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法律法规简报 2024-04-30

Legal Update 2024-04-30

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一、国家外汇局发文优化贸易外汇业务管理 2024.4.8 SAFE to Further Optimize Trade Foreign Exchange Management

近日，国家外汇管理局发布《关于进一步优化贸易外汇业务管理的通知》（下称《通知》），自 2024 年 6 月 1 日起实施。

The State Administration of Foreign Exchange (SAFE) has recently released *the Circular on Further Optimizing Trade Foreign Exchange Management* (the “Circular”), effective from June 1, 2024.



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《通知》共六项政策措施，主要包括三方面内容。具体为，一是优化外贸企业名录登记管理。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。二是便利企业跨境贸易外汇收支结算。简化海关特殊监管区域企业贸易收支手续。放宽银行办理货物贸易特殊退汇（非原路退回或退汇时间超 180 天）的权限。优化 B、C 类企业延期收付汇业务办理。三是清理整合货物贸易外汇管理规定。废止部分文件，整合关于货物贸易外汇登记业务办理的条款，修订部分文书样式。

The *Circular* identifies six policy measures in three areas. (1) Optimizing the registration and management for the directory of foreign trade enterprises. 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”. (2) Facilitating the settlement of cross-border trade receipts and payments for enterprises. For enterprises in special customs supervision areas, the procedures for receipts and payments in trade are streamlined; banks’ special remittance authority for handling trade in goods (where refund is inconsistent with the original route or refund time exceeds 180 days) is relaxed; and the handling of deferred foreign exchange collection and payment for Class B and C enterprises is optimized. (3) Cleaning up and integrating foreign exchange management regulations for trade in goods. Some documents are abolished, the provisions on the foreign exchange registration business for trade in goods are integrated, and some document styles are revised.

(Source: <http://www.safe.gov.cn/safe/2024/0407/24204.html>)

二、国家外汇局公布《资本项目外汇业务指引(2024 年版)》 2024.4.15 SAFE Announces Guidelines for Foreign Exchange Business under the Capital Account (2024 Edition)

近日，国家外汇管理局制发《资本项目外汇业务指引(2024 年版)》（下称《指引》），自 5 月 6 日起实施。

Recently, the State Administration of Foreign Exchange (SAFE) has formulated and issued the *Guidelines for Foreign Exchange Business under the Capital Account (2024 Edition)* (the “*Guidelines*”), with effect on May 6, 2024.



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《指引》作为资本项目外汇业务操作手册，吸收最新法规和操作实践，着力提升业务办理的便利度和可操作性。具体为，一是结合管理实践，进一步细化和明确部分业务办理原则，增强业务可操作性，便利机构、个人等主体更加便捷高效办理业务。二是吸收最新法规及外汇行政许可等政策文件的成果，更新相关内容。三是进一步精简篇章，优化布局，章节结构更加清晰。其中，《指引》明确了境内机构境外放款债转股办理程序；新增境内企业在 A 股市场公开发行人可转换公司债，外方股东参与认购业务办理情形等。

The *Guidelines*, serving as a manual for foreign exchange business under the capital account, incorporate the latest laws and regulations as well as operational practices to enhance the convenience and operability of business handling. Specifically, firstly, based on management practices, certain principles for handling of business are further refined and clarified to enhance operational feasibility, making it more convenient and efficient for institutions, individuals, and other subjects to conduct business. Secondly, the *Guidelines* integrate the achievements of the latest laws and regulations as well as policy documents such as those on foreign exchange administrative licensing to update relevant content. Thirdly, the *Guidelines* streamline chapters, optimize the layout, and improve the clarity of the chapter structure. Among them, the *Guidelines* specify the debt-equity swap procedures for overseas lending by domestic institutions; and add new circumstances for foreign shareholders to participate in the subscription of convertible corporate bonds publicly issued by domestic enterprises in the A-share market.

