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## 法律法规简报 2020-01-22

## Legal Update 2020-01-22

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2020.01.19



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## **CSDC Releases Implementing Rules on Registration and Clearing Business for ETFs**

日前, 中国证券登记结算有限责任公司制发《关于交易所交易型开放式证券投资基金登记结算业务实施细则》(下称《细则》), 自发布之日起实施。

The China Securities Depository and Clearing Corporation Limited ("CSDC") has recently enacted and issued the Implementing Rules on Registration and Clearing Business for Open-end Exchange Traded Securities Investment Funds (the "Rules"), immediately effective from the date of issuance.

根据《细则》, 本次对沪市 ETF 结算模式调整主要为: 一是取消沪市 ETF 现行 T+0 待交收制度。二是将沪市的跨市场 ETF 非本地组合证券当日申购份额当日未卖出部分、跨市场 ETF 赎回的非本地组合证券的现金替代部分纳入担保交收。三是参照深市跨市场 ETF 运行实践并经风险评估, 相应取消沪市跨市场 ETF 的价差保证金要求。原沪深两市 ETF 业务实施细则同时废止。调整后沪深两市 ETF 结算模式将基本统一。

According to the Rules, this round of adjustments to the settlement mode for exchange traded funds (ETFs) on the SSE mainly include: 1. canceling the existing T+0 pending delivery mechanism for SSE ETFs; 2. subjecting the portion of the intraday subscribed units of securities in non-local portfolios of cross-market ETFs on the SSE that has not been sold on the current day, and the cash alternatives of securities in non-local portfolios redeemed through cross-border ETFs on the SSE, to guaranteed delivery; and 3. accordingly canceling the price difference margin requirement for cross-market ETFs on the SSE, by reference to operational practices of cross-market ETFs on the Shenzhen Stock Exchange ("SZSE") and upon risk evaluation. The previous implementing rules for SSE ETFs and for SZSE ETFs shall be repealed simultaneously. After this round of adjustments, the settlement mode for SSE ETFs and for SZSE ETFs will be largely unified.

(Source:

<http://www.chinaclear.cn/zdjs/gszb/202001/239500cccb1247808caebc7997926206.shtml>)



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## 二、五部门公布中美第一阶段经贸协议文本

2020.01.16

### Phase One China-US Economic and Trade Agreement Unveiled

日前，财政部等五部门发布《关于发布中美第一阶段经贸协议的公告》（下称《公告》）。

Five departments including the Ministry of Finance ("MOF") have recently issued the Announcement on Issuing the Phase One China-US Economic and Trade Agreement (the "Announcement").

《公告》称，美东时间 2020 年 1 月 15 日，中美双方在美国华盛顿签署《中华人民共和国政府和美利坚合众国政府经济贸易协议》（下称《协议》）。现发布《协议》中英文签字文本。《协议》主要内容如下：一是深化贸易领域双向合作，扩大双方在农产品、制成品、能源、服务业等领域的贸易规模。二是进一步放宽市场准入，包括扩大金融领域双向开放。三是持续优化营商环境，双方承诺加大知识产权保护力度，鼓励基于自愿和市场条件的技术合作等，以更好地促进公平竞争，激发市场主体的创新与发展活力。同时，双方将建立双边评估和争端解决安排，及时有效解决经贸分歧。在关税退坡问题上，美方承诺取消部分对华产品加征关税，实现加征关税由升到降的转变。

The Announcement reads that on January 15, 2020 eastern time, China and the US signed the Economic and Trade Agreement between the People's Republic of China and the United States of America (the "Agreement") in Washington D.C., and the Chinese and English texts of the signed Agreement are hereby released. Major contents of the Agreement include: 1. deepening two-way trade cooperation by expanding each other's trade scale in agricultural products, manufactured goods, energy, and service sector; 2. further easing limits on market access, including expanding two-way opening up in the financial sector; 3. continuing to improve business climate, as both sides have pledged better intellectual property protection and encouragement to technical cooperation on a voluntary basis and based on market conditions, to better promote fair competition and vitalize market players to pursue innovation and development. Meanwhile, both sides will establish the Bilateral Evaluation and Dispute Resolution Arrangement, to resolve their economic and trade disputes in a timely and effective manner. As regards tariff



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reduction, the US has undertaken to cancel some additional tariffs levied on Chinese products, so as to convert the level of additionally-levied tariffs from rising to decline.

