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IBA China Working Group



From the Co-Chairs

We wish you and all your loved ones a belated Happy New Year and prosperous year of the Ox!

2020 has seen the world's continued joint efforts to contain and eradicate the spread of Covid-19 and the gradual distribution of vaccinations worldwide. Despite a contraction of 3.5 per cent during 2020, according to the International Monetary Fund, China's economy is expected to grow by an expected 8.1 per cent in 2021, accounting for a global growth of around 5.5 per cent.

2020 has been a busy year for lawmakers in China too, including the introduction of the draft Personal Information Protection Law, newly updated Patent Law and the much-anticipated Civil Code which took effect on 1 January 2021.

And in this year's first e-bulletin of the IBA China Working Group, we have been equally fortunate to have received a wide array of relevant, current and informative legal articles, which we have the fortune and pleasure of sharing with all of you.

In the first 'News corner' of this year, Dominic Hui of Ribeiro Hui provides an update on recent legislative amendments/interpretations from the Supreme Court of China and the Standing Committee of the 13th National People's Congress, including China's newly enacted Civil Code.

Next, in the first article of this edition 'Contract termination in the Civil Code', Myles Seto and Hayley Li of Deacons provide a comparison between China's Contract Law and new Civil Code concerning termination of contractual relationships.

In the second article, 'Update on information technology used by Chinese courts and arbitration institutions', Ariel Ye of King & Wood Mallesons analyses the challenges and successes of China's Courts/Arbitral Institutions adoption and integration of information technology.

Moving onto the third article, 'Counteracting unjustified extraterritorial jurisdiction: an analysis of PRC Blocking Rules', Yong Zhou of JunHe explores the potential dilemma Chinese and Foreign Companies operating in China may need to confront following the Ministry of Commerce's blocking rules as well as how these may apply in practice through a comparison with the EU's Blocking Regulation 2271/96.

Within the next article, 'New SPC judicial policy makes restrictive interpretation on

shareholder's liabilities', Vincent Xuekai Qian and Mena Yun Li of Dentons inform us about the scope of shareholder's duties and liabilities to creditors in a company compulsory liquidation, following the Supreme People's Court judicial interpretation on application of company law.

In the final article, 'Documents to review before accepting a deed of guarantee provided by a PRC company', Jiaolu Zhou of Dentons outlines key matters to be considered when accepting a form of legal guarantee from a Chinese company, following the National Court Work Conference for Civil and Commercial Trials Minutes of August 2019.

I think you will all agree that the contributions for this first edition of 2021 will provide for very satisfactory and informative reading.

We take this moment to thank all members for their continued support and dedication to the IBA China Working Group and we wish each of you a fulfilling and joyful 2021.

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Articles

News corner

Dominic Hui

December was the Supreme Court of China's most productive month in 2020. In the last week of the year, the Court released the first batch of new judicial interpretations of the Civil Code which took effect at the same time of the Civil Code, that is, from 1 January 2021...[read more](#).

Contract termination in the Civil Code

Myles Seto and Hayley Li

On 28 May 2020, the National People's Congress of the People's Republic of China approved The Civil Code of the People's Republic of China (the 'Civil Code')...[read more](#).

Update on information technology used by Chinese courts and arbitration institutions

Ariel Ye

There has never been so much attention paid to how information technology could help courts and arbitration institutions conduct cases during the Covid-19 pandemic...[read more](#).

Counteracting unjustified extraterritorial jurisdiction: an analysis of PRC Blocking Rules

Yong Zhou

At the beginning of 2021, the Ministry of Commerce issued the Rules on Counteracting Unjustified Extraterritorial Application of Foreign Legislation and Other Measures (PRC Blocking Rules)...[read more](#).

New SPC judicial policy makes restrictive interpretation on shareholder's liabilities

Vincent Xuekai Qian and Mena Yun Li

According to the Company Law of the People's Republic of China (the 'Company Law'), a company can be voluntarily or compulsorily dissolved...[read more](#).

Documents to review before accepting a deed of guarantee provided by a PRC company

Jiaolu Zhou

It is common in a cross-border M&A transaction for the foreign vendor to require a Chinese purchaser to provide a deed of guarantee with the transaction documents as a security to the vendor for the purchaser's obligations...[read more](#).

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