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法律法规简报 2023-07-31

Legal Update 2023-07-31

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一、自然资源部公布 2023 年立法计划 拟报审《不动产登记法》 2023.07.13

MNR Releases 2023 Legislative Plan, Real Estate Registration Law to be Submitted for Review

日前，自然资源部办公厅发出《自然资源部 2023 年立法工作计划》（下称《计划》）。



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The General Office of the Ministry of Natural Resources (MNR) has recently issued the *2023 Legislative Plan of the Ministry of Natural Resources* (the “Plan”).

《计划》涵盖出台类项目（5 件）和研究类项目（9 件）两部分。在出台类项目中，拟报国务院审查的法律草案包括《国土空间开发保护法》和《不动产登记法》；拟由自然资源部发布的部门规章包含修改《自然资源行政处罚办法》、起草《矿业权人勘查开采信用管理办法》、起草《城乡规划编制单位资质管理办法》等。同时，在研究类项目中，拟报国务院发布的行政法规草案包括研究起草《矿产资源法实施条例》、研究修改《地质灾害防治条例》等。

The *Plan* comprises five projects for promulgation and nine projects for study. Among the former projects, such draft laws as the *Law on Development and Protection of National Land* and the *Real Estate Registration Law* will be submitted to the State Council for review; among the regulations to be promulgated by the MNR, the *Measures for Administrative Penalties Concerning Natural Resources* will be revised, and the *Administrative Measures for the Exploration and Mining Credits of Mining Right Holders* and the *Administrative Measures for the Qualification of Urban and Rural Planning Formulation Entities* will be drafted. Among the projects for study, the draft administrative regulations to be submitted to the State Council for promulgation include the *Implementing Regulations of the Mineral Resources Law*, which will be drafted upon study, and the *Regulations on Prevention and Control of Geological Disasters*, which will be revised upon study.

(Source: http://gi.mnr.gov.cn/202307/t20230712_2793722.html)

二、生态环境部部署碳排放权交易市场 2021、2022 年度配额清缴工作 2023.07.18

MEE Arranges Quota Settlement in Carbon Emission Trading Market for 2021 and 2022



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近日，生态环境部发布《关于全国碳排放权交易市场 2021、2022 年度碳排放配额清缴相关工作的通知》（下称《通知》）。

The Ministry of Ecology and Environment (MEE) has recently issued the *Circular on Relevant Work Concerning Carbon Emission Quota Settlement for 2021 and 2022 in National Carbon Emission Trading Market* (the “Circular”).

《通知》从差异化开展配额分配、组织开展国家核证自愿减排量（CCER）抵销配额清缴等方面作出安排。其中，《通知》规定，对全部排放设施关停或淘汰后仍存续的重点排放单位，不予发放预分配配额，在核定阶段统一发放；对因涉法、涉诉、涉债或涉司法冻结等情况存在履约风险的重点排放单位，调整配额发放及履约方式。同时，《通知》明确，将组织有意愿使用 CCER 抵销碳排放配额清缴的重点排放单位抓紧开立账户，尽快完成 CCER 购买并申请抵销，抵销比例不超过对应年度应清缴配额量的 5%。对第一个履约周期出于履约目的已注销但实际未用于抵销清缴的 CCER，由重点排放单位申请，可用于抵销 2021、2022 年度配额清缴。

The *Circular* sets forth the arrangements in several aspects, such as conducting differentiated quota allocation and launching quota offset settlement under China Certified Emission Reduction (CCER). Among others, the *Circular* specifies that for key emission units that still exist after all emission facilities have been shut down or eliminated, pre-allocated quotas shall not be issued, and they will be issued uniformly during the approval stage; for key emission units that have performance risks due to such reasons as a legal issue, litigation, debt, or judicial freezing, the quota issuance and performance mode shall be adjusted. The *Circular* clarifies that key emission units that are willing to use CCER to offset carbon emission quotas shall be required to open an account, complete CCER purchase and apply for offset as soon as possible, and the offset ratio shall not exceed 5% of the quotas that shall be settled in the corresponding year. For the CCER that has been cancelled for the purpose of performance in the first performance cycle but is not used for offset, it may be used to offset the quotas settled for 2021 and 2022 upon application by key emission units.



