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## 法律法规简报 2021-04-29

## Legal Update 2021-04-29

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**一、自然资源部要求做好不动产抵押权登记 2021.04.06**

**MNR Calls for Effective Work in Real Estate Mortgage Registration**

近日，自然资源部发布《关于做好不动产抵押权登记工作的通知》（下称《通知》）。



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Recently, the Ministry of Natural Resources ("MNR") has issued the *Circular on Effectively Carrying out Real Estate Mortgage Registration* (the "*Circular*").

《通知》从依法确定不动产抵押范围、明确记载抵押担保范围、保障抵押不动产依法转让等六方面作出部署。其中，《通知》规定，学校、幼儿园、医疗机构、养老机构等为公益目的成立的非营利法人的教育设施、医疗卫生设施、养老设施和其他公益设施，以及法律、行政法规规定不得抵押的其他不动产，不得办理不动产抵押登记。

The *Circular* arranges for relevant work in six aspects, such as defining the scope of real estate mortgage, specifying the scope of collateral, and guaranteeing the legal transfer of mortgaged real estate. Among others, the *Circular* makes clear that, non-profit legal persons incorporated for public welfare, such as schools, kindergartens, medical institutions and nursing homes, shall not apply for real estate mortgage registration for their educational facilities, medical and health facilities, elderly care facilities or other public welfare facilities, as well as other real estates that are prohibited from being mortgaged by laws and administrative regulations.

同时，《通知》明确，当事人申请办理不动产抵押权首次登记或抵押预告登记的，不动产登记机构应当根据申请在不动产登记簿“是否存在禁止或限制转让抵押不动产的约定”栏记载转让抵押不动产的约定情况。

Meanwhile, according to the *Circular*, when relevant persons apply for initial registration of real estate mortgage or advance notice registration, the real estate registration authority shall record any agreement on the transfer of mortgaged real estate in the column "whether there is any agreement prohibiting or restricting the transfer of mortgaged real estate" on its real estate register book in accordance with the status of the application.

(Source: [http://gi.mnr.gov.cn/202104/t20210406\\_2619406.html](http://gi.mnr.gov.cn/202104/t20210406_2619406.html))

**二、海关总署公布《进出口食品安全管理办法》**

**2021.04.12**



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## **GAC Promulgates the Administrative Measures for Safety of Imported and Exported Food**

日前, 海关总署发布《中华人民共和国进出口食品安全管理办法》(下称《办法》), 自 2022 年 1 月 1 日起施行。

The General Administration of Customs ("GAC") has recently promulgated the *Administrative Measures of the People's Republic of China for Safety of Imported and Exported Food* (the "*Measures*"), for implementation from January 1, 2022.

关于食品进口, 《办法》规定, 进口尚无食品安全国家标准食品, 应当符合国务院卫生行政部门公布的暂予适用的相关标准要求。利用新的食品原料生产的食品, 应当依照《食品安全法》第三十七条的规定, 取得国务院卫生行政部门新食品原料卫生行政许可。

Regarding the imported food, the *Measures* require that, to import any food for which there is no relevant national food safety standard, relevant standards and requirements set forth by the Health Administrative Department under the State Council that are tentatively applicable shall be complied with. To manufacture any food using new food raw materials, the administrative license for new food raw materials issued by the Health Administrative Department shall be obtained as stipulated by Article 37 of the *Food Safety Law*.

同时, 《办法》明确, 海关依据进出口商品检验相关法律、行政法规的规定对进口食品实施合格评定。有《办法》规定的六类情形之一的, 海关总署可以对境外国家(地区)启动评估和审查。

Meanwhile, the *Measures* make clear that imported food shall be subject to the conformity assessment by the customs according to relevant laws and administrative regulations on the inspection of imported and exported commodities. Under any of the six circumstances specified by the *Measures*, the GAC may initiate evaluation and examination of a foreign country (region).

