* targets network security vulnerabilities, and intends to ensure that vulnerabilities of network products, services, and systems are repaired in a timely manner. The *Draft* is relatively short, containing 12 clauses, and aims to regulate the providers of network products and services, network operators, and third-party organizations or individuals.

Highlights of the *Draft*:

- Upon discovery or having knowledge of vulnerabilities in their products, services, or systems, providers of network products or services and network providers shall (a) immediately verify the vulnerabilities, and take vulnerability repair or preventive measures for the relevant network products within 90 days and for the relevant network services or systems within 10 days, (b) if the vulnerability repair or preventive measures need to be taken by users or relevant technical partners, inform the affected users and relevant technical partners of the vulnerability risk and relevant required repair or measures via public notice or customer service, and report the relevant vulnerabilities to the Information Sharing Platform of Cybersecurity Threat of the Ministry of Industry and Information Technology.
- Third party organizations or individuals shall follow the principles of necessity, authenticity, and objectivity when releasing the information about the vulnerability to the public, and shall not: (a) release the relevant information about vulnerability before the providers of network products and services or the network operators; (b) intentionally exaggerate the hazards and risks of vulnerabilities; (c) release or provide the methods, procedures, and tools specifically designed to engage in activities endangering network security by making use of vulnerabilities of network products, services, and systems.

Capital Markets

Science and Technology Innovation Board Rules Announced by CSRC

证监会发布科创板规则

On March 1, 2019, the China Securities Regulatory Commission (CSRC) formally announced the rules and documents for the establishment of the Science and Technology Innovation Board (STIB), including, among others, *Administrative Measures for the Registration of Initial Public Offerings on the Science and Technology Innovation Board (for Trial Implementation)* (the "*STIB Registration Measures*") and *Measures for Follow-up Regulation of Companies Listed on the Science and Technology Innovation Board (for Trial Implementation)* (the "*STIB Follow-up Regulation Measures*").

The *STIB Registration Measures* specify the fundamental rules for registration of initial public offering at STIB, including (a) setting out the general principles of STIB registration, confirming that STIB adopts a

registration-based IPO system; (b) with the focus on information disclosure, streamlining and optimizing the current stock issuance conditions, highlighting the principle of materiality with an emphasis on risk-control measures; (c) systemizing the arrangement and process for IPO on STIB with key stages accessible to the public; (d) strengthening the requirements for information disclosure; (e) stipulating that price of newly offered shares shall be determined by quotation from qualified investors; (f) establishing a whole-process regulatory framework.

At the same time, the *STIB Follow-up Regulation Measures* contain rules for post-registration regulation for public companies, including (a) specifying that other CSRC regulatory rules for public companies shall also apply to STIB-registered companies, unless otherwise provided in the *STIB Follow-up Regulation Measures*; (b) setting out the corporate governance rules for STIB registered companies, *inter alia*, with respect to companies with special voting arrangements; (c) establishing a reinforced information disclosure system with increased requirements on industrial and business risk disclosure; (d) optimizing the arrangements for shareholding reduction, material asset restructuring, share incentive plans, etc.; and (e) establishing a strict delisting process.

CSRC Publishes Answers to Several Questions About Initial Public Offerings

证监会发布首发业务若干问题解答

On March 25, 2019, CSRC published the *Circular on Issuing Answers to Several Questions About Initial Public Offerings* (the "*CSRC Answers*"), aiming to provide detailed guidance on IPO rules and their application in certain frequently encountered scenarios. The *CSRC Answers* mostly focus on commonly seen legal and financial issues, including valuation adjustment mechanism, special types of shareholders, financial internal control, decline in performance, etc.

Highlights of the *CSRC Answers*:

- Valuation adjustment mechanism. The *CSRC Answers* specify that any valuation adjustment mechanism (VAM) shall be terminated prior to application for an IPO unless it can meet the following standards: (a) the issuer is not a party to such VAM; (b) the VAM will not result in change of control; (c) the VAM is not related to the market value of the company; and (d) the VAM will not cause material adverse effect to the issuer's capacity of continuous operation or otherwise cause material adverse effect to investor interest.
- Foreign controlling structure. Where the controlling shareholder resides outside of China and controls the issuer through complicated shareholding structure, CSRC requires the sponsor and issuer's counsel to (a) review the reasons for such structure, the legality and reasonableness, the authenticity of shareholding status, whether there is nominee shareholding or shareholding through trust, whether there is any arrangement affecting controlling power, and the source of funding made by the shareholder, and (b) describe and opine on whether there is clear shareholding ownership by the controlling shareholder and the actual controlling person, and how the issuer could ensure the effectiveness of its corporate governance and internal control measures.
- IPO of company delisted or spin-off from overseas stock exchange. If the issuer was previously listed on an overseas stock exchange, it shall describe and disclose the legality and compliance records with respect to the information disclosure, stock exchange, and the board and shareholder's meeting resolutions during its past IPO and listing period, the legality of its delisting process, and whether it has ever received any penalty; if any sale of assets by an overseas delisted or listed company is

