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1. Decision on the establishment of a Financial Court in Shanghai.

On 27 April 2018, the Standing Committee of the National People's Congress decided to establish a Financial Court in Shanghai.

A. Why Shanghai?

The decision clearly demonstrates the Central Government's desire to further develop Shanghai as a global financial center. During the past years, due to its geographical and political advantages, Shanghai has attracted billions of people and gained a very large capital, thus becoming the financial center of China. A substantial amount of financial disputes have inevitably arisen alongside its development, the number of which has skyrocketed in Shanghai in recent years.

Setting up the Shanghai Financial Court will further improve the professional standard relating to financial trials, uniform trial standards and promote consistency in the applicability of laws.

B. What is the Shanghai Financial Court?

The establishment of the trial divisions of the Shanghai Financial Court shall be decided by the Supreme People's Court on the basis of the type and quantity of financial cases.

After the establishment of the Shanghai Financial Court, civil financial cases and administrative financial cases which before were considered by the Intermediate People's Court, will instead be reviewed by the Financial Court. The exact scope will be determined by the Supreme People's Court at a later stage in time.

Appeals from first instance judgments or rulings of the Shanghai Financial Court will be heard by Shanghai Higher People's Court.

The Shanghai Financial Court will be supervised by both the Shanghai Higher People's Court and the Supreme People's Court. The Shanghai Intermediate People's Procuratorate performs legal supervision functions over the Financial Court.

C. Will Financial Courts be established elsewhere?

Aside from Shanghai, other major cities in China such as Guangzhou and Shenzhen also have numerous civil financial cases. One might wonder whether other Financial Courts will be established in these metropolises. It is still too early to tell at this stage. According to Mr. Zhou Qiang, the president of the Supreme People's Court, the Supreme People's Court will firstly establish the Shanghai Financial Court and may assess at a later stage whether the establishment of other Financial Courts seems opportune. It is therefore by no means excluded that if the Shanghai Financial Court proves to be a success, additional Financial Courts will be established in other major cities.

2. Pilot Reform - Company name pre-registration abolished in certain cases.

On 30 March 2018, the State Market Regulatory Administration (newly established specific department of SAIC) released its very first Notice, to streamline company set-ups and abolish the traditional prior company name pre-registration in some cities in Mainland China.

The company register department now makes the data of company names public and available for pre-checking and comparing to the potential applicant.

Except for pre-approval cases and the cases in which the registration and name pre-registration are not handled by the same agency, the name of a company will not be pre-registered. The applicant can submit the company name application along with the establishment application.

It should be noted that although pre-registration was abolished in certain cases, it does not necessarily indicate that the name can be used by the company. The responsible authority is still entitled to refuse both the name and the establishment application.

The pilot reform will be conducted in at least two cities of one province.

3. Beijing: Commercial cases can be filed directly online

At a recent meeting with the Beijing Lawyers Association to discuss how to use electronic tools to facilitate legal proceedings and improve business climate in the city, Beijing Higher People's Court disclosed that it will instruct lower courts in Beijing to accept commercial cases online.

From now on, lawyers will only need to log in to the official website www.bjcourt.gov.cn by using their lawyer's certificate number and file all the requested documents online. There is no need to submit the documents directly in court. At this stage, however, this procedure is only open to Beijing registered lawyers; non-Beijing registered lawyers or the litigants cannot submit cases online.

The case establishment reviewing judge will pre-review the documents within five working days after receiving the application. If the establishment application is approved, the court will inform the lawyer and the lawyer shall pay the legal fee in accordance with the instruction. Where the documents do not meet the requirements, the court will inform the lawyer to re-submit documents and will approve the application once it meets the requirements. Where a case is not approved, the court shall motivate its decision to the lawyer.

Commercial disputes including the first instance sales contract dispute, loan contract dispute, financial loan contract dispute, work contract and mandate contract dispute, can all be established online.

In addition to online acceptance of lawsuits, the court has opened a WeChat account named “北京法院诉讼服务” (Beijing court litigation services) which can provide about 20 online services such as appointment to accept cases, inquiry about case progress and submission of case-related documents. Lawyers and their customers can use the WeChat public account to handle all legal issues except court trial and enjoy rapid, accurate and convenient court services.

4. PRC Supreme People's Court standardizes the issues regarding the extension of trial time limit and hearing postponement of civil and commercial cases

A. Why is the “new interpretation” necessary?

In 2008, the Supreme People's Court issued an interpretation regarding the time limit within which the Court should issue a decision. Ten years later, based on trial practice, the Supreme People's Court issued an alternative interpretation of the trial time limit. Unlike the formal interpretation, this “new interpretation” focuses on civil and commercial cases and clarifies the application of procedural law with respect to trial delay and postponement of the hearing.

The “new interpretation” has become effective as of 26 April 2018. In general, the “new interpretation” is a reiteration, with supplements and clarification of the articles of the Civil Procedural Law of the People’s Republic of China (“Civil Procedural Law”).

The “new interpretation” incorporates the trial time limit stipulated in the Civil Procedural Law. However, in the pertinent articles of the Civil Procedural Law, it is only stated that an extension of the time limit under special circumstances can be obtained under the approval of the president of the court. As for specific regulations, such as the time limit within which the judge should submit the request for an extension to the president of the court and when the president should make the decision on approval of the extension, these were not explicitly stipulated.

Inevitably, this resulted in some cases being extended for a very long period, as there were no specific time constraints for the higher court or the president to issue a decision. Besides, in practice, different courts have distinctive interpretations regarding the delay for rendering a decision on the extension application, which led to different application of the law thus making the length of the decision-making process very variable depending on the court.

The special circumstances required for the postponement of the hearing were also not adequately defined, which resulted in practice, in a very extensive interpretation of the aforementioned circumstances, causing delay of trial and the misuse of judicial resources.

In order to address these problems, to improve the efficiency of trials and to promote judicial justice and uniformity in the application of laws, the Supreme People’s Court has issued this “new interpretation”.

B. How does the “new interpretation” address the problem?

In the first article of the “new interpretation”, the Supreme People’s Court defines the period for the judge or collegiate to submit the extension application and the closing date for the president or the higher level court to make decision on approval of the extension application:

1. To extend the trial limit, the sole judge or the collegiate shall submit the application of extension to the president of the court 15 days before the expiry of the trial. The president of the court shall issue the decision five days before the expiry of the trial.

2. Where there is a need for further extension of time, it shall be reported to the higher level court for approval 15 days before the expiry of the trial and the higher level court shall issue a decision five days before the expiry of the trial.

The second article clarifies the interval length between two trials: If the court believes that there is a need for a second trial, the court shall inform the litigants of the hearing date thereof. The interval days of two trials must not exceed one month, unless the litigants agree otherwise.

The “new interpretation” also regulates the disclosure of the trial procedure to the litigant and the consequences for delaying trials illegally.

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