



浦瑞律师事务所  
CENLAW & PARTNERS

PERIODICAL

November 2010

SHANGHAI. CHINA

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## Preface

### **In Memoriam of the Victims of Fire of November, 2010**

At 2:00 pm on the 15th of November, 2010, a multi-story residential building in Shanghai at the intersection of Yutao and Jiaozhou Roads experienced a major fire. According to officially released figures from the CCP as of November 21, 58 people have been reported killed and more than 100 injured

At that time, Shanghai is still immersed in the joy of success of the World Expo.

The LOGO of “Better City, Better Life” can be seen everywhere, however, the disaster makes all people realize that there is a long distance between the Better City and the Better Life.

A well built “BETTER CITY” does not necessarily mean there will be a “BETTER LIFE”.

Shanghai has not experienced such a tragedy for many years. Thousands of Shanghai residents voluntarily participated in the memorial ceremony, the flowers and tears give the expression of the living's grief.

The tragedy makes people being busy in economic development to think about that whether the development without care for humanity is a comprehensive one.

May this be a starting point for the development to pay more attention on care for humanity rather than other things

May all the victims rest in peace!

## Cooperation News

### **Hong Kong**

On 26 November, Attorney Zhao Guorong, one of the partners of CHIU, SZETO & CHENG SOLICITORS, HK SAR, visited CENLAW & PARTNERS. We have had a sufficient communication in respect to the cooperation related to some specific projects;

A client from Hong Kong SAR purchasing the chemical products in China, had a dispute with its supplier with respect to the price of products, and retained CENLAW & PARTNERS to provide legal consulting services.

### **South Korea**

CENLAW & PARTNERS once has been engaged by a multinational company of South Korea to provide legal services for its investment projects in Shanghai, China.

### **U.S.A**

CENLAW & PARTNERS once has been engaged by a fast food chain brand company of USA to provide professional consulting services for its penetration into the market in China and for its future development of business.

### **Turkey**

A client from Turkey purchasing Formic Acid in China, had a dispute with its supplier with respect to the quality of products, and retained CENLAW & PARTNERS to provide legal consulting services.

### **North Ireland**

On 30 November, Philip Gilliland, one of the partners of Caldwell & Robinson, North Ireland, visited CENLAW & PARTNERS;

In the evening of 30, November, one of the partners of CENLAW & PARTNERS was invited to present the Cocktail Reception held by the British Consulate General in Shanghai and the Enterprise, Trade and Investment Bureau of Ireland in Shangri-La Hotel of Pudong, Shanghai, and had a initial communication with more than thirty Irish enterprises presenting the reception with respect to investment, trade, and other matters.

## International Trade & Foreign Investment

### **Chinese Authorities Regulate Investment In Taiwan By Mainland Enterprises**

The Ministry of Commerce, the National Development and Reform Commission and the Taiwan Affairs Office have jointly issued the “Measures for the Administration of Investment in Taiwan by Mainland Enterprises”. Pursuant to the Measures, a mainland subject intending to invest in Taiwan shall meet the following conditions: 1. it should be a corporate legal person legally registered and operated in the mainland; and 2. it should have an industrial background, capital, technology and management capacity. In addition, to invest in projects in Taiwan, a mainland local enterprise shall file an application with the provincial development and reform commission where it is located. The application shall be reviewed first by the provincial development and reform commission and then be submitted to the National Development and Reform Commission for approval. For a mainland enterprise under the control of the central government, it may directly apply to the National Development and Reform Commission for approval for its investment in Taiwan. In order for a mainland business to set up a corporate or non-corporate entity in Taiwan for investment, it must have received approval from the Ministry of Commerce.

### **Time Limit For Collection Of Anti-dumping Duty May Be Extended Appropriately**

The MOCOM has recently issued its 2010 No.85 public notice, clarifying that where it has been determined upon re-examination that terminating the collection of any anti-dumping duty may possibly result in the continuation or recurrence of any dumping or damage, the time limit for the collection of anti-dumping duty may be extended appropriately. As of 22 November 2010, the domestic industry or any natural person, legal person or relevant organization which represents the domestic industry may, before 60 days prior to the expiry date of the relevant anti-dumping measure, file a written application for end-of-period re-examination to the MOCOM. However, where such application fails to be filed in accordance with the provisions of this Public Notice and the MOCOM does not decide to implement actively an end-of-period re-examination before the termination of the anti-dumping measure, the relevant anti-dumping measure shall be terminated as of its expiry date.