(Source:

[http://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/202001/t20200116\\_3460124.htm](http://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/202001/t20200116_3460124.htm))

### 三、最高法院启动民事诉讼程序繁简分流改革试点工作 2020.01.16

#### **Pilot Reform of Civil Proceedings for the Separation of Complicated Cases from Simple Ones Kicks off**

近日，最高人民法院印发《民事诉讼程序繁简分流改革试点方案》（下称《方案》）和《民事诉讼程序繁简分流改革试点实施办法》（下称《办法》），正式启动为期 2 年的试点工作。

The Supreme People's Court ("SPC") has recently issued the Plan for the Pilot Reform of Civil Proceedings for the Separation of Complicated Cases from Simple Ones (the "Plan") and the Implementing Measures for the Pilot Reform of Civil Proceedings for the Separation of Complicated Cases from Simple Ones (the "Measures"), signaling the official kick-off of the two-year pilot reform.

《方案》明确了改革目标和基本原则、试点主要内容、试点范围和期限、方案实施和组织保障等内容。《办法》对《方案》作了进一步细化，是开展试点工作的具体依据。《方案》和《办法》主要内容包括五个方面：一是优化司法确认程序。二是完善小额诉讼程序。三是完善简易程序规则。四是扩大独任制适用。五是健全电子诉讼规则。《方案》和《办法》还规定，民事诉讼程序繁简分流改革试点将在北京、上海、江苏、浙江、福建、广东等 15 个省、自治区、直辖市内纳入试点的中级法院、专门法院及其辖区基层法院开展。试点法院将根据全国人大常委会授权决定，调整适用相关法律规定。

The Plan clarifies the goals and basic principles of the reform, key work of the pilot reform, coverage and duration of the pilot program, implementation of the plan, organizational guarantee, etc. The Measures set out more details based on the Plan and serve as the basis of future work on the pilot reform. Major contents of the Plan and the



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Measures touch upon five aspects, including: 1. optimizing the judicial confirmation procedure; 2. improving the legal proceedings for small-amount lawsuits; 3. refining the rules for simplified proceedings; 4. expanding the scope of application of the sole-judge proceedings; and 5. bettering the rules for online litigation. The Plan and the Measures stipulate that the pilot reform of civil proceedings for the separation of complicated cases from simple ones will be launched among intermediate courts, specialized courts, and grass-roots courts within the jurisdiction thereof, in 15 provinces, autonomous regions and municipalities directly under the Central Government, including Beijing, Shanghai, Jiangsu, Zhejiang, Fujian and Guangdong. Courts under the pilot reform will adjust the application of relevant legal provisions, as authorized by the Standing Committee of the National People's Congress ("NPC").

(Source: <http://www.court.gov.cn/fabu-xiangqing-217551.html>  
<http://www.court.gov.cn/fabu-xiangqing-217561.html>)

#### **四、市场监管总局：依法做好外商投资企业登记注册工作 2020.01.02**

### **SAMR Urges Effective Work on Registration of Foreign-invested Enterprises**

近日，国家市场监督管理总局发布《关于贯彻落实〈外商投资法〉做好外商投资企业登记注册工作的通知》（下称《通知》），自 2020 年 1 月 1 日起实施。

The State Administration for Market Regulation ("SAMR") has recently issued the Circular on Effective Work on Registration of Foreign-invested Enterprises for the Implementation of the Foreign Investment Law (the "Circular"), with effect from January 1, 2020.