involved, the issuer shall also disclose whether it has complied with foreign exchange rules. The sponsor and the issuer's counsel shall review and opine on the abovementioned matters. Any new shareholder acquiring over 5% shares of the company through trading on the exchange should also be disclosed and reviewed.

CSRC and UK FCA Jointly Announce Launch of Shanghai-London Stock Connect

证监会与英国金融行为监管局发布联合公告启动沪伦通

On June 17, 2019, CSRC and the UK Financial Conduct Authority made *The Shanghai-London Stock Connect-Joint Announcement by the China Securities Regulatory Commission and the UK Financial Conduct Authority* (the "*Joint Announcement*"), signaling official approval of the proposed Shanghai-London Stock Connect.

According to the *Joint Announcement*, the Shanghai-London Stock Connect contemplates a reciprocal depository receipts arrangement between the Shanghai Stock Exchange (SSE) and the London Stock Exchange (LSE), whereby SSE-listed companies may apply to be admitted to trading on the newly formed Shanghai Segment of LSE (i.e., the westbound limb), and LSE-listed companies will also be able to apply for admission to the Main Board of SSE (i.e., the eastbound limb). In the initial stage, qualified securities institutions in each of the two markets may conduct cross-border conversion business in relation to the depository receipts. Initially, capital flow under the Shanghai-London Stock Connect will be subject to a maximum cross-border quota, with the eastbound aggregate quota being RMB250 billion and the westbound aggregate quota being RMB300 billion.

Civil Procedure

Mainland and HKSAR Sign Arrangement on Reciprocal Recognition and Enforcements of Civil and Commercial Judgements

内地与香港签署互相认可和执行民商事案件判决安排

On Jan. 18, 2019, the Supreme People's Court of the People's Republic of China and the Department of Justice of Hong Kong Special Administrative Region (HKSAR) signed the *Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters between the Courts of the Mainland and of the Hong Kong Special Administrative Region* (the "*REJ Arrangement*"), seeking to establish a bilateral legal mechanism with greater clarity and certainty for judgment recognition and enforcement in civil and commercial matters between the two places.

The *REJ Arrangement* applies to matters considered to be of "civil and commercial" nature under both Mainland and Hong Kong laws, and covers both monetary and non-monetary relief. Non-judicial proceedings and judicial proceedings relating to administrative or regulatory matters are excluded. By establishing a more comprehensive mechanism for judgment recognition and enforcement in civil and commercial matters, the *REJ Arrangement* will reduce the need for re-litigation of the same disputes in both places and offer better protection of the parties' interests. The commencement date of the *REJ*

Arrangement will be decided after promulgation of a judicial interpretation by the Supreme People's Court and completion of relevant procedures in the HKSAR.

Mainland and HKSAR Sign Arrangement on Interim Measures in Aid of Arbitral Proceedings

内地与香港签署仲裁程序相互协助保全安排

On April 2, 2019, the Supreme People's Court of the People's Republic of China and the Department of Justice of Hong Kong Special Administrative Region signed the *Arrangement Concerning Mutual Assistance in Court-Ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region* (the "*Interim Measures Arrangement*").

Per the *Interim Measures Arrangement*, parties to arbitral proceedings in Hong Kong, before the arbitral award is made, can make an application for interim measures to the courts in the Mainland, including property preservation, evidence preservation, and conduct preservation, and parties to arbitral proceedings in the Mainland may also apply to the High Court of Hong Kong for injunction and other interim measures for similar purposes of maintaining the status quo, preventing acts causing prejudice to the arbitral proceeding, or preserving evidence. It aims to prevent one of the parties to arbitral proceedings from deliberately destroying evidence or transferring property, and to ensure arbitral proceedings can be carried out effectively. The commencement date of the *Interim Measures Arrangement* will be decided after promulgation of a judicial interpretation by the Supreme People's Court and completion of relevant procedures in the HKSAR.

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