(Source: <http://www.customs.gov.cn/customs/302249/2480148/3619657/index.html>)



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### 三、最高法修改上海金融法院案件管辖规定

2021.04.21

## SPC Revises Provisions on Case Jurisdiction of the Shanghai Financial Court

日前，最高人民法院发布《关于修改〈关于上海金融法院案件管辖的规定〉的决定》（下称《决定》），自 2021 年 4 月 22 日起施行。

The Supreme People's Court ("SPC") has recently issued the *Decision on Revising the Provisions on the Case Jurisdiction of the Shanghai Financial Court* (the "*Decision*") for implementation from April 22, 2021.

根据《决定》，此次修改共新增五条、修改四条，主要内容包括：一是根据金融行业发展情况，增加了对若干新型金融民商事案件类型的管辖。二是新增上海金融法院有权管辖境外公司损害境内投资者合法权益的相关案件。

According to the *Decision*, five articles are added and four revised. The revisions mainly involve: 1. adding several new types of civil and commercial financial case to the jurisdiction in accordance with the development of the financial industry; 2. adding new provisions on granting the jurisdiction to the Shanghai Financial Court in cases related to the infringement on domestic investors' legitimate rights and interests by overseas companies;

三是明确对在上海证券交易所科创板上市公司的相关证券纠纷，由上海金融法院实行跨区域集中管辖。四是规定以上海证券交易所为被告或第三人的与证券交易所监管职能相关的第一审金融民商事和涉金融行政案件，由上海金融法院集中管辖。五是明确了上海金融法院的再审案件和执行案件管辖范围。

3. clarifying that securities disputes related to companies listed on the Shanghai Stock Exchange (the "SSE") STAR Market shall be subject to the cross-regional and unified jurisdiction of the Shanghai Financial Court; 4. stipulating that civil and commercial financial cases and finance-related administrative cases, of first instance, which are related to regulatory function of the stock exchange and in which the SSE is the



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defendant or third party, shall be subject to the unified jurisdiction of the Shanghai Financial Court; and 5. specifying the scope of jurisdiction for the Shanghai Financial Court in retrial cases and enforcement cases.

(Source: <http://www.court.gov.cn/fabu-xiangqing-297951.html> )

#### 四、最高法发布《全国法院贯彻实施民法典工作会议纪要》 2021.04.21

### SPC Releases Minutes of Work Meetings on Court Implementation of the Civil Code

近日，最高法发布通知，印发《全国法院贯彻实施民法典工作会议纪要》（下称“会议纪要”）。

The Supreme People's Court recently circulated the *Minutes of Working Meetings on Court Implementation of the Civil Code* (the “Minutes”) Nationwide.

通知指出，纪要不是司法解释，不得作为裁判依据援引。《会议纪要》发布后，人民法院对尚未审结的一审、二审案件，在裁判文书“本院认为”部分具体分析法律适用的理由时，可以根据《会议纪要》的相关规定进行说理。

It is specified that the *Minutes* are not judicial interpretations and cannot be cited as judgment basis. After the release of the *Minutes* and for cases of first and second instance that have not yet been concluded, people's courts may make reasoning according to the relevant provisions of the *Minutes* when they analyze the reasons for the law application in "Court's Reasoning" Section of the judgment document.

其中，《会议纪要》提出，正确适用最高人民法院关于适用《中华人民共和国民法典》时间效力的若干规定》（下称《时间效力规定》），处理好新旧法律、司法解释的衔接适用问题。坚持“法不溯及既往”的基本原则，依法保护当事人的合理预期。民法典施行前的法律事实引起的民事纠纷案件，适用当时的法律、司法解释的规定，但《时间效力规定》另有规定的除外。



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The document also requires correct application of the *Several Provisions of the Supreme People's Court on the Validity of Time in the Application of the Civil Code of the People's Republic of China* (the “*Provisions on Time Effectiveness*”), and proper handling of issues relating to the transition of old laws and judicial interpretations to new ones. Specifically, it is required to adhere to the basic principle of non-retroactivity of the law, safeguard reasonable expectations of parties concerned by law, and apply provisions of the law and judicial interpretation effective at that time for civil disputes arising from legal facts before implementation of the *Civil Code*, except as otherwise provided in the *Provisions on Time Effectiveness*.

(Source: [https://m.thepaper.cn/baijiahao\\_12342539](https://m.thepaper.cn/baijiahao_12342539))

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