



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

法律法规简报 2020-09-30

Legal Update 2020-09-30

目录

Contents

◇ [上期所修订《标准仓单交易管理办法》](#)

Administrative Measures for Trading of Standard Warehouse Warrants Revised

◇ [市场监管总局：加快出口产品转内销市场准入](#)

SAMR Accelerates Access of Exported Goods to Domestic Market

◇ [最高法出台保护商业秘密案件司法解释](#)

SPC Promulgates Judicial Interpretation for Protecting Trade Secrets

◇ [最高法统一法律适用标准 尽力消除“类案不同判”](#)

SPC Unifies Standards for Application of Laws to Eliminate "Different Judgments for Similar Cases"

一、上期所修订《标准仓单交易管理办法》

2020.09.04

Administrative Measures for Trading of Standard Warehouse Warrants Revised



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

2020 年 9 月 3 日上海期货交易所发出《标准仓单交易管理办法（试行）（修订案）》（下称《办法》），自发布起施行。

The Shanghai Futures Exchange ("SHFE") has recently issued the *Administrative Measures for Trading of Standard Warehouse Warrants (for Trial Implementation) (Amendment)* (the "*Measures*") on 3rd September 2020, which shall come into force as the date of issue.

根据《办法》，此次修订涉及仓单交易商准入制度、交易制度、结算制度、交收制度、线上质押、违约违规处理以及信息管理等内容。《办法》新增“第七章 质押业务”，自第六十一条至第六十九条，增加“交易所根据仓单交易商与贷款银行之间质押融资合同，为双方提供办理标准仓单线上质押登记、出售质押标准仓单等服务。质押业务的仓单应当是电子形式的仓库标准仓单。本章中无特指的标准仓单是指仓库标准仓单。”等相关内容。《办法》还对原第二条、第三条、第六条、第七条等多个条款作出修改。

Pursuant to the *Measures*, the revision involves the access system for warehouse warrant traders, trading system, clearing system, settlement system, online pledge, the treatment for breach of agreements and provisions, information management and other contents. The "Chapter VII Pledge Business", comprising Articles 61 through 69, is newly added to the *Measures*. Specifically, there are additional provisions inserted into the Chapter, "the exchange shall, as per the pledge financing contract between a warehouse warrant trader and a lending bank, provide both parties with services such as the online pledge registration of standard warehouse warrants and the sales and pledge of standard warehouse warrants. The standard warehouse warrants of the pledge business shall be those in an electronic form. The standard warrants not specifically referred to in this chapter are standard warehouse warrants". Several original articles including Articles 2, 3, 6 and 7 are amended in the *Measures*.

(Source: <http://www.shfe.com.cn/news/notice/911337830.html>)

二、市场监管总局：加快出口产品转内销市场准入

2020.09.08



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

SAMR Accelerates Access of Exported Goods to Domestic Market

近日, 国家市场监督管理总局发布《关于贯彻落实〈国务院办公厅关于支持出口产品转内销的实施意见〉的公告》(下称《公告》)。

The State Administration for Market Regulation ("SAMR") has recently issued the *Announcement on Implementing the Implementing Opinions of the General Office of the State Council on Supporting the Domestic Sale of Products Originally Intended for Export* (the "Announcement").

《公告》主要内容如下: 一、加快转内销市场准入。2020 年年底, 允许企业以自我声明符合强制性国家标准的方式进行销售。开通国内生产销售审批快速通道, 精简优化转内销产品强制性产品认证程序。二、全面实施出口企业内外销产品“同线同标同质”(下称“三同”)。支持企业发展“三同”产品, 扩大“三同”适用范围至一般消费品、工业品领域。

The main content of the *Announcement* is as follows: the first is to accelerate the access of exported goods to the domestic market. By the end of 2020, enterprises are allowed to sell their products by declaring compliance with compulsory national standards. It is imperative to open fast channels for examination and approval of domestic production and sales, and streamline and optimize the compulsory product certification procedures for the domestic sale of products originally intended for export. The second is to comprehensively implement the practice of producing domestic and exported products in the same production chain with equivalent quality under the same standards (the "Three Samenesses") by exporters. Support shall be given to enterprises in developing products with the "Three Samenesses" and expanding the scope of application of the "Three Samenesses" to the fields of general consumer goods and industrial products.

同时, 市场监管总局不再对“三同”的技术要求、评定方式和标识作出行政性规定, 也不再公布“三同”企业和产品信息。企业可按照相关要求, 对其产品作出符合我国和进口国(地区)相关标准要求的自我声明或委托第三方机构进行相关质量评价。



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

Meanwhile, the SAMR will neither make administrative provisions on the technical requirements, evaluation methods and labels of the "Three Samenesses", nor publish the information on the enterprises and products with the "Three Samenesses". Enterprises may, according to the relevant requirements, make a declaration that their products meet the relevant standards and requirements of China and the importing country (region) or entrust a third-party organization to conduct relevant quality evaluation.

