
China's New Financial Court

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Last August, China established the Shanghai Financial Court (the “court”) as an initiative of the Central Comprehensively Deepening Reforms Commission, formerly known as the Central Leading Group for Comprehensively Deepening Reforms and chaired by Xi Jinping. The court was established as a novel court specializing in financial matters. It serves primarily as a domestic institution, but has ambitions to adjudicate international financial disputes with a nexus to China as well.

Proposals for a specialized financial court had been discussed in the Shanghai financial community for several years. According to President of the court Zhao Hong, a former president of the Shanghai Maritime Court, the court is presently in its “start-up” phase.¹

As defined by the Supreme People's Court's Rules on the Jurisdiction of the Shanghai Financial Court, the court was established at the level of an intermediate people's court and serves as a domestic court of first instance as well as an appellate court for civil and commercial financial disputes and for financial administrative law cases. Territorial jurisdiction is limited to Shanghai, meaning that at least one party must be located in the municipality of Shanghai. Competence for civil and commercial cases encompasses disputes concerning claims for between RMB 100 million and RMB 500 million if both parties are located in Shanghai, or between RMB 50 million and RMB 300 million if only one party is located in Shanghai.² Jurisdiction extends to the following subject matters:

- i. cases involving securities, futures, trusts, insurance, negotiable instruments, letters of credit, financial loan contracts, bank cards, financial lease contracts, entrusted financial management agreements, pawns, etc.;
- ii. new types of financial civil and commercial disputes involving independent guarantees, factoring, privately offered funds, online payments of nonbank payment agencies, online lending, internet-based equity crowdfunding, etc.;
- iii. bankruptcy disputes in which a financial institution is the debtor;
- iv. judicial review of arbitration awards in financial civil and commercial disputes; and

v. recognition and enforcement of foreign judgments or rulings involving civil and commercial financial disputes.³

Item v is particularly significant as it reflects a growing willingness on the part of the Chinese government to allow its judiciary to enforce foreign court judgments or rulings.

Adjudication of cases involving non-Shanghai domiciliaries in a Shanghai court is in contrast to the general rule in Chinese law that cases must be brought in the defendant's domicile. Shanghai financial institutions under this rule may become more likely to require disputes to be resolved in their home court.

In addition to such commercial and civil cases, the court's jurisdiction extends to administrative law cases in which a financial regulator, e.g., the Shanghai Securities Regulatory Bureau, is the defendant⁴ as well as cases in which a Shanghai financial market infrastructure entity, e.g., the Shanghai Stock Exchange, Shanghai Futures Exchange or China Financial Futures Exchange, is the defendant.⁵

In general, the court reflects the central government's ambition to make Shanghai an international financial center. On the one hand, the decision to establish a specialized financial court recognizes the need for judicial expertise to handle complex financial cases. In this regard, the court is part of the effort to strengthen the rule of law and enhance trust in the Chinese judiciary to meet the demands of international investors. The implementation of specialized courts in both complex and economically important areas of law is also not unprecedented. To handle their respective cases more efficiently, several special intellectual property courts and tribunals have been established throughout the country, with the national-level appellate Intellectual Property Court in Beijing established on January 1, 2019, being the latest addition. Furthermore, since 2017 so-called internet courts have been established in Hangzhou, Beijing and Guangzhou to deal with internet-related matters such as online shopping or domain disputes.

On the other hand, however, the object of establishing the court is more far-reaching than providing a fair, efficient and authoritative financial trial system for the Chinese financial market. In its recently published five-year plan (上海金融法院五年发展规划纲要),⁶ the court stated its intention to work hard to create a "Chinese plan" and a "Shanghai practice" for financial dispute resolution, making Shanghai a preferred venue for resolving international financial disputes. As already indicated in the process to establish the court,⁷ the plan once more emphasizes the aim to gain international influence with regard to rules for international financial markets and potentially compete with established international litigation centers.

Despite its prominence within the Chinese judiciary and ambitious future plans, the court has so far mostly replaced the tribunals within the Shanghai Intermediate People's Court with respect to domestic financial disputes. As of the end of 2018, a total of 1,897 financial cases had been accepted, with a total amount in dispute of RMB 25.2 billion.⁸ This is barely more than 1% of the total number of financial disputes heard in Shanghai courts, which numbered 179,000 in 2012.

The court's cases include midsize disputes, with the first case the court tried and decided in November 2018 being an illustrative example. The plaintiff, a Shanghai investment bank, sued a

Beijing investment company for breach of obligations under a securities repurchase agreement. The defendant had failed both to repurchase pledged shares at a value of RMB 110 million and to pay interest. The court ruled in favor of the plaintiff, ordering the defendant to pay over RMB 120 million, including principal and interest, liquidated damages, and lawyers' fees.⁹

The court constitutes a substantial initiative to bolster financial law expertise within the Shanghai court system. Its welcome in other parts of China and internationally remains to be seen.

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1. Announcement of the Outlines of the First Five-Year Development Plan of the Shanghai Finance Court (Feb. 21, 2019), www.chinacourt.org/article/detail/2019/02/id/3734503.shtml.
 2. Section II of the Shanghai Financial Court Announcement Concerning Filing of Cases (Aug. 21, 2018), shjrfy.hshfy.sh.cn/jrfy/gweb/xx_view.jsp?pa=aaWQ9OTAPdcssz.
 3. Article 1 of the Regulations of the Supreme People's Court on the Jurisdiction of the Shanghai Financial Court, [shjrfy.hshfy.sh.cn/jrfy/gweb/seconds.jsp?type=fyjj&dm=aRlIRU1cxNTMzMzcyNjI0NTU0z&english=About the Court](http://shjrfy.hshfy.sh.cn/jrfy/gweb/seconds.jsp?type=fyjj&dm=aRlIRU1cxNTMzMzcyNjI0NTU0z&english=About%20the%20Court).
 4. Article 2 of the Regulations of the Supreme People's Court on the Jurisdiction of the Shanghai Financial Court, *supra*, n. 3.
 5. Article 3 of the Regulations of the Supreme People's Court on the Jurisdiction of the Shanghai Financial Court, *supra*, n. 3.
 6. Shanghai Financial Court Released the First Five-Year Development Plan, *supra*, n. 1.
 7. President of the Supreme People's Court Zhou Qiang speech to the Standing Committee of the National People's Congress (Apr. 25, 2018), www.npc.gov.cn/npc/xinwen/2018-04/27/content_2053989.htm.
 8. Shanghai Finance Court Handled 1,897 Cases of Various Kinds in 2018, Sina, Jan. 29, 2019, finance.sina.com.cn/money/bank/bank_hydt/2019-01-29/doc-ihqfskcp1494425.shtml.
 9. Shanghai Financial Court's First Case Comes Down, Investment Company Awarded Over 120 Million Yuan, Xinhua, Nov. 22, 2018, www.xinhuanet.com/legal/2018-11/22/c_1123750420.htm.

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