### **Two Depts. Further Regulate Foreign Institutions & Individuals House Purchase**

The Ministry of Housing and Urban-rural Development and the State Administration of Foreign Exchange have jointly released the “*Notice on Further Regulating the Administration of Houses Purchased by Foreign Institutions and Individuals*”. Under the Notice, foreign individuals may purchase only one house for self-use purposes within China. Foreign institutions establishing branch or representative offices within China may purchase non-residential houses needed for offices in the cities where they are registered. In addition, all the real property administrative departments shall, when handling the filing of commercial house advance sales contracts and the registration of property rights, also examine the certificate issued by the relevant department showing that the foreign individual (excluding residents of Hong Kong, Macau and Taiwan as well as overseas Chinese) has been working for more than one year in China and a written letter of commitment from such foreign individual that he has no other house in his name in China besides the materials as provided in the “*Administrative Measures for Advance Sale of Urban Commercial*

Houses” and the “*Measures for Real Property Registration*” as well as the status of houses held by house purchasers.

### **Foreign Enterprise's Representative Office Registration Regulations Announced**

The State Council recently issued the “*Foreign Enterprise's Representative Office Registration Regulations*” (the Regulations) which will come into force as of 1 March 2011. For the purpose of the Regulations, the term “foreign enterprise's representative office” refers to an executive office within the territory of China established by a foreign enterprise pursuant to the Regulations to carry out its non-profit making activities with respect to the business of that foreign enterprise. A representative office may not have the status of legal person and its establishment, alteration and termination shall be registered in accordance with the Regulations. The registration particulars include the name of the office, the name of its chief representative, its business area, its resident place and period, and the name and domicile of the foreign enterprise. The State Administration for Industry and Commerce and its authorized local administrations for industry and commerce are the competent registration and management authorities of the representative offices thereof.

### **China Encourages Private Capital Investment**

After foreign direct investment has been hit by the global economic slowdown, the PRC State Council issued the *Several Opinions on Encouraging and Guiding the Sound Development of Private Investment* (the “Private Investment Opinions”) aimed at broadening the permissible investment scope of domestic private capital.

Private capital plays a critical role in the growth of the national economy. Although the State Council promulgated the *Several Opinions on Encouraging, Supporting and Guiding the Development of Individual and Private Economy and Other Non-Public Economy* in 2005, it failed to attract private capital out of their traditional industries such as manufacturing, trading, distribution, catering, and service.

Pursuant to the Private Investment Opinions, the government will encourage and guide private capital to invest in industries and industry sectors not prohibited by law, ranging from infrastructure development, public utilities, social undertakings, finance service, trade and distribution, to national defense technology and reform of state-owned enterprises.

The Private Investment Opinions require local governments to follow up with implementing rules to support the development of private capital.

## **Finance & Taxation**

### **Authorities Specify Tax Policies For Technically Advanced Service Enterprises**

The Ministry of Finance, the State Administration of Taxation, the Ministry of Commerce, the Ministry of Science and Technology and the National Development and Reform Commission jointly have issued a circular to notify the corporate income tax policies for technically advanced service enterprises. Pursuant to the Notice, the corporate income tax incentives shall be implemented in China's 21 model cities for service outsourcing: 1. corporate income tax for the accredited technically advanced service enterprise shall be reduced to 15%; 2. the employee education expenditure of an accredited technically advanced service enterprise not exceeding 8% of the total amount of wages may be deducted from taxable income; and that surpassing the said

proportion is allowed to be carried forward to the next tax year for deduction.

### **Five Depts. Release Opinions To Counter & Prevent Capital Market Insider Trading**

The General Office of the State Council has released the “*Opinions on Countering and Preventing Insider Trading in Capital Markets under the Law*” which was jointly issued by the China Securities Regulatory Commission, the Ministry of Public Security, the Ministry of Supervision, the State-owned Assets Supervision and Administration Commission and the National Bureau of Corruption Prevention in order to make overall arrangements for countering and preventing insider trading under the law. Under the Opinions, the decision-making process for all significant matters of listed companies shall comply with the requirements for the confidentiality regime and be simplified and shortened in order to narrow the scope of insiders to the fullest extent possible. The study and argument on significant matters of listed companies shall, in principle, be conducted during the trade suspension of relevant securities or in non-trading hours.