(Source: http://gkml.samr.gov.cn/nsjg/rzjgs/202009/t20200908_321524.html)

三、最高法出台保护商业秘密案件司法解释

2020.09.10

SPC Promulgates Judicial Interpretation for Protecting Trade Secrets

近日，最高人民法院发布《关于审理侵犯商业秘密民事案件适用法律若干问题的规定》（下称《规定》），自 2020 年 9 月 12 日起施行。

The Supreme People's Court ("SPC") has recently issued the *Provisions on Several Issues concerning the Application of Law in the Trial of Civil Cases of Trade Secrets Infringement* (the "*Provisions*"), which shall take effect from 12th September 2020.

与以往相比，《规定》主要有以下特点：一是内容更加丰富，体系更加完整。二是坚持问题导向，保护更加有力。三是程序实体并重，保护更加全面。《规定》针对举证、维权成本、侵权代价等关键节点，对行为保全、保密义务、侵权责任等作出规定。同时，对于审判实践中争议较为集中的不为公众所知悉、相应保密措施、保密义务的认定，以及与员工、前员工有关的商业秘密保护，也作出了明确具体的规定，既为司法裁判提供明确依据，也为权利人加强商业秘密保护制度建设提供指引。

Compared with the previous edition, the *Provisions* mainly have the following characteristics: First, more rich contents and a more complete system are introduced. Second, the *Provisions* adhere to the problem-oriented principle to make the protection more effective. Third, equal importance is attached to the procedural and substantive



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

rules to provide more comprehensive protection. The *Provisions* set out provisions on act preservation, confidentiality obligations, and liability for infringement with regard to key nodes such as burden of proof, costs in safeguarding the rights, and infringement costs. Meanwhile, clear and specific provisions on the identification of issues which are more controversial in the judicial practice, such as the information unknown to the public, corresponding confidentiality measures, and confidentiality obligations, as well as provisions on the protection of trade secrets related to employees and former employees, are set out in the *Provisions*, which not only provides a clear basis for judicial adjudication, but also offers a guidance for the obligee to build a system for enhancing the protection of trade secrets.

(Source: <http://www.court.gov.cn/fabu-xiangqing-254751.html>)

四、最高法院统一法律适用标准 尽力消除“类案不同判”

2020.09.23

SPC Unifies Standards for Application of Laws to Eliminate "Different Judgments for Similar Cases"

近日，最高人民法院发布《关于完善统一法律适用标准工作机制的意见》（下称《意见》）。

Recently, the Supreme People's Court ("SPC") has issued the *Opinions on Perfecting the Working Mechanism of Unifying Standards for Application of Laws* (the "*Opinions*").

《意见》包含加强司法解释和案例指导工作等十部分内容，涵盖了 21 条具体措施，比如，健全法律适用分歧解决机制、发挥审判委员会统一法律适用标准职责、加强对“四类案件”的监督管理等。其中，《意见》明确，涉及人民群众切身利益或重大疑难问题的司法解释，应当向社会公开征求意见。

The *Opinions* encompass ten major tasks including strengthening judicial interpretations and case guidance, involving 21 specific measures such as perfecting the mechanism for resolving the differences in application of laws, giving full play to the role of the



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

judicial committee in unifying the standards for application of laws, and strengthening the supervision and administration of "four types of cases". Among others, the *Opinions* clearly state that the judicial interpretations involving the vital interests of the masses or major and difficult issues shall be open to the public for comments.

同时, 针对经济社会活动中具有典型意义及较大影响的法律问题, 或者人民群众广泛关注的热点问题, 及时发布典型案例, 规范司法裁判活动。《意见》还指出, 将统一法律适用标准作为审判管理的重点。对于可能存在背离法律、司法解释、指导性案例所确定裁判规则等情形的, 承办法官应当向案件评查委员会说明理由。

Meanwhile, in response to the legal issues of typical significance and those having greater impact in economic and social activities, or hot issues of widespread concern among the masses, the SPC should promptly release typical cases to standardize judicial adjudication activities. In addition, the *Opinions* also point out to focus on unifying the standards for application of laws in trial management. If any circumstance deviates from the laws, judicial interpretations and judicial rules established in guiding cases, the judges in charge shall explain the reasons to the case review committee.

(Source: <http://www.court.gov.cn/fabu-xiangqing-258001.html>)

本期编辑:
Author:

Chenwei Bao
Tel: 86-21-80127725
Email: wendy.bao@cilslaw.com

This publication is for informational purpose only. It does not cover every aspect of the topics with which it deals. It should not be construed or relied on as legal advice or to create a lawyer-client relationship. For any further legal advice, please contact us.



Shanghai CILS® Law Firm
上海信石®律师事务所

Room 2615, Enterprise Square
No. 228 Meiyuan Road, Shanghai 200070
People's Republic of China

中国上海市梅园路 228 号
企业广场 2615 室, 邮编: 200070

Tel: +86 21 80127725
Fax: +86 21 80127724
www.cilslaw.com

*Shanghai CILS® Law Firm, a partnership registered at Room 2615, Enterprise Square,
No. 228 Meiyuan Road, Shanghai, PRC.*

CILS® 2020