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法律法规简报 2022-08-31

Legal Update 2022-08-31

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一、最高检公布第三批涉案企业合规典型案例 2022.08.10

SPP Issues Third Batch of Typical Cases on Corporate Compliance

日前，最高人民检察院发出《关于印发〈涉案企业合规典型案例（第三批）〉的通知》（下称《通知》）。

The Supreme People's Procuratorate ("SPP") has recently released the *Circular on Issuing the Corporate Compliance Typical Cases (Third Batch)* (the "Circular").



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《通知》称，为进一步加强涉案企业合规改革试点工作，现将上海 Z 公司、陈某某等人非法获取计算机信息系统数据案等 5 件案例作为第三批涉案企业合规典型案例印发，供办案时参考借鉴。根据《通知》，这批案例分别涉及互联网企业数据合规、证券犯罪内幕信息保密合规、中介机构简式合规、矿区非法采矿行业治理、高科技民营企业合规等方面。地域涉及上海、北京、江苏、广西、福建五省市。罪名涉及非法获取计算机信息系统数据、泄露内幕信息、内幕交易、提供虚假证明文件、非法采矿、串通投标等。《通知》指出，案例主要体现出“探索适用合规改革的全流程办案机制”等四方面经验做法。

The *Circular* specifies that, with a view to enhancing the pilot reform of corporate compliance, five cases are issued as the third batch of corporate compliance typical cases for reference in case handling, including the "case on illegal acquisition of computer information system data by Shanghai Z Company and Chen XX, etc." According to the *Circular*, these cases cover data compliance by internet enterprise, insider information confidentiality compliance in securities-related crime, simplified compliance by intermediary agency, governance of illegal mining practice in mine, and compliance by high-tech private enterprise. Shanghai, Beijing, Jiangsu, Guangxi, and Fujian are involved. The offenses include illegally obtaining computer information system data, leaking inside information, committing insider trading, providing false certification document, conducting illegal mining, committing collusion in bidding, among others. As noted in the *Circular*, these cases mainly highlight the good practices in four aspects, including "exploring a full-process case-handling mechanism applicable to compliance reform".

(Source: https://www.spp.gov.cn/spp/xwfbh/wsfbt/202208/t20220810_570413.shtml#2)

二、证监会修改废止部分规章和规范性文件 落实期货和衍生品法 2022.08.15

CSRC Amends and Repeals Some Rules and Normative Documents to Implement the Futures and Derivatives Law



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日前, 中国证券监督管理委员会发布《关于修改、废止部分证券期货规章的决定》和《关于修改、废止部分证券期货规范性文件的决定》(统称《决定》), 自公布之日起施行。

Recently, the China Securities Regulatory Commission ("CSRC") has issued the *Decision on Amending and Repealing Some Securities and Futures Rules* and the *Decision on Amending and Repealing Some Securities and Futures Normative Documents* (collectively the "*Decisions*"), with effect on the date of issuance.

《决定》对 8 部规章、14 部规范性文件的部分条款予以修改, 对 1 部规章、1 部规范性文件予以废止。本次“打包”清理规章规范性文件部分条款, 是按照《期货和衍生品法》规定, 对相关规章、规范性文件内容的直接、对应性文字、内容予以调整; 对已经被上位法或者其他规则所涵盖的规章、规范性文件予以废止。《决定》对规章的修改包括: 一是增加《期货和衍生品法》作为上位法依据; 二是取消对期货经营机构从业人员的资格管理; 三是完善期货公司董事、监事和高级管理人员的任职条件要求; 四是文字表述的调整。

The *Decisions* have made modifications to some provisions of eight sets of rules and 14 sets of normative documents and repealed one set of rules and one set of normative documents. Regarding some provisions of rules and normative documents involved in this package of cleanup, the corresponding wordings and contents of the relevant rules and normative documents are directly adjusted in accordance with the *Futures and Derivatives Law*; and some rules and normative documents are repealed as their provisions have been contained in upper-level laws or other rules. The *Decisions* have made amendments to the rules as follows: the first is to add the *Futures and Derivatives Law* as an upper-level law basis; the second is to cancel the qualification management of practitioners of futures operators; the third is to improve the conditions for appointment of directors, supervisors, and senior managers of futures companies; and the last is to adjust the corresponding wordings.