(Source: <http://www.safe.gov.cn/safe/2024/0412/24226.html>)

三、上期所修订做市商管理办法并发布做市商业业务指南 2024.4.19 SHFE Revises Market-Making Management Rules and Releases Guide for Market Maker Business

近日，上海期货交易所发出《上海期货交易所做市商管理办法（修订版）》（下称《办法》）以及《上海期货交易所做市商业业务指南》（下称《指南》），《办法》自 2024 年 4 月 18 日实施。

Recently, the Shanghai Futures Exchange (the “SHFE” or “Exchange”) has released the *Market-Making Management Rules of the Shanghai Futures Exchange (Revised)* (the “Rules”) and the *Guide of the Shanghai Futures Exchange for Market Maker Business* (the “Guide”). The *Rules* take effect on April 18, 2024.



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《办法》将原第十九条修订为, 根据协议约定和做市情况, 交易所可以给予做市商交易手续费减免、激励等。交易所根据做市品种运行等情况设置交易手续费减免、激励标准, 并与做市商在协议中约定。《指南》则提出, 做市商净资产应不低于人民币 5000 万元。做市商应当使用自有资金进行做市, 不得以发售基金、理财、信托、资管产品等方式募集的资金或者违法违规资金开展做市业务。

The *Rules* amend the original Article 19 to read, subject to the provisions of the Agreement and the performance of market-making business, the Exchange may provide Market Makers with reductions on transaction fees, incentives, etc. The Exchange sets fee reduction and incentive standards based on the operation of market making products and other conditions, and stipulates them in the Agreement with the Market Maker. The *Guide* states that the net assets of market makers shall not be less than CNY50 million. Market makers shall use their own funds for market-making and shall not conduct market-making business with funds raised in violation of laws and regulations such as fund issuance, wealth management, trusts, and asset management products.

(Source:

<https://www.shfe.com.cn/news/notice/911404507.html>

<https://www.shfe.com.cn/news/notice/911404510.html>)

四、全国人大常委会表决通过《关税法》等法律

2024.4.28

NPC Standing Committee Adopts the Customs Duties Law and Other Laws

近日, 第十四届全国人民代表大会常务委员会第九次会议通过《中华人民共和国关税法》(下称《关税法》)、《中华人民共和国学位法》和《关于修改〈中华人民共和国农业技术推广法〉、〈中华人民共和国未成年人保护法〉、〈中华人民共和国生物安全法〉的决定》。其中, 《关税法》自 12 月 1 日起施行。

Recently, China has adopted the *Law of the People's Republic of China on Customs Duties* (the "Customs Duties Law"), the *Academic Degrees Law of the People's Republic of China*, and the *Decision on Amending the Law of the People's Republic of China on the Promotion of Agricultural Technology, the Law of the People's Republic of China on the Protection of Minors, and the Biosecurity Law of the People's Republic of China* at the Ninth Session of the Standing Committee of the



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14th National People's Congress (NPC). Among them, the *Customs Duties Law* will take effect on December 1, 2024.

《关税法》共七章 72 条，主要内容包括：一是坚持党对关税工作的领导，建立健全关税工作管理体制。二是明确关税适用范围。三是规范关税税目税率的设置、调整和实施。四是完善应纳税额、税收优惠和特殊情形关税征收等制度。五是对接国际高标准经贸规则，健全完善关税征收管理制度。六是统筹发展和安全，充实关税应对措施。此外，为配合《关税法》实施，国务院关税税则委员会发布了《关税法》所附《中华人民共和国进出口税则》。

The *Customs Duties Law* has seven chapters and 72 articles, covering the following key aspects: (1) upholding the Party's leadership over customs duties and establishing and improving the customs duties administration system; (2) clarifying the scope of application of customs duties; (3) standardizing the setting, adjustment and implementation of customs duties and tax rates; (4) improving systems related to amounts payable, tax incentives and collection of customs duties in special circumstances; (5) aligning with international high-standard economic and trade rules, and improving customs duties collection management systems; and (6) coordinating development and security, and enhancing customs duties response measures. In addition, to support the implementation of the *Customs Duties Law*, the Tariff Commission of the State Council has released the *Import and Export Tariff of the People's Republic of China* attached to the *Customs Duties Law*.

(Source:

http://www.npc.gov.cn/npc/c2/c30834/202404/t20240426_436843.html

http://www.npc.gov.cn/npc/c2/c30834/202404/t20240426_436840.html

http://www.npc.gov.cn/npc/c2/c30834/202404/t20240426_436836.html

http://gss.mof.gov.cn/gzdt/zhengcefabu/202404/t20240426_3933656.htm)

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