### **Foreign Businesses To Be Levied Urban Maintenance Tax and Educational Surcharge**

The Ministry of Finance and the State Administration of Taxation recently issued the “Notice on the Collection of Urban Maintenance & Construction Tax and Educational Surcharge form Foreign-invested Enterprises” with effect as of 1 December 2010. Pursuant to the “Notice”, foreign-invested enterprise, foreign companies as well as foreign individuals in China shall be levied urban maintenance tax and education surcharge on their tax liabilities of value added tax, consumption tax and business tax (hereinafter referred to as “three taxes”) incurred after 1 December 2010 (inclusive). With regard to the three taxes of foreign-invested enterprises incurred before the effective date, there shall be no urban maintenance & construction tax and educational surcharge on them.

### **MOF Seeking Advice On IAS Leases**

The International Accounting Standard Board (IASB) published the International Accounting Standard (IAS) *Leases (Exposure Draft)* (referred to as the Draft below) this year and is seeking advice on a global scale: the deadline for receiving comments from China is 15<sup>th</sup> December 2010. The Draft prescribes the financial reporting principles of leases for the lessees and lessors. It sets out the principles of assets and liabilities caused by the lessee and the lessor recognizing, measuring and presenting the lease, and assets and liabilities caused by disclosing the lease agreement and relevant information.

## **Intellectual Property**

### **IPR Authority Amends Rules On Patent Administration**

The State Intellectual Property Office recently issued the amended “Measures for the Administration of Filing of Patent Licence Contracts (Draft)” to solicit public comments by 26 November 2010. The amendment of this Draft aims to cooperate with the implementation of the revised patent law and its implementing rules and to promote the application of patent rights. Pursuant to the Draft, to terminate a patent licence contract upon its expiration or in advance, the parties shall, upon the expiration of the contract or within 30 days after entering into a termination agreement, go through the formalities of filing cancellation procedures with the State Intellectual

Property Office by presenting the filing proof, the termination agreement and other relevant documents.

### **MC Distributes National Culture Market IPR Protection Special Law Enforcement Plan**

The Ministry of Culture has recently printed and distributed the *National Culture Market IP Right Protection Special Law Enforcement Action Plan* to carry out culture market IP right protection special law enforcement activities on a national scale from October 2010 to March 2011. The activities focus on disciplining infringing and pirating acts of online games, online music, online animation, video games and karaoke songs, and the key areas are the Bohai Sea surrounding area, Yangtze River Delta and the Pearl River Delta areas. Main tasks include: disciplining ‘private servers’ and ‘plug-ins’ of online games; clearing the song VOD systems at entertainment places; strictly investigating and punishing infringing and pirating online music; uncovering illegal anime game products; investigating and penalizing forged and fake artistic products; taking severe measures against lip synching and fake music performances, and investigating and eliminating film and television servers at internet cafes.

## **Others**

### **SPC Interprets Rules Applicable In Property Registration Cases**

The Supreme People's Court promulgated the *Regulation of the Supreme People's Court on Issues Relating to the Hearing of Property Registration Cases (the Regulation)*, which shall be formally implemented from 18<sup>th</sup> November. The regulation clearly indicates the scope of accepting property registration cases such that a citizen, legal person or other organization who files a claim at the people's court for action or omission of the housing registries in connection with the housing registration, inquiry, making copies of the registration information and other relevant administrative procedures, the people's court shall accept and hear the case by law. The regulation also expresses that where a creditor files a claim against a housing registry disputing the registration for the transfer of a property, the people's court concerned shall hear the case if the require pre-registration has been property completed, the creditor is a secured creditor and the transfer in question does not have the creditor's permission.

### **SPC Solicits Public Opinions On Limitation Of Actions Concerning Invalid Contracts**

The Supreme People's Court (SPC) recently issued the Provisions on Limitation of Actions concerning Invalid Contracts (Draft for Soliciting Opinions) (“the Provisions”) to collect public opinions and suggestions on its amendment until 31 December 2010. In accordance with the Provisions, if a party concerned defends based on limitation of actions against claims for invalidity of contracts, the People's Court shall not support the defence, provided that a party concerned may defend based on the limitation of actions against claims for return of property and compensation for losses as credit claims. Where a mortgage contract is invalid and a creditor claims against the mortgager for compensation of losses, the limitation of action shall begin as of the date of confirmation of invalidity of the mortgage contract, provided that the creditor fails to claim his rights within the duration of the execution of the mortgage, the People's Court shall not support his defence. The Provisions apply to cases in the first instance or second instance after the implementation thereof and may not apply to the cases in retrial according to law after their

adjudication.

