

## 《最高人民法院关于上海金融法院案件管辖的规定》

(2018年7月31日由最高人民法院审判委员会第1746次会议通过,根据2021年3月1日最高人民法院审判委员会第1833次会议通过的《关于修改〈关于上海金融法院案件管辖的规定〉的决定》修正,该修正自2021年4月22日起施行)

为服务和保障上海国际金融中心建设,进一步明确上海金融法院案件管辖的具体范围,根据《中华人民共和国民事诉讼法》《中华人民共和国行政诉讼法》《全国人民代表大会常务委员会关于设立上海金融法院的决定》等规定,制定本规定。

第一条 上海金融法院管辖上海市辖区内应由中级人民法院受理的下列第一审金融民商事案件:

(一) 证券、期货交易、营业信托、保险、票据、信用证、独立保函、保理、金融借款合同、银行卡、融资租赁合同、委托理财合同、储蓄存款合同、典当、银行结算合同等金融民商事纠纷;

(二) 资产管理业务、资产支持证券业务、私募基金业务、外汇业务、金融产品销售和适当性管理、征信业务、支付业务及经有权机关批准的其他金融业务引发的金融民商事纠纷;

(三) 涉金融机构的与公司有关的纠纷;

(四) 以金融机构为债务人的破产纠纷;

(五) 金融民商事纠纷的仲裁司法审查案件;

(六) 申请认可和执行香港特别行政区、澳门特别行政区、台湾地区法院金融民商事纠纷的判决、裁定案件,以及申请承认和执行外国法院金融民商事纠纷的判决、裁定案件。

第二条 下列金融纠纷案件，由上海金融法院管辖：

（一）境内投资者以发生在中华人民共和国境外的证券发行、交易活动或者期货交易活动损害其合法权益为由向上海金融法院提起的诉讼；

（二）境内个人或者机构以中华人民共和国境外金融机构销售的金融产品或者提供的金融服务损害其合法权益为由向上海金融法院提起的诉讼。

第三条 在上海证券交易所科创板上市公司的证券发行纠纷、证券承销合同纠纷、证券上市保荐合同纠纷、证券上市合同纠纷和证券欺诈责任纠纷等第一审民商事案件，由上海金融法院管辖。

第四条 以上海证券交易所为被告或者第三人的与证券交易所监管职能相关的第一审金融民商事和涉金融行政案件，由上海金融法院管辖。

第五条 以住所地在上海市并依法设立的金融基础设施机构为被告或者第三人的与其履行职责相关的第一审金融民商事案件，由上海金融法院管辖。

第六条 上海市辖区内应由中级人民法院受理的对金融监管机构以及法律、法规、规章授权的组织因履行金融监管职责作出的行政行为不服提起诉讼的第一审涉金融行政案件，由上海金融法院管辖。

第七条 当事人对上海市基层人民法院作出的涉及本规定第一条第一至三项的第一审金融民商事案件和涉金融行政案件判决、裁定提起的上诉案件和申请再审案件，由上海金融法院审理。

第八条 上海市辖区内应由中级人民法院受理的金融民商事案件、涉金融行政案件的再审案件，由上海金融法院审理。

第九条 上海金融法院作出的第一审民商事案件和涉金融行政案件生效裁判，以及上海市辖区内应由中级人民法院执行的涉金融民商事纠纷的仲裁裁决，由上海金融法院执行。

上海金融法院执行过程中发生的执行异议案件、执行异议之诉案件，以及上海市基层人民法院涉金融案件执行过程中发生的执行复议案件、执行异议之诉上诉案件，由上海金融法院审理。

第十条 当事人对上海金融法院作出的第一审判决、裁定提起的上诉案件，由上海市高级人民法院审理。

第十一条 上海市各中级人民法院在上海金融法院成立前已经受理但尚未审结的金融民商事案件和涉金融行政案件，由该中级人民法院继续审理。

第十二条 本规定自 2018 年 8 月 10 日起施行。

### **Provisions of the Supreme People's Court on the Jurisdiction of the Shanghai Financial Court**

(Adopted at the 1746th Session of the Adjudication Committee of the Supreme People's Court on July 31, 2018; and amended in accordance with the Decision of the Supreme People's Court to Amend the Provisions on the Jurisdiction of the Shanghai Financial Court, as adopted at the 1833rd Session of the Adjudication Committee of the Supreme People's Court on March 1, 2021, taking effect from April 22, 2021)

The Provisions are formulated in accordance with the Civil Procedure Law of the People's Republic of China, the

Administrative Procedure Law of the People's Republic of China, the Decision of the Standing Committee of the National People's Congress on Establishment of the Shanghai Financial Court and other provisions, in order to serve and support the building of Shanghai into an international financial center and to further clarify the specific scope of cases under the jurisdiction of the Shanghai Financial Court.

