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法律法规简报 2022-04-30

Legal Update 2022-04-30

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一、中国新加坡最高法院法律查明问题合作谅解备忘录生效 2022.04.06

China and Singapore Sign MOU on Cooperation in Legal Ascertainment

近日，最高人民法院发布公告，明确与新加坡共和国最高法院关于法律查明问题的合作谅解备忘录（下称《备忘录》）自 2022 年 4 月 3 日起正式生效。



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The Supreme People's Court ("SPC") has recently issued an announcement to clarify the *memorandum of understanding between the SPC and the Supreme Court of the Republic of Singapore on cooperation in legal ascertainment matters* (the "MOU"), with effect from April 3, 2022.

《备忘录》包括适用范围、有权提出请求的机构、请求书的内容、请求的传递等十七条内容。其中，根据《备忘录》，提供信息和意见的请求将由双方有法律查明需求的法院提出。该请求只能就正在进行的民事或商事诉讼提出。

The MOU consists of 17 articles, covering the scope of application, the authority with right to make request, the content of the request, and the delivery of the request. Among others, according to the MOU, a request for information and opinions will be made by courts where the parties have demand for legal ascertainment. The request can only be made in connection with an ongoing civil or commercial lawsuit.

《备忘录》提出，中国最高人民法院负责接收通过或由新加坡最高法院传递的请求并进行答复。接收方将以客观公正的方式向请求方提供信息和意见。在适当的情况下，答复将尽可能充分地对请求中包含的各项请求逐一回应，必要时可附正确理解信息所必需的任何其他文件，包括但不限于法律文本、相关判例、司法裁决、司法解释、法院指令等。

The MOU specifies that the SPC shall be responsible for receiving and responding to the requests delivered via or by the Supreme Court of Singapore. The receiving party will provide the requesting party with information and opinions in an objective and impartial manner. Where appropriate, the reply will be made as fully as possible to each item contained in the request, and if necessary, any other documents necessary to properly understand the information can be attached, including but not limited to legal instruments, relevant precedents, judicial decisions, judicial interpretations, and court orders.

(Source: <https://www.court.gov.cn/fabu-xiangqing-353711.html>)

二、央行就《中华人民共和国金融稳定法》征求意见

2022.04.07



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PBC Solicits Comments on the Financial Stability Law of the People's Republic of China

近日，中国人民银行发布《中华人民共和国金融稳定法（草案征求意见稿）》（下称《征求意见稿》），现向社会征求意见，意见反馈截止于 5 月 6 日。

The People's Bank of China ("PBC") has recently released the *Financial Stability Law of the People's Republic of China (Draft for Comment)* (the "*Draft for Comment*") to solicit public opinions by May 6, 2022.

《征求意见稿》主要内容包括：一是健全金融稳定工作机制。二是压实各方金融风险防范化解和处置责任。三是建立处置资金池，明确权责利匹配、公平有序的处置资金安排。四是设立金融稳定保障基金。五是建立市场化法治化的风险处置机制。六是对违法违规行行为强化责任追究。

The *Draft for Comment* mainly involves: (1) improving the working mechanism of financial stability; (2) consolidating the responsibilities of all parties for financial risk prevention, mitigation, and disposal; (3) establishing a disposal fund pool, and clarifying the equal and orderly arrangement of disposal fund under which the rights, responsibilities and interests are compatible; (4) setting up a guarantee fund for financial stability; (5) establishing a market-based and law-based risk disposal mechanism; and (6) strengthening accountability for violations of laws and regulations.

其中，《征求意见稿》明确建立金融稳定保障基金，作为国家重大金融风险处置后备资金。基金由向金融机构、金融基础设施等主体筹集的资金以及国务院规定的其他资金组成，由国务院金融委统筹管理，用于具有系统性影响的重大金融风险处置。

Among others, the *Draft for Comment* clearly requires establishing a guarantee fund for financial stability, which shall be used as a back-up fund for disposal of major national financial risks. The fund shall be composed of the funds that are raised for financial institutions, financial infrastructure and other entities and other funds specified by the



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State Council, be subject to overall management by the Financial Stability and Development Committee of the State Council, and shall be used for disposing of the major financial risks with systematic impact.