### **SPC Consults Public On Its Third Interpretation Of Marriage Law**

The Supreme People's Court (SPC) issued Interpretation No. 3 on Matters concerning the Application of the Marriage Law of the People's Republic of China (Draft for Soliciting Opinions) ("Interpretation No.3") to collect public opinions and suggestions on its amendment until 15 December 2010. In accordance with Interpretation No.3, where a spouse concerned applies to announce the nullity of his/her marriage due to a situation other than the four circumstances set forth in Article 14 of the Marriage Law, his/her application shall be rejected by the People's Court; and the fructus or increased proceeds from a spouse's personal property after marriage shall be determined as the spouse's personal property whereas if his/her spouse has made a contribution on the fructus or increased proceeds, they may be determined as marital property.

names; 3. distributing or using false information in order to seduce others into a contract; 4. maliciously drawing up provisions which in reality are impossible to be performed, resulting in the parties being unable to perform the contract, etc. The Measures also prescribe that where the operators and the consumers have entered into a contract using standard terms, the operator is prohibited from imposing additional responsibilities on the consumers in the standard terms; the operators are also prohibited from eliminating the relevant rights of the consumers in the standard terms.

## Legal Comments

### Comparative Analysis Of Local Rules Regarding Formation Of Private Equity Funds And Management Companies In China

This Article discusses national and local rules regarding and incentives for the formation of EIFEs and EIMes from a comparative perspective.

Against the backdrop of a huge amount of domestic liquidity from both state-owned and non-state enterprises, the launch of the long-awaited Growth Enterprise Market (GEM) in Shenzhen at the end of 2009 and the continued growth of private equity investment activity in China, China's four major cities, Beijing, Shanghai, Shenzhen and Tianjin, continue to compete to become China's hub for the formation of both domestic and foreign-invested equity investment fund enterprises (EIFEs) and equity investment management enterprises (EIMes) with the promulgation of various local rules and incentive policies for the formation of EIFEs and EIMes. This *Article* discusses national and local rules regarding and incentives for the formation of EIFEs and EIMes from a comparative perspective.

#### Formation of EIFEs and EIMes

*Permissible Entity Forms.* In all four cities, EIFEs and EIMes can be established either in partnership or in corporate form. Since March 2010, foreign fund sponsors may also set up RMB funds as "foreign-invested partnerships" (FIPs) pursuant to the FIP Registration Rules issued by the State Administration of Industry and Commerce (the FIP Rules). Carlyle and the Shanghai-based Fosun Group were the first to take advantage of the new FIP Rules to jointly establish a US\$100 million equivalent RMB fund in Shanghai in the form of a general partnership. The foreign-invested venture capital enterprise (FIVCE) in the form of a contractual joint venture, the mainstream entity form for foreign-invested EIFEs before the advent of the FIP Rules, appears to be gradually fading away. Of the four cities, only the Tianjin rules still refer to the contractual form of EIFE in addition to the corporate, partnership and trust forms.

*Capital Requirements.* The four cities set different minimum capital requirements for EIFEs and EIMes. Both Shanghai and Shenzhen require RMB 100 million for EIFEs and at least RMB 5 million for each shareholder/partner. In addition, Shenzhen requires the first installment of paid-in capital to be at least RMB 50 million. While the Beijing municipal rules are silent on the minimum capital requirement, EIFEs formed in Haidian District are required to have a registered capital of at least RMB 100 million. Of the four cities, Tianjin appears to have the lowest capital requirement for an EIFE, which is set at RMB 10 million for EIFEs in corporate form, and there is no minimum capital requirement for partnership funds. The capital requirements for EIMes are the highest in Haidian District of Beijing (RMB 10 million for an EIME of any type), the second highest in Shenzhen (RMB 10 million for companies limited by shares, or CLBSs, and RMB 5 million for limited liability companies, or LLCs), and the lowest in Shanghai and Tianjin (RMB 5 million for CLBSs and RMB 1 million for LLCs).

*Name Requirements.* The name requirements in the four cities are also somewhat different. In Beijing and Shenzhen, the fund names are allowed to contain “fund” (“基金”) or “investment fund” (“投资基金”). In Shanghai, the fund names are allowed to contain “equity investment” (“股权投资”) without reference to “fund.” In Tianjin, the fund names are allowed to contain “equity investment funds” (“股权投资基金”) and “equity investment fund management” (“股权投资基金管理”).

