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法律法规简报 2022-02-28

Legal Update 2022-02-28

目录

Contents

◇ [市场监管总局就《食品生产企业风险分级管理办法》征求意见](#)

SAMR Seeks Comments on Administrative Measures for Risk Grading of Food Manufacturing Enterprises

◇ [上期所公布修订版交易细则](#)

SHFE Issues Revised Trading Rules

◇ [最高法：内地与香港法院互认婚姻家庭案件判决安排生效](#)

SPC Fully Exerts Judicial Functions and Roles to Support Growth of MSMEs

◇ [最高法公布民法典总则编司法解释](#)

SPC Issues Judicial Interpretations on Parts on General Rules of Civil Code

**一、市场监管总局就《食品生产企业风险分级管理办法》征求意见
2022.02.18**

SAMR Seeks Comments on Administrative Measures for Risk Grading of Food Manufacturing Enterprises



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近日，国家市场监督管理总局起草了《食品生产企业风险分级管理办法（征求意见稿）》（下称《征求意见稿》），现向社会征求意见，意见反馈截至 3 月 18 日。

The State Administration for Market Regulation ("SAMR") has recently drafted the *Administrative Measures for Risk Grading of Food Manufacturing Enterprises (Draft for Comment)* (the "*Draft for Comment*") to solicit public opinions by March 18, 2022.

《征求意见稿》规定，市场监管部门应结合食品生产企业食品安全静态风险因素、动态风险因素与通用信用风险因素，确定食品生产企业风险等级，并动态调整。食品生产企业风险等级从低到高划分为 A 级、B 级、C 级、D 级四个等级。《征求意见稿》进一步明确，市场监管部门应当根据食品生产企业风险等级划分结果，对较高风险生产经营者的监管优先于较低风险生产经营者的监管，实现监管资源的科学配置和有效利用。其中，对风险等级为 D 的食品生产企业，原则上每年至少监督检查 3 次。

The *Draft for Comment* specifies that the market regulation authorities shall determine the risk level of the food manufacturing enterprises based on their food security static risk factors, dynamic risk factors and general credit risk factors, subject to dynamic adjustments. The food manufacturing enterprises will be graded into four levels in terms of their risk level, namely, Level A, Level B, Level C and Level D, from bottom to top. The *Draft for Comment* further clarifies that the market regulation authorities shall, based on the result of risk grading, carry out regulation of the food manufacturing enterprises with high risk level on a priority basis, and shall realize the scientific allocation and effective utilization of regulation resources. Among others, Level D food manufacturing enterprises will be subject to at least three supervisory inspections annually, in principle.

(Source: https://www.samr.gov.cn/hd/zjdc/202202/t20220217_339806.html)

二、上期所公布修订版交易细则

2022.02.08

SHFE Issues Revised Trading Rules



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近日, 上海期货交易所制发《上海期货交易所交易细则 (修订版)》(下称《细则》), 自 2 月 22 日起实施。

Recently, the Shanghai Futures Exchange ("SHFE") has issued the *Trading Rules of the Shanghai Futures Exchange (Revised)* (the "Rules"), with effect on February 22, 2022.

《细则》主要对席位管理相关内容进行了修订。具体为, 交易席位按照席位接入地点分为场内交易席位和远程交易席位。远程交易席位是指会员在其营业场所、通过同交易所计算机交易系统联网的电子通讯系统直接输入交易指令、参加交易所集中竞价交易的一种交易方式。会员申请交易席位, 应当具备“交易量和资金量达到交易所要求的规模”等四个条件。其中, 申请远程交易席位的, 应当向交易所提交“交易席位用途和类别”等材料。

The *Rules* mainly revise the clause concerning seat management. Specifically, the trading seats are classified into floor trading seats and remote trading seats according to the seat access location. A "remote trading seat" refers to the means of trading by which a member places orders directly from its business premises to the Exchange's electronic trading system through an interconnected telecommunications system for centralized order matching and execution. To apply for a trading seat, a member should meet the four conditions, one of which states "satisfying the requirements of trading volume and capital set forth by the Exchange". Among them, a member applying for a remote trading seat shall submit materials containing such information as "the purpose and type of the trading seat" to the Exchange.

《细则》还要求, 交易所应当自收到符合要求的全部申请材料之日起 10 个交易日内提出审核意见。决定批准的, 通知会员进行系统调试; 决定不予批准的, 通知申请人并说明理由。

The *Rules* also require that the Exchange shall give its review opinions within ten trading days from the date of receipt of complete application materials conforming to the requirements. In the case of approval, the Exchange shall notify the applicant to arrange for system testing; in the case of denial, the Exchange shall inform the applicant along with its reasons.



