



QK1901418

JOURNAL OF COMPARATIVE LAW

比较法研究

中国政法大学主办 · 比较法学研究院编辑

■ 陈瑞华

论国家监察权的性质

■ 李永军

从《民法总则》第143条评我国法律行为规范体系的缺失

■ 高圣平 范佳慧

公司法定代表人越权担保效力判断的解释基础

■ 刘艳红

“法益性的欠缺”与法定犯的出罪

■ 彭德雷

数字贸易的“风险二重性”与规制合作

1

2019年第1期

(双月刊·总第161期)

目 录

【专题研讨】

论国家监察权的性质 陈瑞华(1)

论监察案件的证据标准

——以刑事诉讼证据为参照 张 中(16)

职务犯罪调查中的检察引导问题研究 李奋飞(28)

以审判为中心与国家监察体制改革 褚福民(41)

【论文】

从《民法总则》第 143 条评我国法律行为规范体系的缺失 李永军(55)

公司法定代表人越权担保效力判断的解释基础

——基于最高人民法院裁判分歧的分析和展开 高圣平 范佳慧(70)

“法益性的欠缺”与法定犯的出罪

——以行政要素的双重限缩解释为路径 刘艳红(86)

不能犯论的日本路径及其借鉴意义 张梓弦(104)

“选购成衣”与“量体裁衣”:欧陆与英美司法进路之比较 李红海(124)

中国近代遗产税立法及司法实践研究 郑显文 王 蕾(136)

机构投资者投票顾问的法律规制

——美国与欧盟的探索及借鉴 郭 雳 赵轶君(152)

数字贸易的“风险二重性”与规制合作 彭德雷(172)

【法政时评】

证券做市交易与市场操纵的界分 萧 鑫(187)

JOURNAL OF COMPARATIVE LAW

Bimonthly

Serial	No. 161	Jan. 2019	No. 1
--------	---------	-----------	-------

Contents

Topic Discussion

- On the Nature of National Supervisory Power *Chen Ruihua* (1)
- The Standard of Proof in Supervisory Cases; By Reference to Evidence in Criminal Procedure
..... *Zhang Zhong* (16)
- A Study of the Procuratorial Guidance on the Investigation of Duty – Related Crimes *Li Fenfei* (28)
- Proceedings Centered on Trial and the Reform of the National Supervision System *Chu Fumin* (41)

Articles

- Comment on the Deficiency of China's Legal Behavior Standard System from Article 143 of the General
Principles of Civil Law *Li Yongjun* (55)
- The Interpretation Base on the Effectiveness of the Ultra Vires Surety by Corporate Representative; Based
on the Analysis and Development of the Supreme Court's Judgments
..... *Gao Shengping & Fan Jiahui* (70)
- Absence of Legal Interest and Decriminalization of Mala Prohibita; Taking Double Limit Interpretation of
Administrative Elements as the Path *Liu Yanhong* (86)
- The Japanese Approach of the Theory of Impossible Attempts and Its Significance of Reference
..... *Zhang Zixian* (104)
- “Shopping It” or “Making It”; Difference in the Judicial Approaches between Civil Law and Common Law
..... *Li Honghai* (124)
- The Research of Modern China Legacy Tax Legislation and Judicial Practice
..... *Zheng Xianwen & Wang Lei* (136)
- The Regulation of Proxy Advisors; Experiments and Lessons from the US and the EU
..... *Guo Li & Zhao Yijun* (152)
- The Dualism of Risks in Digital Trade and the Regulatory Cooperation *Peng Delei* (172)

Comments on Legislation and Jurisdiction

- The Distinction between Security Market Making and Manipulation *Xiao Xin* (187)

Journal of Comparative Law

Bimonthly

Serial	No. 161	Jan. 2019	No. 1
---------------	----------------	------------------	--------------

Selected Articles

■ Chen Ruihua

On the Nature of National Supervisory Power

■ Li Yongjun

Comment on the Deficiency of China's Legal Behavior Standard System from

Article 143 of the General Principles of Civil Law

■ Gao Shengping & Fan Jiahui

The Interpretation Base on the Effectiveness of the Ultra Vires Surety by Corporate

Representative

■ Liu Yanhong

Absence of Legal Interest and Decriminalization of Mala Prohibita

■ Peng Delei

The Dualism of Risks in Digital Trade and the Regulatory Cooperation

ISSN 1004-8561



9 771004 856191

国际标准刊号: ISSN 1004-8561

国内统一刊号: CN11-3171 D

定 价: 50.00元