### **Foreign-invested Fund Management Enterprises**

It is important to note that the municipal rules in all four cities, including the minimum capital requirements set forth above, generally apply to both purely domestic and foreign-invested EIFEs and EIMes. However, Beijing and Shanghai have also issued a different set of trial rules for the formation of foreign-invested EIMes in Zhongguancun District and Pudong District, respectively, both of which require a significantly higher minimum registered capital of US\$2 million for foreign-invested EIMes. One significant distinction between the two sets of trial rules on foreign-invested EIMes is that under the Pudong trial rules, at least one shareholder of the foreign-invested EIME (or an affiliate thereof) is required to be engaged in equity investment or equity investment management business whereas such a requirement does not exist in the Zhongguancun trial rules. Another distinction between the Pudong and Zhongguancun trial rules is that the cooperation joint venture form is available in Pudong but not in Beijing. While technically the Pudong trial rules on foreign-invested EIME were set to expire on June 30, 2010, it is our understanding that the trial rules will continue to be in effect until they are replaced by new rules.

### **Tax Treatment of Partners in Partnership Funds**

In China, partnerships are tax pass-through entities and the partners pay taxes on income allocated to them on an annual basis. According to Circular 159 of the State Taxation Administration issued in December 2008 and older tax regulations on sole proprietorships and partnership enterprises referenced therein, partners (limited partners and general partners) who are natural persons shall pay progressive income tax ranging from 5% to 35%, subject to certain deductions. The relevant tax rules in three of the four cities, however, provide differentiated tax treatment of partners depending on their status as limited partner (“LP”) or general partner (“GP”), which represents a deviation from Circular 159. In Shanghai and Shenzhen, individual GPs shall pay progressive income tax ranging from 5% to 35% on income from the fund, subject to certain deductions, and individual LP shall pay tax at a flat 20% rate on interest and dividend income from the fund (it is not clear if gain on the disposition of LP interests is also included).

In Tianjin, both individual LPs and individual GPs (with respect to their capital interests rather than profit interests in the fund) shall pay tax at a flat 20% rate on interest or dividend income or income from the disposition of their interests in the fund. In Beijing, both individual LPs and individual GPs pay tax at a flat 20% rate on all fund-related income (presumably including interest or dividend income or income from the disposition of interests in the fund), which represents the most radical deviation from Circular 159. While it can be argued that since individual income tax

revenues belong to local governments as opposed to the central government, local governments have the authority to lower such tax in order to promote local private equity investment management business, the legality of such local rules is questionable because it involves the change of the type of the applicable tax rate (i.e., from a progressive rate of 5% to 25% to a flat 20% rate) rather than just lowering the tax rate.

## **New Measures To Tighten Regulation Of The Conclusion And Content Of Contracts In China**

On October 13, 2010, the State Administration for Industry and Commerce (“State AIC”) adopted the Measures for Supervision and Abolishment of Contract-related Illegal Activities (“Measures”). The Measures take effect as of November 13, 2010.

The purpose of the Measures is to tighten the regulation of all business activities connected to civil and commercial contracts in the People’s Republic of China (“PRC”). The Measures stipulate that no natural person, legal entity or other organization shall gain profits by illegally utilizing contracts. To achieve the above purpose, the Measures partly reiterate existing principles and statutory provisions of the civil law and criminal law. However, the Measures also to a certain extent modify and clarify the civil law regime by setting up new criteria for the validity of contract content and conclusion. Although the Measures are issued by the State AIC and, therefore, do not constitute a formal revision or modification of the PRC Contract Law which was enacted by the National People’s Congress, they should be taken into account when concluding contracts subject to PRC law. Finally, the Measures introduce supervision and control functions of administrative organs over the conclusion of contracts, including the power to impose fines.

### **Special provisions for general terms and conditions in consumer contracts**

Articles 9 to 11 of the Measures are very important for businesses which directly conclude contracts with consumers. The Measures modify the existing civil law regime by introducing new criteria for the validity of general terms and conditions (“General Terms”) used in consumer contracts (“B-to-C contracts”). In the past, the use of all kinds of General Terms was only subject to the restrictions of Article 39 to 41 of the PRC Contract Law, being that General Terms should not increase the liability of the other party or exclude material rights of the other party, or exempt the liability of the party using the General Terms (“User”). Further, General Terms were subject to the same restrictions as any other contractual provisions, such as precluding the exclusion of a user’s liability for personal injury or property damage caused willfully or through gross negligence. The above restrictions equally applied to General Terms in contracts between business operators (“B-to-B contracts”) as well as to General Terms in B-to-C contracts.

