

## Enterprise credit ratings and blacklisting in mainland China

Key points you need to know:

- Data for China's National Enterprise Credit Information Publicity System ("**NECIPS**") and creditchina.com.cn ("**CREDITCHINA**") is collected automatically and the data is to a fairly large extent publicly available. Based on an announcement by the State Administration for Market Regulation (国家市场监督管理总局, "**SAMR**") in July 2019, the NECIPS is designated as a key national network for market supervision.
- Regarding NECIPS, each enterprise in China can decide that certain information from its annual report is not published. The enterprise may also challenge discovered incorrect information. Related monitoring and management processes are recommendable.
- Besides NECIPS and CREDITCHINA, currently numerous other credit rating systems exist in China to facilitate ratings for banks, local governments, in specific industry sectors, or by commercial information suppliers; participation in these credit rating systems is generally voluntary, but might be required for business reasons in specific sectors, or as stipulated under other regulations.
- The overall credit rating system in mainland China is still under intensive development, and may see significant changes and increasing data collection in 2019 and 2020.

In recent years, the discussion on mainland China's credit rating, both of individual citizens and enterprises, has increased. The various pilot projects on local levels with social credit databases for its citizens have been widely reported also in Western media. Focus of the reports was often on the imposed sanctions. In case an individual's rating drops below a defined threshold, the person can be restricted from certain services (e.g. prohibition to take airplanes or high speed trains).

Various private companies also offer ratings for individuals, e.g. the "Zhima Credit" (sesame) rating contained in Alibaba's Alipay account, as well as ratings offered by respectively licensed companies like Tencent, Didi Chuxing etc.

Of increasing practical importance when doing business in China, is the credit rating of enterprises. On July 19, 2019, SAMR published a notice on further optimizing NECIPS. Goal is the realization of a unified collection and disclosure of information on enterprises at all levels. The local branches of SAMR need to record the required information to achieve "one national network" for information disclosure of enterprises covering all aspects of market supervision.

## 1. NECIPS (全国企业信用信息公示系统)

The NECIPS is managed by SAMR, which among others also manages company registrations. The *Interim Regulations on Enterprise Information Publicity* published by the State Council effective October 1, 2014 (“**Interim Regulations**”) are the main legal basis for NECIPS.

On the Chinese NECIPS website <http://www.gsxt.gov.cn/index.html>, enterprises can be searched either under their Chinese name or the unified social credit code (found e.g. on a company’s business license). Besides corporate data, SAMR collects data from various other governmental sources, including other regulators on special industry safety aspects (e.g. food, drugs) or more horizontal aspects like taxation related (in) compliance, and court proceedings. The public search results from NECIPS include

- Basic registered or filed information: company type, registration authority, names of individuals appointed in corporate functions as director, supervisor, general manager, legal representative; business scope, registered capital; legal address; shareholders (but sometimes not all of the above information may be available online)
- Registrations of movable property mortgages, and of equity pledges
- Records of imposed administrative penalties
- Annual reports, where each enterprise has the right to decide whether certain information may be published (**optional** is here the publication of the number of employees, total assets, total liabilities, externally provided guarantee/warranty, total owners' equity, total operating revenues, primary business revenue, total profit, net profit and total tax amount of the enterprise)
- If other authorities so chose, the information on special administrative licenses held by the enterprise may optionally also be shown in the NECIPS (alternatively in another system)
- The enterprise itself is also obliged to publish information via the NECIPS on capital contributions, equity changes, administrative licenses, pledge of intellectual property rights and administrative penalties.

The obtaining of unpublished data of an enterprise requires the consent of the enterprise.

### **Incorrect data**

According to the Interim Regulations, if a citizen, legal person or organization has evidence to prove that publicized information is incorrect, such person or organization has the right to require the government department to correct such information, including via a formal administrative review.

Given the widespread effect the credit information has during business operations in China, company management should enact sufficient monitoring processes to make sure all data shown to the public is correct. In case of any incorrect data, respective action should be initiated immediately.

### **Blacklisting**

- The enterprise may revocably be designated as “operating abnormally” in case certain statutory reports have not been filed in time, or enterprise have concealed facts / practiced fraud during reporting;
- In case the enterprise does not correct the found mistakes, it may revocably be designated as “seriously violating” enterprise. In such case, legal representative and responsible persons are prohibited from serving as legal representatives or responsible persons for 3 years. In order to strengthen credit supervision, on July 16, 2019, the SAMR released a revised draft of the *Administrative Measures for Lists of Parties with Seriously Unlawful and Dishonest Acts*, in which the scope of the parties which might be subjected to the blacklist mechanism has been extensively expanded. We expect that these measures will be promulgated in the near future, and will then, if necessary, update this article.

## **2. CREDITCHINA (信用中国)**

CREDITCHINA is managed by the National Public Credit Information Center (“**NPCIC**”) under guidance by the National Development and Reform Commission (“**NDRC**”) and the People’s Bank of China (“**PBoC**”). On the Chinese website <https://www.creditchina.gov.cn/>, enterprises can be searched either by their Chinese name or under the unified social credit number. The data is also collected from various regulators and courts. The public information shown is similar to the one of NECIPS, but additionally the status regarding special lists is shown:

- Red listing as “trustworthy” (e.g. as “Class A tax payer”)
- Listing in key focus list (e.g. as “operating abnormally”)

### 3. **Other Credit Systems** include the

- **Credit Reference Center of the PBoC** providing enterprise credit reports based on voluntarily filings made by companies at local PBoC branches and data obtained from financial institutions and other regulators; with a focus on financial creditworthiness (debts, repayments, tax arrears, social insurance compliance, etc.)
- **Industrial or special regulatory ratings**, e.g. regarding locally regulated business activities (<http://scjgj.jinhua.gov.cn/gqyxygs/15441.htm>), special sectors like international trade, construction, food and drugs, agriculture and environment, or horizontally relevant aspects like customs track records (<http://credit.customs.gov.cn/ccppwebserver/pages/ccpp/html/ccppindex.html>), based on data obtained from regulators and companies.
- **Ratings provided by associations**, e.g. ratings for SMEs on <http://www.zsxxgw.org/xinyong/>, based on data voluntarily provided by the associated enterprises
- **Ratings provided by various commercial credit reporting companies**, like Experian (<http://www.experian.com.cn/>).

Status as of July 24, 2019.

#### **Authors**

Ralph Koppitz  
Chief Representative / Partner, Taylor Wessing Shanghai Office  
+86 21 6247 7247  
[r.koppitz@taylorwessing.com](mailto:r.koppitz@taylorwessing.com)

Heather Jiang  
Legal Assistant, Taylor Wessing Shanghai Office  
+86 21 6247 7247  
[h.jiang@taylorwessing.com](mailto:h.jiang@taylorwessing.com)

