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REGIONAL ROUND-UP 2023: CHINA



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Introduction



Throughout the year, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we enter 2024, we are pleased to share with you our *2023 year-in-review of the Regional Round-up* for our Regional Offices in the Rajah & Tann Asia network.

In each jurisdiction, we recount the key milestones in the path that has been travelled in 2023, as well as consider the terrain of the road that lies ahead in 2024. In the "**Looking Back: 2023**" section, we take stock of the past year and highlight the key legal and regulatory developments affecting each jurisdiction in 2023. In the "**Gazing Into: 2024**" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping up potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provides some perspective and insight into the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers in our Regional Offices if you have any queries or for further discussions.

Please click on the links below to access the full collection of our country-specific *2023 year-in-review of the Regional Round-up*:

- [Cambodia](#)
- [China](#)
- [Indonesia](#)
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Looking Back: 2023

2023 is a year of both recovery and challenge. Following the lifting of all COVID-19 restrictions in China, 2023 has witnessed indicators of rebound in key segments of China's economy such as growth in gross domestic product ("GDP"), consumption, services and industrial output. However, at the same time, areas such as foreign investment and private investment have lagged, indicating potential concern on the unbalanced recovery of economy. Considering this, the National Development and Reform Commission (NDRC) of China released the **Notice on Further Strengthening and Effectively Promoting Private Investment and Striving to Mobilize the Enthusiasm of Private Investment** (关于进一步抓好抓实促进民间投资工作努力调动民间投资积极性的通知, "**Notice**") in July 2023 to boost



private investment. This includes 17 measures such as encouraging private capital in major national and key industry supply chain projects, providing financial and resource support to private investors, and fostering a healthy and transparent environment for private investment, etc. For **foreign investment**, the State Council of China released the **Opinions on Further Optimizing the Foreign Investment Environment and Strengthening the Foreign Investment Attraction** (关于进一步优化外商投资环境加大吸引外商投资力度的意见, "**Opinions**") in August 2023, which includes 24 measures for attracting foreign investments in China. The measures include (i) expanding channels for foreign investment and facilitating the foreign exchange management system; (ii) ensuring the national treatment status of foreign-invested enterprises; (iii) establishing institutions and mechanisms that are in line with international standards; (iv) strengthening the protection of foreign investment and facilitating investment operations; and (v) providing various financial and tax support. Both the Notice and the Opinions show China's determination to boost its economy, attract and utilise private and foreign investment more vigorously and effectively, and promote high-level opening up to the outside world.

At the same time, to further support the increasing development of the digital technology industry, China has continued to improve its legislation in the areas of **data protection** and **cybersecurity** with further detailed implementation and supporting rules and regulations issued in 2023. In December 2022, China's Ministry of Industry and Information Technology issued **Measures for Data Security Management in the Field of Industry and Information Technology (Trial Version)** (工业和信息化领域数据安全管理办法(试行)), which came into effect on 1 January 2023, to provide relevant data security requirements for companies in the

industry and information technology sector. In March 2023, the National Information Security Standardization Technical Committee released the draft of **Certification Requirements for Cross-Border Transmission of Personal Information** (信息安全技术-个人信息跨境传输认证要求(征求意见稿)) which aims to provide the standards for the third-party certification of companies engaged in the cross-border transfer of personal information. In support of the regulation of "Standard Contract Measures for Exporting Personal Information" (个人信息出境标准合同办法)'s coming into force on 1 June 2023, the Cyberspace Administration of China ("CAC") issued the Guidelines for the Filing of Standard Contracts for Exporting Personal Information (First Edition) (个人信息出境标准合同备案指南(第一版)), which is a supplementary and implementation rule to guide relevant companies to file its standard contract for the cross-border transfer of personal information. Together with the improvements of China's legal regime in relation to the protection of personal information and restrictions in the cross-border transfer of personal information, China has also tried to facilitate cross-border data flows for companies based in China. On 28 September 2023, CAC released the Draft Regulation on Regulating and Facilitating Cross-Border Data Transfer (规范和促进数据跨境流动规定(征求意见稿)), which, if formally issued substantially in its present form, will likely benefit many international companies' businesses by easing the strict requirements for the export of personal information outside the Chinese mainland.

