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Laws and Regulations Updates

**I. Supreme People's Court's Regulations on Several Matters Concerning the
Application of Enterprise Bankruptcy Law of the People's Republic of
China (2)**

The Supreme People's Court promulgated on 5 September 2013 the Regulations on Several Matters Concerning the Application of Enterprise Bankruptcy Law of the People's Republic of China (2) (the "Regulations"), which have come into effect since 16 September 2013.

Regarding the definitions of debtor's property and bankruptcy property, the Regulations contain provisions in various aspects, such as the definition of debtor's property, the right to revoke, the right to recover, the right to set-off, the preservation of debtor's property, the execution process, as well as the adjudication of derivative proceedings in relation to the debtor's property.

As to the right to revoke in relation to bankruptcy, the Regulations have express provisions pinpointing some extraordinary matters and exceptional cases, such as the starting time of which the right to revoke an act is exercisable in a bankruptcy

liquidation procedure, the settlement made in advance by the debtor for liabilities which are not yet due, as well as the revocation of a certain settlement made by the debtor.

Pursuant to the Regulations, the limitation of time for the right to which the debtor is entitled to claim against other party shall expire on the date on which the bankruptcy application is accepted.

According to the Regulations, if a proceeding is initiated by the creditor before the acceptance of bankruptcy application for subrogation of the debtor's property and not yet concluded when such application is accepted, the court shall terminate the proceedings and, once the debtor is declared bankrupt, dismiss the creditor's request for such action; if valid legal instruments have already been issued regarding the relevant cases before the acceptance of bankruptcy application but the execution process has yet to be completed, such execution shall cease when the application is accepted and the creditor shall declare his/her claim to the receiver pursuant to the law; if a proceeding is newly initiated by the creditor against the debtor for direct settlement of his/her liabilities after the bankruptcy application is accepted, the court should decline such request and the creditor shall exercise his/her right through the procedures stipulated under the Enterprise Bankruptcy Law.

II. Supreme People's Court and Supreme People's Procuratorate's Explanations on Several Matters Concerning the Applicable Laws in Handling Criminal Cases Such as Defamation Through Information Network

In recent years, the number of illegal activities committed through information network has been increasing. In particular, spread of rumors and defamation through information network, such as the Internet, have become quite prevalent. In order to protect the lawful interest of citizens, legal entities and other organizations and to offer explanations on the applicable laws for criminal cases such as defamation, picking quarrels and provoking troubles, extortion and blackmail, and illegal operation through information network, the Supreme People's Court and the Supreme People's Procuratorate promulgated the Explanations on Several Matters Concerning the Applicable Laws in Handling Criminal Cases Such as Defamation Through Information Network (the "Explanations") on 6 September 2013. The Explanations came into effect on 10 September 2013.

The Explanations contain ten articles and set out explicit provisions in the following aspects:

1. Committing crimes through defamatory behaviour and manner via the use of information network, i.e. matters concerning the definition of "fabricating facts to defame others";
2. The standard of incrimination for defamatory behaviour through information network, i.e. matters concerning the definition of "major case details";
3. The conditions under which indictment shall be applicable for committing crimes by defamatory behaviour through information network, i.e. matters concerning the definition of "seriously undermining social order and national interest";

4. Matters concerning the definition of committing crimes through picking quarrels and provoking troubles through information network;
5. Matters concerning the definition of crime of extortion and blackmail through information network;
6. Matters concerning the definition of and punishment for crimes of illegal operation through information network;
7. Details regarding the aiding of crimes of defamation, picking quarrels and provoking troubles, extortion and blackmail, and illegal operation through information network;
8. Matters concerning the concurrent conviction of multiple offences and the punishment principles when defamation, picking quarrels and provoking troubles, extortion and blackmail, and illegal operation through information network are committed with other offences.

The summary is only intended to provide an outline of certain recent developments in the PRC and is not intended to be relied upon or taken as legal advice provided by Sit, Fung, Kwong & Shum or Hong Kong Sit, Fung, Kwong & Shum Xi'an Representative Office. If you have any enquiry, please contact Alex Chan, our partner in Xi'an Representative Office at Tel: (852) 29097320 and fax: (852) 28459292 (Hong Kong) or Tel: (8629) 87203203 and fax: (8629) 87203033 (Xi'an) e-mail: alexchan@sfks.com.hk

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