

# China Legal Report\*

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## **Centralized Registration for Pledge of Movable Property and Rights**

### **I. Introduction**

On December 22, 2020, the State Council of China issued the *Decision on the Implementation of Centralized Registration for pledge of Movables and Rights* (“**Decision**”), which stated that from January 1, 2021, the centralized registration for pledge of movables and rights was implemented nationwide.

The centralized registration system for the pledge of movable property and rights is intended to be used for loan pledges in order to further bolster financing support for small and medium enterprises (SMEs), the security of movable assets and rights – such as production equipment, raw materials, accounts receivables, deposits and financial leases – will be uniformly registered by the People’s Bank of China (“**PBOC**”).

### **II. Contents**

According to the Decision, individuals and enterprises can handle the registration for the movables and rights to pledge in a centralized system, through which financial institutions can easily see the security status of the registered subjects and therefore clearly know the guarantor’s assets condition. The main contents of the Decision are as follows:

#### **1. Registration Authority**

Before the implementation of the Decision, local State Administration for Market Regulation (“**SAMR**”), land departments and other departments were the registration authorities taking charge of the work. Information about the guaranteed property or intangible assets was kept by different authorities. Now, the responsible registration for the pledge of movable property and rights is transferred from the local SAMRs to the PBOC. Pursuant the Decision, the parties in guarantee transactions can complete registration formalities through the unified registration system named Credit Reference Center of PBOC for financing.

#### **2. Scope of Registration**

According to the Decision, the types of asset included in the scope of the centralized registration are the following:

- Mortgage of manufacturing equipments, raw materials, semi-finished products and finished products;
- pledge of accounts receivable;
- pledge of deposit receipts, warehouse receipts and bills of lading;
- finance leases;
- factorings;
- reservations of ownership; and
- other pledges of movables and rights.

Except the abovementioned types, the Decision excluded the following types from the scope: mortgage of motor vehicles, ships and aircrafts, pledge of bonds, fund units and equity, and pledge of property rights in intellectual property.

### **3. Information transfer**

After the implementation of the Decision, the SAMR will have to transfer the existing data of mortgage of manufacturing equipment, raw materials, semi-finished products and products, pledges of accounts receivable to the PBOC.

## **III. Impact**

### **1. Favorable to Financial Institutions**

The Decision is announced as a significant step for China to facilitate corporate financing and optimize business environments. However, it is more likely to reduce the financial risk of financial institutions.

Firstly, the financial institutions can lower the loan risk. For financial institutions, the asset condition of a mortgager, pledger or guarantor can be easily assessed and therefore prevent borrowers from re-using the collateral without the bank's knowledge.

On top of that, the registration can assure financial institutions a priority to be repaid even if the collateral is used afterwards. According to article 414 of the *Civil Code*, where several mortgages have all been registered, their repayment order is based on the priority in time of registration.

## **2. Implication to Enterprises**

For enterprises, the assets become more transparent. According to the State Council, unified registration will allow financial institutions to better understand companies' movable asset and rights-backed collateral. Further, in this way, the PBOC can more easily survey the assets of enterprises and individuals nationwide.

Another impact is that the security procedure for enterprises becomes simple because they only need to register with the PBOC and the PBOC does not have to verify the authenticity. As the assets were not transparent before the implementation of the Decision, a company might have used a collateral to get multiple loans from different banks, but now it won't be able to evade the asset review, and one collateral maybe can be only accepted once.

## **IV Tendency**

There are still many types of assets not included in the scope of the registration, such as pledges of stocks and enterprise shares. Nevertheless, the asset transparency is a clear trend.

With the continuous maturity and popularization of scientific and technological tools, more and more financial institutions already have or will establish information platforms to share information and prevent risks. In the near future, the asset status of enterprises might be completely transparent.

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