(Source: <http://www.csrc.gov.cn/csrc/c101953/c5359211/content.shtml>)



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<http://www.csrc.gov.cn/csrc/c101954/c5359506/content.shtml>

三、两交所调整交易规则涉大宗交易相关规定 2022.08.22

Two Bourses Adjust the Provisions Related to Block Trades of the Trading Rules

近日, 上海证券交易所公布《关于调整〈上海证券交易所交易规则〉涉及大宗交易相关规定的通知》(下称《通知》); 深圳证券交易所也发布《关于调整无价格涨跌幅限制股票及存托凭证协议大宗交易价格范围的通知》。《通知》自 9 月 5 日起实施。

Recently, the Shanghai Stock Exchange ("SSE") has issued the *Circular on Adjusting the Relevant Provisions of the Trading Rules of Shanghai Stock Exchange Related to Block Trades* (the "*Circular*"); and the Shenzhen Stock Exchange ("SZSE") has issued the *Circular on Adjusting the Price Range for Block Trade Orders for Stocks and Depositary Receipts Agreements Without Price Limits*. The *Circular* shall come into effect on September 5, 2022.

《通知》规定, 将《上海证券交易所交易规则》第 3.7.10 条中无价格涨跌幅限制股票、存托凭证的大宗交易成交申报价格范围调整为: 双方申报价格不得高于该股票当日竞价交易实时成交均价的 120% 和最高价的孰低值, 且不得低于该股票当日竞价交易实时成交均价的 80% 和最低价的孰高值。均价的计算公式为: 均价=已成交金额/已成交股数。计算结果按照四舍五入的原则取至 0.01 元。

The *Circular* stipulates that the range of execution prices of block trade orders for stocks and depositary receipts that are not subject to price limit stipulated in Article 3.7.10 of the *Trading Rules of the Shanghai Stock Exchange* is adjusted to read: the price executed by both parties shall not be higher than 120% of the real-time average traded price of the stock in the auction trading or the highest price on that day, whichever is lower, and shall not be lower than 80% of the real-time average traded price of the stock in auction trading on that day or the lowest price, whichever is higher. The calculation formula of the average price is as follows: the average price = traded



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value / the number of shares traded. The result for this calculation is rounded to the nearest tick size, which is CNY0.01.

(Source:

http://www.sse.com.cn/lawandrules/sselawsrules/stock/trading/main/c/c_20220819_5707249.shtml

http://www.szse.cn/lawrules/rule/stock/general/trade/t20220819_595462.html)

四、自然资源部对矿业权交易规则征求意见 2022.08.25

MNR Seeks Comments on Trading Rules for Mining Rights

近日，自然资源部起草了《关于印发矿业权交易规则的通知（征求意见稿）》（下称《征求意见稿》），现向社会征求意见，公众可在 15 日内反馈。

Recently, the Ministry of Natural Resources ("MNR") has drawn up the *Circular on Issuing the Trading Rules for Mining Rights (Draft for Comment)* (the "*Draft for Comment*") to seek public comments, and the public can offer comments within 15 days.

《征求意见稿》主要依据《拍卖法》、《招标投标法》等法律法规制定，本次修订无重大调整。根据新情况新要求，对相关内容进行修改完善，与现行文件在章节、内容上基本保持一致。根据《征求意见稿》，相关修改涉及文件的体例形式、进一步规范矿业权交易、强化交易约束。其适用范围增加了新疆生产建设兵团自然资源局，要求海砂采矿权和海域使用权“两权合一”出让，明确全面推行实施电子化交易，细化竞买人资质条件的设定依据、交易中止和终止的条件，规范出让公告内容发生重大变化需顺延公告时间、底价的确定时间，调整了协议出让公示的程序等内容。

The *Draft for Comment* is mainly enacted pursuant to the *Auction Law*, the *Bid Invitation and Bidding Law* and other laws and regulations, without making major adjustments in this revision. The relevant provisions are revised and improved according to new situations and new requirements, to align with the existing document in terms of chapters and contents. Under the *Draft for Comment*, the relevant



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amendments involve the framework of the document, further regulation of the mining rights transactions, and strengthening of the constraints on such transactions. In addition, it expands the scope of application to include the Natural Resources Bureau of Xinjiang Production and Construction Corps, requires the combined transfer of the sea sand mining right and the right to use sea areas, clarifies the full implementation of electronic transactions, refines the basis for setting the qualifications of bidders and the conditions for suspension and termination of transactions, standardizes the postponement of the announcement time in case of any change in the content of an assignment announcement, as well as the time of determining the reserve price, and adjusts the procedures for the announcement of the application for assignment.

(Source: http://gi.mnr.gov.cn/202208/t20220824_2757436.html)

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