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法律法规简报 2024-02-29

Legal Update 2024-02-29

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一、国务院公布《碳排放权交易管理暂行条例》 2024.2.5 State Council Releases the Interim Regulations on the Management of Carbon Emissions Trading

近日，国务院发布《碳排放权交易管理暂行条例》（下称《条例》），自 5 月 1 日起施行。
Recently, the State Council has released the *Interim Regulations on the Management of Carbon Emissions Trading* (the “Regulations”), slated to take effect from May 1, 2024.



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《条例》主要包括以下内容：一是坚持党的领导。二是明确监督管理体制。规定国务院生态环境主管部门负责碳排放权交易及相关活动的监督管理工作，国务院有关部门按照职责分工负责有关监督管理工作。三是构建碳排放权交易管理基本制度框架。明确全国碳排放权注册登记机构和交易机构的法律地位和职责，碳排放权交易覆盖范围以及交易产品、交易主体和交易方式，重点排放单位确定，碳排放配额分配，年度温室气体排放报告编制与核查以及碳排放配额清缴和市场交易等事项。四是防范和惩处碳排放数据造假行为。主要从强化重点排放单位主体责任、加强对技术服务机构的管理、强化监督检查、加大处罚力度等方面作出明确规定。

The *Regulations* include the following key elements: firstly, upholding the leadership of the Party. Secondly, clarifying the supervision and management system. The ecological and environmental department under the State Council is designated to oversee and manage carbon emissions trading and related activities, and other relevant State Council departments bear supervisory and management responsibilities according to their respective duties. Thirdly, establishing the basic framework for the carbon emissions trading management. The *Regulations* provide clarify on the following matters: legal status and responsibilities of the national carbon emissions registration and trading institutions; the scope of carbon emissions trading as well as the products eligible for trading, trading parties, and trading methods; the identification of key emission entities; allocation of carbon emission quotas; preparation and verification of annual greenhouse gas emission reports; and the settlement of carbon emission quotas and trading in the market. Lastly, preventing and punishing falsification of carbon emission data. The *Regulations* introduce relevant provisions with a focus on strengthening the primary responsibility of key emission entities, enhancing the management of technical service organizations, intensifying supervisory inspections, and increasing the severity of penalties.

(Source: https://www.gov.cn/zhengce/content/202402/content_6930137.htm)

二、上海部署 117 项工作对接国际高标准经贸规则 2024.2.6 Shanghai Unveils 117 Work Tasks to Align with International High-Standard Economic and Trade Rules

2月6日，上海市人民政府网站对外发布《上海市落实〈全面对接国际高标准经贸规则推进中国（上海）自由贸易试验区高水平制度型开放总体方案〉



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的实施方案》。

Shanghai Municipal People's Government released on February 6, 2024, the *Plan for the Implementation of the General Plan for Comprehensively Aligning with International High-Standard Economic and Trade Rules and Pushing forward the High-level Institutional Opening-up of the China (Shanghai) Pilot Free Trade Zone (Shanghai FTZ)*.

《实施方案》部署九方面 117 项工作，对电子支付、金融数据跨境传输、金融科技、跨境资产管理、电信服务、货物进出口、商用密码、物流商业模式、数字技术应用、知识产权保护、政府采购等方面内容进行明确。《实施方案》提出将探索在临港新片区放宽非居民并购贷款限制，研究符合条件的资产管理公司开展资产支持证券跨境转让业务，探索建立与国际接轨的再保险“国际板”规则体系，支持开展保险资金投资黄金等大宗商品试点；将研究完善与国际接轨的数字身份认证制度，推进人工智能领域伦理规范研究，制定人工智能伦理规范指南，深化人工智能技术赋能医药创新研发，加快推进智能网联汽车商业化应用等等。

The *Plan* outlines 117 tasks in nine aspects, specifies details on electronic payment, cross-border transmission of financial data, fintech, cross-border asset management, telecommunications services, import and export of goods, commercial cryptography, logistics business models, digital technology applications, intellectual property protection, and government procurement. It calls for exploring the liberalization of the restrictions on non-resident M&A loans in the Lin-gang Special Area, conducting research to allow qualified asset management companies to undertake cross-border asset-backed securities transfer business, and exploring the establishment of a reinsurance “international board” rules system that is in line with global practices. It also supports the pilot investment of insurance funds in gold and other commodities, vowing to conduct research and improve the digital identity authentication system that aligns with global practices, promote research on ethical norms in the artificial intelligence field, formulate guidelines for ethical norms in artificial intelligence, fuel the research and development of innovative drugs with artificial intelligence technology, and accelerate the commercialization of intelligent connected vehicles.