Last but not least, to respond to today's comprehensive international relations, on 28 June 2023, the 14th National People's Congress of the People's Republic of China ("PRC") passed the **Foreign Relations Law** (中华人民共和国对外关系法), which provides a comprehensive framework for the development of China's **foreign relations** and is China's first fundamental, guiding, and comprehensive law on foreign relations since the establishment of the PRC. China also issued other

related laws such as the **amended Counter-Espionage Law** (中华人民共和国反间谍法) on 26 April 2023 and signed various memorandums of understanding with other countries to further develop its **policies for international affairs** (including the "One Belt One Road" initiative).

Corporations are the most important market entities. In order to further improve the modern enterprise system and further promote the sustained and healthy development of the socialist market economy in the PRC, on 29 December 2023, the Standing Committee of the PRC National People's Congress passed the amendments to the **PRC Company Law**, which will come into effect from 1 July 2024.

Summaries of the key developments in 2023 relating to the above areas are provided below.

MEASURES IN RELATION TO INVESTMENT AND FOREIGN EXCHANGE MANAGEMENT

Corporate Commercial – Amendments to PRC Company Law

Following the release of the first and second drafts of the amendments to the PRC Company Law in late 2021 and late 2022, respectively, the third draft of the amendments to the PRC Company Law was promulgated for public comments on 1 September 2023. Click [here](#) for more information.

Capital Markets – China Establishes Filing-based Administration of Overseas Securities Offering and Listing by Domestic Companies

On 17 February 2023, the China Securities Regulatory Commission (CSRC) published new regulations for the filing-based administration of overseas securities offering and listing by domestic companies, effective from 31 March 2023. The regulations comprise six sets of documents, including the Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies (境内企业境外发行证券和上市管理试行办法) ("**Trial Administrative Measures**") and five supporting guidelines. The new approach replaces the current approval-based system. Under the Trial Administrative

Measures, direct and indirect overseas securities offering and listing activities by domestic companies must comply with the filing requirements. In terms of indirect overseas offering and listing, the Trial Administrative Measures set out the conditions that, if met on a substance-over-form basis, constitute indirect overseas securities offering and listing activities by domestic companies. Click [here](#) for more information.

Technology, Media & Telecommunications – China's First Generative AI Provisional Measures Come into Force

On 13 July 2023, CAC, together with six other PRC ministries and commissions, issued the Interim Measures for the Management of Generative Artificial Intelligence ("AI") Services (生成式人工智能服务管理暂行办法) ("Interim Measures"), which took effect on 15 August 2023. This is the first time that the PRC has specifically regulated generative AI services, aiming to promote the healthy development and standardised application of generative AI. The Interim Measures consist of five chapters and twenty-four articles, clarifying the basic principles and obligations that should be observed in the provision and use of generative AI services, and emphasising the principles of (i) inclusive and prudent supervision of generative AI services, and (ii) classification and grading. Click [here](#) for more information.

IMPLEMENTATION REGULATIONS AND RULES IN RELATION TO CYBERSECURITY AND DATA PROTECTION

Data Protection – China Publishes Final Version of Standard Contract for Cross-border Personal Information Transfers

On 24 February 2023, CAC released the Measures for the Standard Contract for Cross-border Transfers of Personal Information (个人信息出境标准合同办法) ("Measures") and the corresponding Standard Contract for Cross-border Transfers of Personal Information (个人信息出境标准合同) ("Standard Contract"), which came into force on 1 June 2023. According to the Measures, before transferring personal information abroad, a qualified personal information processor ("PIP") must first perform a personal information protection impact assessment, focusing on the legality, risk of the transfer,

and the overseas recipient's undertakings and capabilities, etc. The PIP and its recipient shall strictly follow the version of the Standard Contract appended to the Measures but may agree on other terms. The PIP then must file the impact assessment report and executed Standard Contract with the cyberspace administration of the province or equivalent where it is located. Click [here](#) for more information.

