



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 2021-12-31

Legal Update 2021-12-31

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一、海关总署明确进口食品境外生产企业注册管理规定等实施事宜 2021.12.14

GAC Clarifies Matters on Implementation of Administrative Provisions on Registration of Overseas Manufacturers of Imported Food



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近日, 海关总署发出 2021 年第 103 号公告, 对《中华人民共和国进口食品境外生产企业注册管理规定》和《中华人民共和国进出口食品安全管理办法》实施相关事宜作出规定。

Recently, the General Administration of Customs ("GAC") has issued the Announcement [2021] No. 103, stipulating matters concerning the implementation of *the Administrative Provisions of the People's Republic of China on Registration of Overseas Manufacturers of Imported Food* and the *Administrative Measures of the People's Republic of China for the Safety of Imported and Exported Food*.

公告明确了境外生产企业注册申请及企业信息查询、境外生产企业注册涉及产品类别及商品编号查询、境外生产企业注册办事指南等七个问题。其中, 根据公告, 2022 年 1 月 1 日起启运的输华食品, 在进口申报时应在报关单“产品资质”项下“进口食品境外生产企业注册”证书栏(许可证类别代码 519)规范填写该企业在华注册编号。在实施 2020 版申报项目的海关申报进口食品, 应在“其他企业”项下的“其他企业类别”栏选择“进口食品境外生产企业”, 在“编号或企业名称”栏填报该企业在华注册编号。

The announcement has clarified seven issues, including the registration application of overseas manufactures and the enterprise information inquiry, the inquiry of product categories and HS codes involved in the registration of overseas manufactures, and the guidelines for the registration of overseas manufactures. Among them, according to the announcement, for the food exported to China and shipped from January 1, 2022, the overseas manufacture shall fill in its registration no. in China into the certificate column "Registration of Imported Food Overseas Manufacture" (license category code 519) under the "Product Qualification" Item of the customs declaration form. When declaring imported food with customs authority that implements the 2020 declaration projects, manufacturers shall select the "Imported Food Overseas Manufacture" in the column "Other Enterprise Category" under "Other Enterprise" item, and fill in its registration no. in China into the column "Number or Enterprise Name".

(Source: <http://www.customs.gov.cn/customs/302249/2480148/4053483/index.html>)



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二、最高法院出台人民法院强制执行股权若干问题规定 2021.12.21

SPC Issues Provisions on Several Issues concerning the Enforcement of Equity Interests by People's Courts

近日，最高人民法院下发《关于人民法院强制执行股权若干问题的规定》（下称《规定》），《规定》自 2022 年 1 月 1 日起施行。

Recently, the Supreme People's Court ("SPC") has issued the *Provisions on Several Issues concerning the Enforcement of Equity Interests by People's Courts* (the "*Provisions*"). The *Provisions* shall take effect on January 1, 2022.

《规定》重点对四个方面问题予以规范：一是明确了股权冻结的规则。二是规定了解决股权评估难的应对措施。三是规定了防范股权价值被恶意贬损的应对措施。四是明确了交付股权类案件执行的相关规则。

The *Provisions* focus on regulating four issues: (1) clarifying the rules for the freezing of equity interests; (2) providing measures to solve the difficulty in evaluating equity interests; (3) stipulating countermeasures to prevent the equity value from being maliciously degraded; and (4) clarifying the rules for the enforcement of cases involving delivery of equity interests.

其中，《规定》第六条明确，冻结股权的，应当向公司登记机关送达裁定书和协助执行通知书，由公司登记机关在企业信用信息公示系统进行公示，股权冻结自在公示系统公示时发生法律效力。多个人民法院冻结同一股权的，以在公示系统先办理公示的为在先冻结。

Among them, Article 6 of the *Provisions* states that where a court intends to freeze the equity interests, it shall serve the ruling and a notice of assistance in enforcement to the company registration authority, and the company registration authority shall make a public announcement in the enterprise credit information publicity system, and the freezing of equity interests shall become legally effective when the announcement is made in the publicity system. Where more than one people's court requests freezing the



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same equity interests, the one that firstly undergoes the announcement formality in the publicity system shall be deemed to have made a prior freezing.

(Source: <http://www.court.gov.cn/fabu-xiangqing-337921.html>)

三、全国人大常委会修改民事诉讼法 2021.12.24

NPC Standing Committee Revises Civil Procedure Law

近日，十三届全国人大常委会第三十二次会议表决通过《关于修改〈中华人民共和国民事诉讼法〉的决定》（下称《决定》），自 2022 年 1 月 1 日生效。

The 32nd session of the 13th Standing Committee of the National People's Congress ("NPC") has recently adopted by voting, the *Decision on Revising the Civil Procedure Law of the People's Republic of China* (the "*Decision*"), which shall come into effect from January 1, 2022.

本次民诉法的修改主要涉及司法确认程序、小额诉讼的程序、简易程序、独任制、在线诉讼等方面。根据《决定》，经当事人同意，民事诉讼活动可以通过信息网络平台在线进行。民事诉讼活动通过信息网络平台在线进行的，与线下诉讼活动具有同等法律效力。另外，《决定》明确，经受送达人同意，人民法院可以采用能够确认其收悉的电子方式送达诉讼文书。

The revisions to the *Civil Procedure Law* mainly involve judicial confirmation procedure, small claim procedure, summary procedure, single-judge system, online litigation, and other aspects. According to the *Decision*, subject to consent by the parties concerned, civil proceedings may be conducted online through an information platform. Where any civil proceeding is conducted online through an information platform, it shall have the same legal effect as a civil proceeding conducted on site. Furthermore, the *Decision* makes clear that, subject to the consent of the person to whom a procedural document is to be served, a people's court may serve the document by means of electronic service in which the receipt thereof can be confirmed.



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(Source:

<http://www.npc.gov.cn/npc/c30834/202112/3c3f10d770db4b9ea6bb70edb5634e35.shtml>)

四、全国人大常委会就公司法修订草案征求意见 2021.12.24

NPC Standing Committee Seeks Comments on Draft Revision to Company Law

日前，第十三届全国人大常委会第三十二次会议对《公司法（修订草案）》进行了审议，并对外公布全文，面向社会征求意见，征求意见截止日期均为 2022 年 1 月 22 日。

The 32nd session of the 13th Standing Committee of the National People's Congress ("NPC") has recently deliberated the *Company Law (Draft Revision)*, the full texts of which have been issued to solicit public comments by January 22, 2022.

《公司法（修订草案）》共 15 章 260 条，在现行公司法 13 章 218 条的基础上，实质新增和修改 70 条左右。主要修改内容包括完善国家出资公司特别规定，完善公司设立、退出制度，强化控股股东和经营管理人员的责任等。《公司法（修订草案）》明确了公司设立登记、变更登记、注销登记的事项和程序，同时要求公司登记机关优化登记流程，提高登记效率和便利化水平。

The *Company Law (Draft Revision)*, consisting of 260 articles in 15 chapters, adds or revises around 70 articles on the basis of the existing company law, which comprises 218 articles in 13 chapters. The main revisions involve improving the special provisions on the state-funded companies, perfecting the establishment and withdrawal rules, and strengthening the responsibilities of the controlling shareholders and the management personnel. The *Company Law (Draft Revision)* specifies the items and procedures for establishment registration, change registration and deregistration, and meanwhile, requires company registration authorities to optimize the registration processes, and make the registration more efficient and convenient.



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(Source:

<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081817ddb1774017dead7a14c228d>)

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Author:

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

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

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