

Extraterritorial jurisdiction of China's new securities law: policies, problems and proposals

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● Structure of the Article

● Introduction

- Research Purpose**

Critically examine the extraterritorial jurisdiction of Chinese securities law and set out suggestions for improvement based on its analysis.
- Significance**

Proposes a phased reform agenda for improvement in both the short run and the long run, and talks about the factors that China may consider in applying Article 2(4) referring to the Luckin Coffee case.
- Research Question**
 - (1) What are the problems of China's legal system and securities law?
 - (2) What are the policy recommendations for China in comparison with US Securities law?
- Type of scholarship**
 - comparative research
 - descriptive, explanatory, normative and instrumental

● Main Content Analysis

- What information is relied upon by the author?**

(1) Legal provisions; (2) Doctrinal concepts; (3) Academic journals and Opinions; (4) International Law Principles; (5) Cases and court-created tests
- How is the information gathered and processed?**
 - (1) Listing and analyzing relevant legal provisions.
 - (2) Citing and briefly introducing the several US cases.
 - (3) Sorting the academic research and academic views and some authorities' opinions.
 - (4) Interviewing judges from Shanghai Financial Court.
 - (5) Comparing and analyzing the information generating the author's own perspective and suggestions.
- Main argument**
 - Relatively short history of the extraterritorial jurisdiction in Chinese Securities Law
 - Article 2(4)--the only provision with problems in practice
- Argumentation**
 - Inefficiency of the Article 2(4) --problems of wording on theoretical nature, expression vagueness and lack of clarity
 - the well-developed US regime: history and court-created tests
 - Comparison between the US and China's regime for policy suggestions
- Conclusion**

China should draw upon US experiences to clarify and enrich the test for exercising extraterritorial jurisdiction under Article 2(4) and adopt a critical approach that considers China's local conditions.

● Implications

- Discuss China's development on cross-border securities transactions
- Illustrate the constraints in several aspects
- Policy suggestions**
 - A staged approach
 - Implementation rules for guidance