

CHINA LEGAL BRIEFING* 162

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Detailed Rules for Implementing the Regulations of the People's Republic of China on Administration of Foreign-funded Banks

中华人民共和国外资银行管理条例实施细则

Issued By	The China Banking Regulatory Commission
Subject	Foreign-Funded Banks
Promulgated on	November 24th 2006
Effective From	December 11th 2006
Source	www.cbrc.gov.cn

The Detailed Rules for Implementing the Regulations of the People's Republic of China on Administration of Foreign-funded Banks (the "Rules") shall come into force as of 11 Dec. 2006 together with the Regulations of the People's Republic of China on the Administration of Foreign-funded Banks (the "Regulations").

The Rules consist of 134 articles in total, 35 previous articles are deleted, 76 articles are amended and 49 new articles are added. The Rules consist of 7 chapters, namely, General Provisions; Establishment and Registration; Scope of Business; Qualification Requirements; Supervision and Regulation; Termination and Liquidation; and Supplementary Provisions.

The prudential requirements referred to in the Regulations and these Rules shall include, but not limited to, the following:

1. Having a good reputation in the banking sector and a good social image;
2. Having persistently sound business performance and good asset quality;
3. The senior management having the professional expertise and management competence;
4. Having a sound risk management system and effective in controlling the risks of connected transactions;
5. Having sound internal controls and an effective management information system;
6. Compiling financial and accounting reports in line with prudent accounting principles and having a clean report by accounting firms on the financial and accounting reports of the three consecutive years prior to the submission of the application;
7. Having no record of serious violations of laws or regulations;
8. Having effective capital management and replenishment mechanism; and
9. Having a sound corporate governance structure.

Should any of the following circumstance occurs, it shall not be eligible to become a shareholder of a proposed wholly foreign-funded bank or a proposed Chinese-foreign joint venture bank:

1. having evident weakness or deficiency in its corporate governance structure and mechanism;
2. Having a complex or an insufficiently transparent equity ownership structure;
3. Having a large number of connected enterprises, or engaging in frequent or unusual connected transactions;
4. Failing to identify the core business or having a business scope covering too many industrial sectors; and
5. Any other circumstance that has a major adverse impact on the proposed bank.

**Public Notice of the China Banking Regulatory Commission
Concerning Relevant Issues after the Promulgation of the
Detailed Rules for Implementing the Regulations of the
People's Republic of China on Administration of Foreign-
funded Banks (yinjianfa [2006] No. 82)**

中国银行业监督管理委员会关于《中华人民共和国外资银行管理条例实施细则》公布后有关问题的公告（银监发〔2006〕82号）

Issued By	The China Banking Regulatory Commission
Subject	Foreign-Funded Banks
Promulgated on	November 24th 2006
Effective From	November 24th 2006
Source	www.cbrc.gov.cn

This Notice is promulgated in line with the provisions of the Regulation of the People's Republic of China on Administration of Foreign-funded Banks (the "Regulations") and the Detailed Rules for Implementing the Regulations (the "Rules").

As of 11 December 2006, the regional and clients restrictions on RMB business of foreign-funded banks shall be removed. Foreign-funded banks, in line with the provisions of the Regulations, might expand their clients to Chinese citizens within the territory of China without any regional restrictions.

The branches of foreign banks having been approved to engage in RMB business with non-foreign-funded enterprises may, after the replacement of their business licenses, receive a time deposit of no less than RMB 1 million for each time from the Chinese citizens within the territory of China, and no approval is required.

Where a branch of foreign bank is converted into a wholly foreign-funded bank that solely funded by the parent bank, it shall establish an independent and complete computer information management system in accordance with the requirements of the CBRC. Where such system is failed to be established, the requirements shall be satisfied within 2 years as of the approval of opening.

Upon their promulgation, the Regulations and the Rules shall apply to the representative offices of foreign banks in China. The *Rules on Administration of Representative offices of Foreign Financial Institutions in the People's Republic of China* promulgated by the People's Republic of China on June 13, 2002 is no longer effective.

A wholly foreign-funded bank or a Chinese-foreign joint venture bank is not allowed to establish representative offices and the supervision and administration of the representative offices established by a wholly foreign-funded bank or a Chinese-foreign joint venture bank prior to the promulgation of the Regulations shall be carried out in accordance with relevant provisions of the Regulations and the Rules.

Where a branch of foreign bank within the territory of China is converted into a wholly foreign-funded bank, the existing representative offices of such foreign bank shall be remained, and the existing general representative office shall be closed upon the commencement of business of the wholly foreign-funded bank. The general representative office of each of other foreign banks shall be closed before June 1, 2007, responsibilities of which shall be transferred into the branch designated as the administration branch by the parent bank.

Where foreign-funded banks fail to meet the newly revised supervisory and regulatory requirements of the Regulations and the Rules, they shall satisfy such requirements before 1 August 2007.

Administrative Measures of Medical Advertisements

医疗广告管理办法

Issued By	The Ministry of Health and the State Administration for Industry and Commerce
Subject	Medical Advertisements
Promulgated on	November 10th 2006
Effective From	January 1st 2006
Source	www.moh.gov.cn

The “medical advertisements” mentioned by the Administrative Measures of Medical Advertisements (the “Measures”) shall refer to the advertisements directly and indirectly introducing medical institutions or medical services in any manner through any media.

A Censorship Certificate of Medical Advertisement shall be obtained prior to the release of medical advertisements. Such certificate shall be valid only for one year, and shall be renewed for further release of medical advertisements. The name of the medical institutions and the serial number of such censorship certificate shall be released together with the medical advertisement. No medical advertisement is allowed to be released in the manner of news report or medical service programs.

The administrations for industry and commerce shall be in charge of the supervision and administration of medical advertisements, and the health administrations shall be responsible for censoring the medical advertisements and supervising and administering the medical institutions. Non-medical institutions are not allowed to release medical advertisements, and no medical advertisement shall be released in the name of an internal department of a medical institution.

Only the following contents shall be included in a medical advertisement:

1. The name of the medical institution;
2. Location;
3. Ownership;
4. Type;
5. Diagnosis and treat subjects;
6. Number of beds;
7. Opening hours; and
8. Contacting telephone number. Among which, the items (1) to (6) shall be in accordance with the Practice License of Medical Institutions issued by health administrations.

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