(Source: <http://www.pbc.gov.cn/tiaofasi/144941/144979/3941920/4525751/index.html>)

三、全国人大常委会通过《期货和衍生品法》 2022.04.21

NPC Standing Committee Adopts Futures and Derivatives Law

近日，第十三届全国人民代表大会常务委员会第三十四次会议表决通过《中华人民共和国期货和衍生品法》（下称《期货和衍生品法》），自 2022 年 8 月 1 日起施行。

The 34th session of the Standing Committee of the 13th National People's Congress ("NPC") has recently adopted the *Futures and Derivatives Law of the People's Republic of China* (the "*Futures and Derivatives Law*") by voting, with effect from August 1, 2022.

《期货和衍生品法》全面系统地规定了期货市场和衍生品市场各项基础制度。其完善了对衍生品交易的监管；对相关合约概念予以完善；明确境外机构在境内市场营销活动的管理规则。《期货和衍生品法》在总结历史经验和借鉴国际有益做法基础上，做出一系列制度安排。具体为，一是重点规范期货市场，兼顾衍生品市场。二是在总结提炼既有经验的基础上，为改革创新预留空间。三是发挥期货市场功能，增强服务实体经济能力。四是加强市场风险防控，维护国家金融安全。五是构建交易者保护体系，加大普通交易者保护力度。六是对标国际最佳实践，构建期货市场对外开放的新格局。

The *Futures and Derivatives Law* comprehensively and systematically defines various basic rules for futures market and derivatives market, which improves the supervision of derivatives trading, perfects the definitions of relevant contracts; and clarifies the administrative rules for the marketing activities carried out by overseas institutions in



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China. The *Futures and Derivatives Law*, on the basis of summarizing the historical experiences and learning from international good practices, sets out a series of institutional arrangements, including (1) stressing the regulation of the futures market and balancing the derivatives market; (2) reserving the space for reform and innovation on the basis of summarizing and refining existing experience; (3) giving full play to the functions of the futures market and enhancing its capabilities to serve the real economy; (4) strengthening the prevention and control of market risks and maintaining national financial security; (5) building a trader protection system and enhancing the protection of ordinary traders; (6) aligning with international best practices and building a new pattern for the opening-up of futures market.

(Source:

<http://www.npc.gov.cn/npc/c30834/202204/162cfe3a6d6d493fb5c1660ba9a4c1c5.shtml>)

四、最高法修改《人身损害赔偿解释》

2022.04.27

SPC Revises Interpretation on Compensation for Personal Injury

日前，最高人民法院发布《关于修改〈最高人民法院关于审理人身损害赔偿案件适用法律若干问题的解释〉的决定》（下称《决定》），自 2022 年 5 月 1 日起施行。

The Supreme People's Court ("SPC") has recently released the *Decision on Revising the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in Hearing Cases of Compensation for Personal Injury* (the "Decision"), effective from May 1, 2022.

本次修改共涉及《人身损害赔偿解释》六个条文。根据《决定》，修改的主要内容包 括：一是将残疾赔偿金、死亡赔偿金由原来按照城镇居民人均可支配收入或者农村居民人均纯收入标准计算修改为按照城镇居民人均可支配收入标准计算；二是将被扶养人生活费由原来按照城镇居民人均消费性支出或者农村居民人均年生活消费支出标准计算修改为按照城镇居民人均消费支出标准计算；三是残



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疾赔偿金、死亡赔偿金以及被扶养人生活费不再区分城乡居民分别计算，而是统一按照政府统计部门公布的各省、自治区、直辖市以及经济特区和计划单列市的城镇居民指标计算。

The revisions involve six articles in the *Interpretation on Compensation for Personal Injury*. According to the *Decision*, they include: (1) changing the standards for calculating disability compensation and death compensation from "urban residents per capita disposable income" or "rural residents per capita net income" to "urban residents per capita disposable income"; (2) changing the standards for calculating the living expenses of a person in need of maintenance and upbringing from "urban residents per capita consumption expenses" or "rural residents per capita living consumption expenses" to "urban residents per capita consumption expenses"; (3) the calculation of disability compensation, death compensation and the living expenses of a person in need of maintenance and upbringing will no longer be divided by urban or rural residents; instead, it shall be subject to the urban residents indicators for each province, autonomous region, municipality directly under the Central Government, special economic zone, city specifically designed in the state plan, which will be uniformly published by competent statistics authorities.

(Source: <https://www.court.gov.cn/fabu-xiangqing-357071.html>)

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