Now, Articles 9 to 11 of the Measures introduce a special regime which only applies to General Terms in B-to-C contracts.

First, the Measures reiterate the major existing statutory restrictions on excluding liability for personal injury or property damages caused willfully or through gross negligence.

Further, the Measures introduce the following reasons for invalidating General Terms in B-to-C contracts. Such General Terms shall not:

- *exclude warranties for provision of goods or services which the business operators shall bear in accordance with the law;*
- *exclude liability for breach of contract or any other legal liability;*
- *exclude the consumer's right to terminate the contract in accordance with the law,*
- *exclude the consumer's right to request payment of liquidated damages or other damages;*
- *exclude the consumer's right to have an explanation of the General Terms,*
- *exclude the consumer's right to commence legal proceedings over disputes arising out of the General Terms;*
- *exclude other legal rights of consumers;*
- *increase the consumer's obligation to pay liquidated damages or damages beyond the statutory amount or a reasonable amount;*
- *increase the consumer's obligation to bear responsibility for operational risks which are undertaken by the business operator, or*
- *increase other responsibilities which should not be borne by the consumer in accordance with the law.*

The Measures do not stipulate the above mentioned statutory and contractual rights and liabilities of consumers which, according to the Measures, can not be excluded or increased respectively by means of the General Terms. Such rights and liabilities are stipulated in the PRC Contract Law, PRC Product Quality Law, PRC Consumer Protection Law, Provisions on the Liability for the Repair, Replacement and Return of Certain Commodities (“Three-Guarantee Provisions”) and in other statutory laws and regulations.

In a nutshell, the Measures introduce a stricter regime for determining the validity of General Terms in B-to-C contracts. In contrast, General Terms in B-to-B contracts are not subject to the above restrictions, but only to the provisions of the PRC Contract Law. It is essential for all business operators to adjust their General Terms used in B-to-C contracts to be in full compliance with the statutory PRC law when the Measures enter into effect on November 13, 2010.

### **General prohibition of fraudulent activities**

Article 6 of the Measures lists ten types of prohibited fraudulent activities when entering into or performing a contract. Article 6 applies to all kinds of contracts, including B-to-B contracts, B-to-C contracts and General Terms. Several of them do not constitute anything new, but simply reiterate existing statutory prohibitions, such as not falsifying or fabricating contractual documents, not publicizing incorrect information to seduce others to conclude contracts, and other forms of forgery or cheating.

However, in particular Article 6 is worth noting due to its potential to be too widely applied by the authorities or courts. This provision prohibits the fabrication of false reasons to suspend or terminate a contract, in order to unlawfully gain the other party's money or property. It would be desirable if the courts and authorities can avoid using this provision to prevent any parties from exercising their due and lawful statutory or contractual termination rights. PRC courts appear at

times to be inclined to decide in favor of the party objecting to a contract termination, in particular if a foreign party intends to terminate its contractual relationship with a domestic party.

Article 7 of the Measures mainly reiterates the parties' obligations to comply with major criminal and administrative obligations, such as refraining from bribery, malicious conspiracy, or any business activities subject to prohibition or restriction by the State, and thereby, damaging the interests of the State and the public.

#### **Administrative measures and fines**

Article 12 of the Measures provides that in case of any violation of the Measures, the existing statutory laws and regulations shall apply. If any case is not covered by specific applicable laws or regulations, the industrial and commercial administrative organs are authorized by the Measures to, depending on the seriousness of the case, issue a warning letter, or impose a fine of less than three times of the illegal income and no more than RMB 30,000. If no illegal income has been obtained, a fine of less than RMB 10,000 shall be imposed. Any effort by a party to promptly correct, eliminate or mitigate the violations and respective damages shall be rewarded by a waiver or decrease of the administrative penalty, in accordance with the Measures. The option of imposing criminal punishment remains unaffected by the Measures.

Article 15 of the Measures provides that the State AIC is responsible for the interpretation of the Measures. It is to be expected that the State AIC will soon issue interpretation regulations, such as stipulating which administrative authorities will be in charge of supervision and punishment under the Measures.

*This Periodical has been prepared for CLIENTS and COOPERATION PARTNERS of CENLAW&PARTNERS . Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this Periodical should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.*

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