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法律法规简报 2022-09-30

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一、国家网信办公布《数据出境安全评估申报指南（第一版）》 2022.09.01

CAC Issues the Guide on Application for Security Assessment of Outbound Data Transfers (First Edition)

日前，国家互联网信息办公室发出《数据出境安全评估申报指南（第一版）》（下称《指南》）。

Recently, the Cyberspace Administration of China ("CAC") has issued the *Guide on Application for Security Assessment of Outbound Data Transfers* (First Edition) (the "Guide").



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《指南》旨在指导和帮助数据处理者规范、有序申报数据出境安全评估。其对数据出境安全评估申报方式、申报流程、申报材料等具体要求作出说明。数据处理者因业务需要确需向境外提供数据，符合数据出境安全评估适用情形的，应当根据《数据出境安全评估办法》规定，按照《指南》申报数据出境安全评估。《指南》明确，数据处理者向境外提供数据，有“关键信息基础设施运营者和处理 100 万人以上个人信息的数据处理器向境外提供个人信息”等情形之一的，应当通过所在地省级网信办向国家网信办申报数据出境安全评估。

The *Guide*, which aims to guide and help data processors to standardize and orderly apply for security assessment of outbound data transfers, clarifies the specific requirements for the application methods, process and materials for such assessment. If an outbound data transfer of a data processor is truly necessary due to business needs and falls within the circumstances where the security assessment of outbound data transfers applies, the data processor should, subject to the provisions of the *Measures for the Security Assessment of Outbound Data Transfers*, apply for security assessment according to the *Guide*. The *Guide* also clarifies that, for an outbound data transfer by a data processor that falls under the listed circumstances including "outbound transfer of personal information by a critical information infrastructure operator or a personal information processor who has processed the personal information of more than one million individuals", it should apply to the CAC for the security assessment via the local provincial-level cyberspace authority.

(Source: http://www.cac.gov.cn/2022-08/31/c_1663568169996202.htm)

二、国家网信办就修改《网络安全法》征求意见 2022.09.15

CAC Seeks Comments on Amending the Cybersecurity Law

日前，国家互联网信息办公室发出《关于修改〈中华人民共和国网络安全法〉的决定（征求意见稿）》（下称《征求意见稿》），现向社会征求意见，意见反馈截止于 9 月 29 日。



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Recently, the Cyberspace Administration of China ("CAC") has released the *Decision on Amending the Cybersecurity Law of the People's Republic of China* (Draft for Comment) (the "*Draft for Comment*") for public comments by September 29, 2022.

《征求意见稿》旨在做好《中华人民共和国网络安全法》与新实施的法律之间衔接协调，完善法律责任制度，进一步保障网络安全。相关修改包括：一是完善违反网络运行安全一般规定的法律责任制度。二是修改关键信息基础设施安全保护的法律责任制度。三是调整网络信息安全法律责任制度。四是修改个人信息保护法律责任制度。

The *Draft for Comment* aims to effectively ensure the alignment and harmonization between the *Cybersecurity Law of the People's Republic of China* and the newly released laws, improve the legal liability systems, and further ensure cybersecurity. Relevant amendments include the following: firstly, improving the legal liability system for violations of general provisions on network operation security; secondly, amending the legal liability system for the security protection of critical information infrastructure (CII); thirdly, adjusting the legal liability system for network information security; and fourthly, amending the legal liability system for personal information protection.

(Source: http://www.cac.gov.cn/2022-09/14/c_1664781649609823.htm)

三、证监会就《期货交易所管理办法》征求意见 2022.09.19

CSRC Seeks Comments on the Administrative Measures for Futures Exchanges

日前，中国证券监督管理委员会发出《期货交易所管理办法（征求意见稿）》（下称《征求意见稿》），现向社会征求意见，意见反馈截止于 10 月 16 日。

Recently, the China Securities Regulatory Commission ("CSRC") has released the *Administrative Measures for Futures Exchanges* (Draft for Comment) (the "*Draft for Comment*") for public comments by October 16, 2022.



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《征求意见稿》修订的主要内容如下：一是坚持党对期货交易所的领导。二是落实《期货和衍生品法》要求，健全和完善相关制度规定。三是优化期货交易所内部治理，完善组织架构和运行机制。四是强化期货交易所风险管理责任，维护市场安全。五是压实期货交易所责任，促进期货市场健康发展。此外，《征求意见稿》根据《期货和衍生品法》和市场实践完善了有关文字表述。

The main revisions of the *Draft for Comment* include the following: the first is to uphold the Party's leadership over futures exchanges. The second is to implement the requirements set forth in the *Futures and Derivatives Law* and improve and perfect the relevant systems and regulations. The third is to optimize the internal governance of futures exchanges and improve the organizational structure and operation mechanism. The fourth is to strengthen the risk management responsibilities of futures exchanges and maintain market security. The fifth is to consolidate the responsibilities of futures exchanges and promote the healthy development of the futures market. In addition, the *Draft for Comment* has improved the relevant wordings and expressions according to the *Futures and Derivatives Law* and market practice.

(Source: <http://www.csrc.gov.cn/csrc/c101981/c5683157/content.shtml>)

四、海关总署公布《海关过境货物监管办法》 2022.09.28

GAC Introduces Measures for Customs Regulation of Transit Goods

日前，海关总署发出《中华人民共和国海关过境货物监管办法》（下称《办法》），自 2022 年 11 月 1 日起施行。

The General Administration of Customs ("GAC") has recently issued the *Measures of the Customs of the People's Republic of China for the Regulation of Transit Goods* (the "*Measures*"), with effect from November 1, 2022.

根据《办法》，“来自或者运往我国停止或者禁止贸易的国家或者地区的货物”、“危险废物、放射性废物”等十类货物禁止过境。过境货物自进境起到出境止，应当接受海关监管。《办法》指出，承担过境货物境内运输的运输工具负



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责人, 应当经国家有关部门批准开展过境货物运输业务, 并按照规定在海关备案。运输工具负责人应当提交过境货物运输申报单, 向进境地海关如实申报。《办法》还明确, 过境货物自运输工具申报进境之日起超过三个月未向海关申报的, 视为进口货物, 按照海关法等法律法规的有关规定处理。

According to the *Measures*, the goods of ten categories are forbidden to pass through the territory of China, including "the goods from or to the countries or regions with which China has stopped or forbidden trading", and "hazardous waste and radioactive waste". Transit goods shall be subject to customs regulation from entry to departure. The persons in charge of the transport vehicle that undertakes the domestic transportation of transit goods shall be approved by the relevant state department for engaging in the transit goods transportation business and shall complete record-filing with the customs in accordance with relevant regulations. The persons in charge of the transport vehicle shall submit a declaration form for the transportation of transit goods and make a truthful declaration to the customs at the place of entry. The *Measures* also specify that, if the transit goods have not been declared to the customs for more than three months from the date of entry declaration by the transport vehicle, they shall be deemed as imported goods and shall be handled pursuant to relevant provisions in the customs law and other laws and regulations.

(Source: <http://www.customs.gov.cn/customs/302249/2480148/4597408/index.html>)

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