



I. Hot Topic:

Two Sessions 2021

The fourth session of the 13th National People's Congress and the fourth session of the 13th National Committee of the Chinese People's Political Consultative Conference ("Two Sessions"), the biggest political event in China, was held in Beijing from March 4, 2021 to March 11, 2021.

During the Two Sessions, China's 14th 5-Year Plan (2021-2025) and Long-term Objective Throughout 2035 have been approved. Some specific signals about foreign investment/investor will shape your business in China moving forward.

We summarize some takeaways for your reference:

- (1) Promoting dual circulation model, i.e. the coordinated development of domestic market and foreign market, import and export, foreign direct investment in China and Chinese outbound investment.
- (2) Promoting the market entry for foreign investment in the fields of telecommunications, internet, education, culture, medical and others.
- (3) Further reducing the negative list for foreign investment access, implementing national treatment after foreign investment access, and promoting fair competition between domestic companies and foreign invested enterprises (the "FIEs").
- (4) Optimizing foreign investment service; strengthening the promotion and protection of foreign investment.
- (5) Supporting foreign investment to increase investment in high-end manufacturing, high-tech, traditional manufacturing transformation and upgrading, modern services and other fields, as well as in the central and western regions; supporting FIEs to set up R&D centers and undertake national science and technology projects; encouraging FIEs to reinvest their profits in China.
- (6) Improving the residence policy for foreign high-end talents and professionals to work, research and exchange in China; exploring new migration policy.

<https://news.cctv.com/special/2021lianghui/index.shtml?srcfr=360>

<http://www.npc.gov.cn/npc/kgfb/202103/bf13037b5d2d4a398652ed253cea8eb1.shtml>

II. Legal Update:

PRC Releases Measures on Regulating Online Transaction

On March 15, 2021, the Measures for the Supervision and Administration of Online Transactions (the "Measures") was released by State Administration for Market Regulation (the "SAMR") and will take effective as of May 1, 2021.

Given the exponential increase in online transaction, the SAMR rolled out the Measures to regulate the activities of online transaction operators by clarifying the conduct code and clarifying the E-commerce Law.

We highlight some interesting contents:

1. Enlarging Scope of "Online Transaction Operators" ¹

The Measures provides that **online social networking** and **online livestreaming** providers who offer online business sites and services such as commodity browsing, order generation, online payment and so forth are within the scope of online transaction platform operators.²

This enlargement captures the increase of livestreaming shopping users in China which account for more than a third of internet users in China.

2. Clarifying Transactions Exempted from Registration³

According to E-commerce Law, it is mandatorily requested for e-commerce operators to register at local administrations for market regulation (the "AMRs"), i.e. obtaining a business license. Nevertheless, "occasional small-sum transactions" or "convenient labor activities"⁴ can be exempted under the following specific circumstances, specified in the Measures:

- (1) Individuals who engage in online transaction with total annual turnover that does not exceed 100,000 RMB; and
- (2) Individuals who engage in activities such as cleaning, washing, sewing, hairdressing, moving, key preparation, pipeline dredging, home appliance and furniture repair via Internet.

3. Defining More False Advertising Activities⁵

The Measures adds several false advertising activities:

- (1) misleadingly displaying user comments, e.g., putting the positive comments up front, the negative comments behind, or not prominently distinguishing comments from different goods and services;
- (2) falsely claiming the spot goods, fictitious reservation, fictitious preemption, etc;
- (3) making up traffic data such as hits and attention, and making up transaction interaction data such as favorite and reward.

4. Elaborating Reporting Obligations⁶

The Measures gives more details of the reporting obligation of online transaction platform operators:

- (1) Timeframe: January and July every year.
- (2) Where to report: AMRs at the provincial level where online transaction platform operators are domiciled.
- (3) What to report: name, unified social credit code, actual business address, contact information, online store name, website links of operators on online transaction platforms.

http://gkml.samr.gov.cn/nsjg/fqs/202103/t20210315_326936.html

Should you have any inquiry about the Measures, please contact us at asiallians@asiallians.com.

As always, Asiallians remains at your service and our teams are currently mobilized in all our offices in Mainland China, in Hong Kong and in Taipei.

¹ Article 7 of the Measures

The Measures do not precisely define the "online social networking" and "online livestreaming" which are dramatically developing.

² Under Article 9 of PRC E-commerce Law, the "online transaction operators" include "online transaction platform operators" and "operators on online transaction platforms."

³ Article 8 of the Measures

⁴ Article 10 of E-commerce Law

However, there are no further details regarding "occasional small-sum transactions" or "convenient labor activities"

⁵ Article 14 of the Measures

⁶ Article 25 of the Measures

Feel free to contact asiallians@asiallians.com for more information.

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