(Source: <https://www.shanghai.gov.cn/nw12344/20240205/2af907af61cf4977866b7d377baf5d1d.html>)



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三、国家外汇局拟优化贸易外汇业务管理工作

2024.2.19

SAFE to Optimize Trade Foreign Exchange Management

日前, 国家外汇管理局起草了《关于进一步优化贸易外汇业务管理的通知(征求意见稿)》(下称《征求意见稿》), 公开征求意见至 2 月 29 日。
The State Administration of Foreign Exchange (SAFE) has drafted the *Circular on Further Optimizing Trade Foreign Exchange Management (Draft for Comment)* (the “Draft”) to solicit public opinions by February 29, 2024.

《征求意见稿》共 6 条, 主要内容包括: 一是取消贸易企业名录登记核准要求; 二是进一步便利跨境贸易收支业务办理; 三是构建简明清晰的贸易外汇政策环境。《征求意见稿》明确, 将贸易外汇收支企业名录的办理方式, 由外汇局核准调整为银行直接办理。《征求意见稿》提出, 优化海关特殊监管区域企业贸易外汇业务办理, 银行可按照展业原则, 简化区内企业办理收付汇与进出口主体不一致的贸易收支手续; 放宽银行办理 A 类企业货物贸易特殊退汇(非原路退回或退汇时间超 180 天)的权限, 从现行单笔等值 5 万美元提高至等值 20 万美元。

The *Draft*, comprising six articles, mainly involves: (1) removing the registration and approval requirements for the directory of trading enterprises; (2) further facilitating the handling of cross-border trade receipts and payments; and (3) building a concise and clear policy environment for trade foreign exchange. The *Draft* specifies that, regarding the directory of enterprises of trade foreign exchange receipts and payments, the handling mode is adjusted from “examination and approval by the SAFE” to “direct handling by banks”. The *Draft* also calls for optimizing the handling of trade foreign exchange business for enterprises in special customs supervision areas, and allowing banks to, upon following the business principles, simplify the procedures for enterprises in the corresponding area to handle the business in which trade receipts and payments are inconsistent with the import and export entities; relaxing banks’ special remittance authority for handling trade in goods for Class A enterprises (where refund is inconsistent with the original route or refund time exceeds 180 days), increasing the current single transaction equivalent to USD50,000 to an equivalent value of USD200,000.

(Source: <http://www.safe.gov.cn/safe/2024/0218/24006.html>)



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四、上海自贸区及临港新片区将试点离岸贸易印花税优惠政策 2024.2.19
Trial Preferential Stamp Tax Policy for Offshore Trading Launched in Shanghai FTZ and Lin-gang Special Area

日前，财政部和国家税务总局发出《关于在中国（上海）自由贸易试验区及临港新片区试点离岸贸易印花税优惠政策的通知》（下称《通知》）。
The Ministry of Finance (MOF) and the State Taxation Administration (STA) have recently issued the *Circular on Implementing Preferential Stamp Tax Policy for Offshore Trading on a Trial Basis in the China (Shanghai) Pilot Free Trade Zone and Lin-gang Special Area* (the “Circular”).

《通知》称，为支持自由贸易试验区发展离岸贸易，将在中国（上海）自由贸易试验区及临港新片区试点离岸贸易印花税优惠政策。《通知》明确，自2024年4月1日起执行至2025年3月31日，对注册登记在中国（上海）自由贸易试验区及临港新片区的企业开展离岸转手买卖业务书立的买卖合同，免征印花税。《通知》所称离岸转手买卖，是指居民企业从非居民企业购买货物，随后向另一非居民企业转售该货物，且该货物始终未实际进出我国关境的交易。

According to the *Circular*, in order to support the development of offshore trading in pilot free trade zones, the preferential stamp tax policy for offshore trading will be launched on a trial basis in the China (Shanghai) Pilot Free Trade Zone and Lin-gang Special Area. The *Circular* specifies that, starting from April 1, 2024 to March 31, 2025, sales contracts concluded by enterprises registered in the China (Shanghai) Pilot Free Trade Zone and Lin-gang Special Area for offshore resale business will be exempt from stamp tax. For the purpose of the *Circular*, the term “offshore resale” refers to a transaction in which a resident enterprise purchases goods from a non-resident enterprise and then resells the goods to another non-resident enterprise, and the goods never actually enter or exit China’s customs territory.

(Source: https://szs.mof.gov.cn/zhengcefabu/202402/t20240218_3928665.htm)

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