Data Protection – China Issues First Edition of Guidelines for Filing of Standard Contracts for Cross-border Transfer of Personal Information

On 30 May 2023, CAC issued the Guidelines for the Filing of Standard Contracts for Cross-border Transfer of Personal Information (First Edition) (个人信息出境标准合同备案指南(第一版)) ("Guidelines"). The purpose of these Guidelines is to guide PIPs to file a Standard Contract in a standardised and orderly manner. Click [here](#) for more information.

Data Protection – China Issues Draft Regulation to Ease Cross-border Data Transfer Burden

On 28 September 2023, CAC released the Draft Regulation on Regulating and Facilitating Cross-Border Data Transfer (规范和促进数据跨境流动规定(征求意见稿), "Draft Regulation"), which was open for public comments until 15 October 2023. Although still in draft form, the Draft Regulation shows that the Chinese authorities intend to ease the compliance burden of companies in the PRC. Click [here](#) for more information.

LAWS AND REGULATIONS IN RELATION TO FOREIGN RELATIONS AND NATIONAL SECURITY

Foreign Relations – Foreign Relations Law Takes Effect on 1 July 2023

The Foreign Relations Law of the PRC (中华人民共和国对外关系法), which was passed on 28 June 2023, took effect on 1 July 2023. The law stipulates that the PRC will enhance the system of rule of law in foreign affairs in relation to the following: (i) treaty obligations; (ii) protection of national interests; (iii) countermeasures and

restrictions; (iv) diplomatic relations; (v) implementation of sanctions; (vi) foreign immunity; (vii) protection of overseas interests; (viii) protection of foreign individuals and organisations; and (ix) international cooperation. Click [here](#) for more information.

National Security – Amendment of Counter-Espionage Law

On 26 April 2023, the Standing Committee of the 14th National People's Congress passed the amended PRC Counter-Espionage Law ("**Amended Counter-Espionage Law**"), which took effect on 1 July 2023. The Amended Counter-Espionage Law introduces changes to the Counter-Espionage Law that was issued in 2014. According to the official interpretation, the Amended Counter-Espionage Law is a response to the proliferation of non-traditional espionage activities in recent times, to better safeguard the national security of the PRC. Click [here](#) for more information.

Sustainable Financing – Green Finance Taskforce Established to Strengthen Collaboration in Green and Transition Finance between China and Singapore

On 21 April 2023, the Monetary Authority of Singapore and the People's Bank of China announced the establishment of the China-Singapore Green Finance Taskforce ("**GFTF**"). The members of GFTF comprise senior representatives and sustainable finance experts from Singapore and China's financial institutions, and green financial technology (FinTech) companies. To better meet the region's needs as it transitions to a low-carbon future, the GFTF seeks to: (i) provide a platform for knowledge exchange; (ii) enhance bilateral cooperation between China and Singapore in green and transition finance; and (iii) facilitate greater public-private sector collaboration. Click [here](#) for more information.

Foreign Relations/Collaboration – Singapore and Shanghai Reaffirm Strong Ties and Broader Cooperation with 14 MOUs

Enterprise Singapore has announced that the 4th Singapore-Shanghai Comprehensive Cooperation Council ("**SSCCC**") meeting took place in Singapore on 24 April 2023. Established in 2019, SSCCC serves as a pivotal platform in developing deeper ties between Singapore and Shanghai, as well as between Singapore and the broader Yangtze River Delta region.

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At the meeting attended by Singapore and Chinese officials and business representatives, the participants agreed to enhance bilateral cooperation in digital and green economies and deepen strong partnerships in financial services and innovation. The leaders also reaffirmed their commitments to the global climate change agenda and agreed to explore more substantive partnerships in sustainability. Click [here](#) for more information.