《通知》分为规范外商投资企业登记程序、落实外商投资信息报告制度、明确外商投资企业材料规范等六部分内容，包括规范申请程序等十四项措施。其中，《通知》规定，在申请外商投资企业设立或者变更登记时，投资人应当承诺是否符合《外商投资准入特别管理措施（负面清单）》要求，并根据实际情况如实勾选涉及《负面清单》的行业领域。同时，《通知》还明确，不再执行外商投资企业设立商务备案与工商登记“一口办理”。在申请外商投资企业设立、变更登记时，



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申请人应当填写外商投资初始报告、变更报告。提交外商投资信息报告不是办理外商投资企业登记注册的必要条件。

The Circular outlines 14 measures, such as standardizing the application procedures, in six aspects, including standardizing the procedures for registration of foreign-invested enterprises, practicing the foreign investment information reporting system and clearly specifying the requirements for documents pertaining foreign-invested enterprises. Among others, the Circular reads that an investor shall make a commitment regarding its fulfillment of the requirements set out in the Special Administrative Measures for Access of Foreign Investments (Negative List) and tick the industry involved as stated in the Negative List according to the actual situation, while filing an application for registration of the establishment of or change to a foreign-invested enterprise. In addition, the Circular expressly states that the "one-window processing" for record-filing with commerce authorities and registration with administrations of industry and commerce for foreign-invested enterprises will no longer be implemented. While filing an application for registration of the establishment of or change to a foreign-invested enterprise, the applicant shall fill out the initial report on foreign investment or the report on changes to foreign investment. Moreover, submission of the foreign investment information report is not a prerequisite for registration of a foreign-invested enterprise.

(Source: [http://gkml.samr.gov.cn/nsjg/djzcyj/201912/t20191231\\_310111.html](http://gkml.samr.gov.cn/nsjg/djzcyj/201912/t20191231_310111.html))

## **五、三部门部署开展 2019 年度外商投资信息报告年度报告 2020.01.06**

### **Annual Reporting of Information on Foreign Investment in 2019 Kicks off**

近日，商务部等三部门发布《关于开展 2019 年度外商投资信息报告年度报告的公告》（下称《公告》），自 2020 年 1 月 1 日起生效。

Three authorities including the Ministry of Commerce ("MOFCOM") have recently issued the Announcement on the Annual Reporting of Information on Foreign Investment in 2019 (the "Announcement") which shall take effect from January 1, 2020.



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《公告》规定，2019 年 12 月 31 日前在我国境内依法设立并登记注册的外商投资企业，应于 2020 年 1 月 1 日至 6 月 30 日期间，登录国家企业信用信息公示系统报送年度报告。2020 年 1 月 1 日后设立的外商投资企业，自下一年起报送年度报告。同时，《公告》要求，2020 年 6 月 30 日前，年度报告存在错报、漏报的，外商投资企业应通过国家企业信用信息公示系统进行补报或更正；2020 年 7 月 1 日起，年度报告存在未报、错报、漏报的，外商投资企业应向商务主管部门申请，通过外商投资信息报告管理系统进行补报或更正。因未履行年度报告义务被列入经营异常名录的，还应根据《企业信息公示暂行条例》的规定办理相关手续。

The Announcement reads that a foreign-invested enterprise that is legally established and registered within the territory of China before December 31, 2019 shall log in to the National Enterprise Credit Information Publicity System to submit its annual report at any time between January 1, 2020 and June 30, 2020, adding that foreign-invested enterprises established after January 1, 2020 shall submit such annual reports from next year. In addition, the Announcement requires that in case of any errors or omissions in the annual reports submitted, foreign-invested enterprises shall correct or supplement the relevant information in the National Enterprise Credit Information Publicity System by June 30, 2020; as of July 1, 2020, in case of failure to submit the annual reports or any errors or omissions in the annual reports submitted, foreign-invested enterprises shall file applications with commerce authorities for this purpose and then submit the reports or correct or supplement the relevant information through the foreign investment information reporting management system. In case a foreign-invested enterprise is added to the list of abnormal business operators due to its failure to fulfill the obligation concerning annual reporting, it shall go through relevant formalities pursuant to the provisions of the Interim Regulations on Enterprise Information Publicity.

(Source: <http://www.mofcom.gov.cn/article/b/f/202001/20200102927881.shtml>)

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