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(Source: https://www.mee.gov.cn/xxgk2018/xxgk/xxgk06/202307/t20230717_1036370.html)

三、国家外汇局拟将十项跨境贸易投资便利化政策推广至全国 2023.07.25

SAFE to Promote 10 Cross-border Trade and Investment Facilitation Policies Nationwide

日前，国家外汇管理局发布《关于进一步深化改革促进跨境贸易投资便利化的通知（征求意见稿）》（下称《征求意见稿》），现向公众征求意见，意见反馈截止于 2023 年 8 月 2 日。

The State Administration of Foreign Exchange (SAFE) has recently released the *Circular on Further Deepening Reform and Promoting Cross-border Trade and Investment Facilitation (Draft for Comment)* (the “Draft”) to solicit public opinions by August 2, 2023.

《征求意见稿》中拟推广的政策包括三个方面共 10 项内容，其中经常项目 4 项，资本项目 6 项。其包含如下：一是完善跨境贸易开放政策。二是扩大资本项目便利化措施。三是优化资本项目外汇管理措施。根据《征求意见稿》，完善跨境贸易开放政策具体包括：优化市场采购贸易外汇管理、放宽加工贸易收支轧差净额结算、完善委托代理项下跨境贸易资金收付和便利境内机构经营性租赁业务外汇资金结算。

The policies to be rolled out under the *Draft* touch upon 10 aspects, of which four involve current accounts and six capital accounts. The *Draft* aims to (1) improve the opening-up policies for cross-border trade; (2) expand capital account facilitation measures; and (3) optimise foreign exchange management measures under the capital account. According to the *Draft*, the specific policies include optimising the foreign exchange management of market procurement trade, relaxing the net settlement of processing trade revenue and expenditure, improving the receipt and payment of cross-



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border trade funds under entrustment, and facilitating the settlement of foreign exchange funds for domestic institutions' operating leasing business.

(Source: <http://www.safe.gov.cn/safe/2023/0724/22972.html>)

四、全国人大常委会就刑法修正案（十二）草案征求意见 2023.07.27

NPC Standing Committee Seeks Comments on Amendment XII to the Criminal Law

近日，第十四届全国人民代表大会常务委员会第四次会议对《中华人民共和国刑法修正案（十二）（草案）》（下称《草案》）进行了审议，并对外公布全文，面向社会征求意见，征求意见期限为 30 日。

The fourth session of the Standing Committee of the 14th National People's Congress has recently deliberated the *Amendment XII to the Criminal Law of the People's Republic of China (Draft)* (the “Draft”), the full text of which has been published for public consultation within a 30-day term.

《草案》主要就行贿和民营企业内部人员腐败相关犯罪规定作出进一步完善，共修改补充 7 条。具体体现在，一是修改完善行贿罪的处罚规定；二是加大对单位受贿、对单位行贿犯罪行为的惩处力度；三是调整、提高单位行贿罪的刑罚；四是增加惩治民营企业内部人员腐败相关犯罪的内容。《草案》在《中华人民共和国刑法（2020 年修正）》第一百六十五条、第一百六十六条和第一百六十九条三个条文中各增加一款，将现行对“国有公司、企业”等相关人员适用的犯罪扩展到民营企业，民营企业内部人员具有上述相应行为，故意损害民营企业利益，造成重大损失的，将追究刑事责任。

The *Draft* mainly aims to further improve the provisions on the crimes related to bribery, as well as the corruption committed by internal members of private enterprises. A total of seven articles are modified or supplemented. Specifically, it involves: (1) revising and improving the punishment rules for the crime of offering bribes; (2) imposing



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heavier punishment for the crimes of accepting bribes and offering bribes by entity; (3) adjusting and adding the penalties for the crime of offering bribes by an entity; and (4) adding provisions on the punishment for the corruption-related crimes within private enterprises. The *Draft* adds a paragraph in Articles 165, 166 and 169 respectively in the *Criminal Law of the People's Republic of China (Amended in 2020)*. The existing crimes applicable to relevant personnel of “state-owned companies and enterprises” are extended to cover private enterprises. If any internal member of a private enterprise commits the aforesaid corresponding acts, intentionally harms the interests of the private enterprise and causes heavy losses, he or she shall be held criminally liable.

(Source: <http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818188c8b06b0189903f85c802a3>)

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