PROCEDURAL LAWS AND ENFORCEMENT

Dispute Resolution – Supreme Court of Singapore and Supreme People's Court of the People's Republic of China Sign MOU on the Management of International Commercial Disputes in Context of Belt and Road Initiative

On 1 April 2023, the Singapore International Commercial Court ("**SICC**") announced that the Supreme Court of Singapore and the Supreme People's Court of the PRC had signed a Memorandum of Understanding ("**MOU**") on Cooperation on the management of international commercial disputes in the context of the Belt and Road Initiative ("**BRI**") through a Litigation-Mediation-Litigation ("**LML**") framework. The two courts concluded the MOU in view of the increasing complexity of international commercial disputes particularly in the context of the BRI ("**BRI disputes**"). The development of an LML framework to resolve BRI disputes is in recognition of the flexibility and efficiency afforded by mediation, which not only saves the parties' time and costs but also preserves business relationships in the course of the dispute resolution process. Click [here](#) for more information.

Procedural Law – PRC Accedes to Hague Convention of 5 October 1961 Abolishing Legalisation Requirements for Foreign Public Documents

On 8 March 2023, the PRC formally acceded to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents ("**Convention**"). The Convention came into force in the PRC on 7 November 2023. The accession to the Convention has the effect of abolishing the traditional requirement of legalisation, replacing the long and costly legalisation process with

the issuance of a single Apostille certificate by a competent authority in the place where the document originates. The PRC has designated the Ministry of Foreign Affairs as its competent authority. Authorised by the Ministry of Foreign Affairs of the PRC, the Foreign Affairs Offices of provinces, autonomous regions and municipalities directly under the central government can issue the certificates relating to public documents emanating from within their respective administrative areas. Click [here](#) for more information.

Gazing Into: 2024

In 2024, China will commemorate the 75th anniversary of the founding of the People's Republic of China ("PRC"), which coincides with the crucial implementation of the "14th Five-Year Plan (十四五规划)". During the meeting of the Political Bureau of China's Central Committee in December 2023, a comprehensive analysis and study of the economic work for 2024 took place, emphasising the importance of adhering to the general keynote of seeking progress while maintaining stability.

Following this guiding principle, in the coming years, China is committed to the ongoing improvement of relevant laws and regulations to create an enhanced market environment and attract investments, including:

- **enhancing corporate governance and capital system** in the PRC Company Law;
- **ongoing revisions of the Capital Account Guideline of Foreign Exchange** to enhance efficiency and clarity; and
- **strengthening and improving patent application and regulation.**

*In the **data and cybersecurity sector**, the majority of the core laws and regulations in the field were enacted from 2017 to date, and the main regulatory framework has been essentially established. Practical guidelines and norms, as well as **industry-specific legislation**, will become the focus of legislative work going forward. The introduction of these guidelines and norms indicates that China is moving towards a stage of **regulatory stability** in this sector within the country.*

Additionally, online gaming companies in China may face stricter regulation and oversight, as the recently released Draft Administrative Measures for Online Games (defined below) place heavier restrictions for this industry.

Summaries of the key developments relating to the above areas are provided below.

Corporate – Amended PRC Company Law Enhancing Corporate Governance and Capital System

After three rounds of draft amendments seeking public consultation, on 29 December 2023, China passed the amendments to the PRC Company Law, which amendments will come into effect on 1 July 2024 (the "**Amended PRC Company Law**"). The substantial amendments to the existing corporate governance and capital system in the Amended PRC Company Law are noteworthy, such as amendments to the shareholders' responsibility for capital contribution, the corporate



governance structure, controlling shareholders' obligations, shareholders' information rights, and the enhanced fiduciary duty system of directors and supervisors. The purpose of these amendments this time is to place more emphasis on promoting the healthy development of the capital market and address the problems that have arisen in recent years. These amendments are expected to have a significant impact on future corporate practices. We will issue a series of legal updates to provide an overview of the Amended PRC Company Law.

Patent – Strengthening and Improving Patent Application and Regulation

In order to strengthen and improve the relevant institutional arrangements of the new PRC Patent Law (issued in 2020), on December 11 2023, the State Council issued the Decision of the State Council on Amending the Implementation Regulations of the Patent Law of the People's Republic of China ("**Amended Patent Implementation Regulations**"), which came into effect on 24 January 2024. Other supporting documents, including, but not limited to, the Patent Examination Guidelines (2023), the Transitional Measures for Handling Examination Businesses Related to the Implementation of the Amended Patent Law and its Implementing Rules were made available on 21 December 2023.