**Article 1** The Shanghai Financial Court (SFC) shall have the jurisdiction over the following first-instance financial civil and commercial cases that fall under the jurisdiction of intermediate people's courts in Shanghai Municipality:

(1) Financial civil and commercial disputes over, among others, securities, futures trading, commercial trust, insurance, negotiable instruments, letters of credit, independent guarantee, factoring, financial loaning contracts, bank cards, financial leasing contracts, entrusted wealth management contracts, deposit contracts, pawn broking, and bank settlement contracts;

(2) Financial civil and commercial disputes arising from asset management, asset-backed securities, private placement funds, foreign exchange business, financial product sales and suitability management, credit reference, payment and other financial business approved by the financial regulatory authorities;

(3) Company-related disputes with respect to financial institutions;

(4) Bankruptcy disputes in which financial institutions are the debtors;

(5) Arbitration-related judicial review cases of financial civil and commercial disputes;

(6) Applications for recognition and enforcement of judgments and rulings by courts of Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region on financial civil and commercial disputes, and applications for recognition and enforcement of foreign judgments and rulings on financial civil and commercial disputes.

**Article 2** The SFC shall have the jurisdiction over the following financial civil and commercial disputes:

(1) Any lawsuits filed by any domestic investors with the SFC on the grounds that their legitimate rights and interests have been impaired by matters relating to securities issuance and trading activities or futures trading activities outside the territory of the People's Republic of China;

(2) Any lawsuits filed by any domestic individuals or institutions with the SFC on the grounds that their legitimate rights and interests have been impaired by financial products sold or financial services provided by the financial institutions outside the territory of the People's Republic of China.

**Article 3** The SFC shall have the original jurisdiction over civil and commercial cases of disputes in relation to or arising from securities issuance, underwriting contracts, listing sponsoring

contracts, listing contracts and securities fraud in respect of companies listed on the Science and Technology Innovation Board in the Shanghai Stock Exchange.

**Article 4** The SFC shall have the original jurisdiction over financial civil and commercial cases and finance-related administrative cases with the Shanghai Stock Exchange as the defendant or the third party in relation to its supervisory functions.

**Article 5** The SFC shall have the original jurisdiction over financial civil and commercial cases with any legally established and Shanghai domiciled financial market infrastructures as defendants or third parties in relation to their functions.

**Article 6** The SFC shall have the original jurisdiction over the finance-related administrative cases that fall under the jurisdiction of intermediate people's courts in Shanghai Municipality and where any actions are brought against the administrative actions made by the financial regulators and organizations authorized by laws, regulations and rules when performing their financial regulatory duties.

**Article 7** The SFC shall hear the appeals and retrial applications brought by the parties to first-instance judgments and rulings made by the primary people's courts in Shanghai relating to financial civil and commercial cases and finance-related administrative cases in respect of Paragraphs (1) - (3) of Article 1 of the Provisions.

**Article 8** The SFC shall hear the retrial cases of financial civil and commercial cases and finance-related administrative cases that fall

under the jurisdiction of intermediate people's courts in Shanghai Municipality.

**Article 9** The SFC shall enforce the effective first-instance judgments of civil and commercial cases and finance-related administrative cases rendered by the SFC, as well as the arbitral awards in respect of financial civil and commercial disputes that should be enforced by the intermediate people's courts within the jurisdiction of Shanghai Municipality.

The SFC shall hear the cases of enforcement objection review and enforcement objection litigation arising from its enforcement, as well as the appellate cases of enforcement objection review and enforcement objection litigation arising from the enforcement of financial-related cases by the primary people's courts in Shanghai.

**Article 10** An appeal case filed by a party against a first- instance judgment or ruling rendered by the SFC shall be heard by the Shanghai High People's Court.

**Article 11** The First and Second Intermediate People's Courts of Shanghai Municipality shall continue to hear the financial civil and commercial cases and finance-related administrative cases that have been accepted by them before the establishment of the SFC but have not yet been concluded.

**Article 12** The Provisions shall come into effect as of August 10, 2018.