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(Source: <http://www.shfe.com.cn/news/notice/911341276.html>)

三、最高法：内地与香港法院互认婚姻家庭案件判决安排生效 2022.02.16

SPC: Arrangement for Reciprocal Recognition of Marriage and Family Case Judgments by Courts in Mainland and Hong Kong Takes Effect

近日，最高人民法院公布《关于内地与香港特别行政区法院相互认可和执行婚姻家庭民事案件判决的安排》（下称《安排》），自 2022 年 2 月 15 日起施行。

The Supreme People's Court ("SPC") has recently issued the *Arrangement for Reciprocal Recognition and Enforcement of Judgments in Civil Cases Involving Marriage and Family by the Courts of the Mainland and of the Hong Kong Special Administrative Region* (the "*Arrangement*"), with effect from February 15, 2022.

《安排》实现“一国”之内更加紧密更加广泛的协助，将两地同属婚姻家庭范畴的案件以及协议离婚均纳入相互认可和执行的范围，同时认可和执行的范围也不限于身份关系的认可，还包括财产判项。《安排》实现了“两制”之下法律与司法规则更加密切的衔接。将内地裁判“所有”的概念与香港命令“转让”的概念相融合，实现法律表达的积极衔接；秉持相互尊重的司法理念，以“生效判决”取代“终审判决”的表述，并最大程度尊重原审法院地法律有关“生效判决”的界定。《安排》还体现了两地法律人服务民生福祉的共同信念，规定未成年人最佳利益的审查原则等。

The *Arrangement* realizes the closer and broader coordination within "one country", including in the scope of reciprocal recognition and enforcement the cases related to marriage and family in both the mainland and Hong Kong and the cases of the divorce by agreement. The reciprocal recognition and enforcement will cover not only the identification of relationship, but also the determination of property. The *Arrangement* also enables closer connection between the laws and judicial rules under the "two system". By integrating the concept of "own" in the judgments of the mainland with the



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concept of "transfer" in the orders of Hong Kong, a positive connection can be built in terms of legal expressions; the judicial concept of mutual respect is upheld, the expression "final judgment" is replaced with "effective judgment", and the definition related to "effective judgment" in the laws of the place of original court will be respected to the greatest extent. The *Arrangement* demonstrates the common faith of the legal professionals in both the mainland and Hong Kong in serving the public interests. The review principle of serving the best interest of minors is also clarified.

(Source: <https://www.court.gov.cn/fabu-xiangqing-345641.html>)

四、最高法公布民法典总则编司法解释 2022.02.25

SPC Issues Judicial Interpretations on Parts on General Rules of Civil Code

近日，最高人民法院发布《关关于适用《中华人民共和国民法典》总则编若干问题的解释》（下称《解释》），自 2022 年 3 月 1 日起施行。

The Supreme People's Court ("SPC") has recently issued the *Interpretation on the Application of the Part on General Rules of the Civil Code of the People's Republic of China* (the "*Interpretation*"), with effect from March 1, 2022.

《解释》主要解决三个方面问题：一是确保民法典与旧法的有序衔接。二是系统梳理人民法院在长期司法实践中总结积累的经验智慧。三是回应《民法总则》施行后亟待明确的具体法律适用问题。

The *Interpretations* mainly address the issues in three aspects: firstly, ensuring the orderly transition between the Civil Code and the previous laws; secondly, systematically absorbing the experiences and wisdom gained from the long-term judicial practice by the people's courts; and thirdly, responding to the specific issues concerning the application of law which are in urgent need for clarity since the *General Rules of the Civil Law* took effect.



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《解释》共 39 条，分为一般规定、民事权利能力和民事行为能力、监护、宣告失踪和宣告死亡、民事法律行为、代理、民事责任、诉讼时效和附则 9 个部分。其主要有以下三个特点：一是理念上大力弘扬社会主义核心价值观。二是内容上突出强调权利保护。三是形式上体现小而精的起草思路。

The *Interpretations*, consisting of 39 articles, are divided into nine parts, including general provisions, capacity for civil rights and capacity for civil conduct, guardianship, declaration of a missing person and declaration of death, civil juristic acts, agency, civil liability, limitation of action, and supplementary provisions. The Interpretations have three highlights: firstly, carrying forward socialist core values in the concept; secondly, stressing the protection of rights in the content; and thirdly, drafting short but well-refined texts in the form.

(Source: <https://www.court.gov.cn/fabu-xiangqing-347221.html>)

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