The Amended Patent Implementation Regulations improve the patent application system to (i) facilitate applicants to obtain patents; (ii) elaborate on the appearance design system to align with international rules that China has acceded to; and (iii) take further steps to protect the rights and interests of applicants.

Foreign Exchange – Revised Capital Account Guideline to Enhance Efficiency and Clarity

On 16 November 2023, the State Administration of Foreign Exchange ("**SAFE**") revised and released the Guidelines for Foreign Exchange Business under the Capital Account (2023 Edition) (Draft for Comment) ("**Draft Capital Account Guidelines 2023**") for public consultation. The main revisions proposed in the Draft Capital Account Guidelines 2023 include: (i) streamlining chapters and articles to further facilitate the handling of foreign exchange under the capital account; (ii) stressing effective coordination to align with the latest laws, regulations, and the requirements for institutional reform;

(iii) refining requirements to raise the operability and clarity for capital account businesses; and (iv) optimising management to keep providing greater convenience for the foreign exchange business under the capital account.

According to the Circular on Issues Relating to Foreign Exchange Management of Overseas Investment and Financing and Roundtrip Investment by Domestic Residents through Special Purpose Companies (Huifa [2014] No. 37) issued by SAFE in 2014, individuals who are domestic residents and who have made capital contributions to a special purpose company by means of lawful assets or rights and interests both inside and outside the country should go through the corresponding foreign exchange registration procedures ("**No. 37 Registration**"). The Draft Capital Account Guidelines 2023 have highlighted the authenticity audit and information disclosure requirements for the registration of special purpose companies with respect to the No. 37 Registration.

Cybersecurity – Strengthening Cybersecurity Incidents Reporting and Cybersecurity Assessment

On 8 December 2023, China issued the Draft Administrative Measures on Reporting Cybersecurity Incidents ("**Draft Measures for Reporting Cybersecurity Incidents**") for public consultation. The obligation to report cybersecurity incidents is an existing obligation for network operators under Article 25 of the PRC Cybersecurity Law, which states that "*[w]hen any incident endangering cybersecurity occurs, the relevant operator shall ... report it to the competent department in accordance with relevant provisions.*" The Draft Measures for Reporting Cybersecurity Incidents represent a further step by the Cyberspace Administration of China to detail the reporting procedure and the potential liability for failure to meet the reporting obligation. The Draft Measures for Reporting Cybersecurity Incidents provide additional clarity and insight into the operation of the reporting obligation. Click [here](#) for more information.

In addition, on 23 December 2023, the National Information Security Standardization Technical Committee released the Practical Guide to Cybersecurity Standard – Guide to Cybersecurity Assessment of Large Internet Platforms (Draft for Comments) ("**Draft Guide to Cybersecurity Assessment of Large Internet Platforms**") to solicit public opinions by 5 January 2024.

The Draft Guide to Cybersecurity Assessment of Large Internet Platforms aims to help large Internet platforms, on the basis of cybersecurity compliance, to further assess, discover and prevent cybersecurity risks that may affect social stability and public interest. It also aims to guide platforms to improve their security level by flagging the risks affecting or likely to affect social stability and public interest that platforms should pay attention to, as well as cybersecurity assessment methods.

Online Gaming – Facing Potential Heavier Restrictions

On 22 December 2023, the PRC National Press and Publication Administration (NPPA) released the Administrative Measures for Online Games (Draft for Comments) ("**Draft Administrative Measures for Online Games**") to solicit public opinions by 22 January 2024. The Draft Administrative Measures for Online Games comprehensively regulate the establishment, administration and supervision of online game publishers, including detailed provisions on the examination and approval process, prevention of excessive use and consumption, technical testing, game coin trading, protection of minors, and annual reporting system. The Draft Administrative Measures for Online Games have consolidated some of the existing regulations in this area and introduced some additional restrictions. If the Draft Administrative Measures for Online Games are passed in its current form, it may heavily impact the online gaming industry.

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