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CHINA LEGAL BRIEFING 4

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a) National

New Rule to Govern Foreign Investors

The Chinese authorities Thursday released a detailed regulation on foreign exchange issues related to the Qualified Foreign Institutional Investors (QFII) scheme. The rule, designed by the State Administration of Foreign Exchange (SAFE), came out two days before the formal launch of the experimental scheme that will open up the domestic A-share and bond markets to foreign institutional investors. It clarified foreign exchange management systems for the account and quota used for QFII investment, as well as remittance of capital, liabilities of the custodians and the supervisory role of the government. The regulation is a supplement to a circular issued three weeks ago that gave the go-ahead to the QFII program and set up the initial framework. Under the new rule, each qualified foreign investor can only open one special RMB account to facilitate securities trading in China. The investor can apply for an investment quota that equals something between US\$50 million and US\$800 million. (China Daily, November 29)

Central Bank Uniform Chinese Capital Banks and Foreign Capital Banks on the Purchase and Sale of Foreign Exchange

The People's Bank of China promulgated the Provisional Regulation on the Foreign Exchange Designated Banks on Purchase and Sale of Foreign Ex-

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change on November 28 in order to uniform the Chinese capital banks and foreign capital banks on the policy of purchase and sale of foreign exchange. The regulation will come into force on December 1, 2002. It consists of seven chapters and forty-six articles. In accordance with this regulation, all the banks, whether with solely Chinese capitals or foreign capitals, can apply for the business of purchase and sale of foreign exchange so long as they meet the legal requirements, and obtain the qualification of foreign exchange designated banks. The regulation also laid down the detailed rules for the examination and approval procedures. It is considered as one great step to perform China's commitment to WTO agreements. (Law-Star. com, November 28)

Regulation on the Hearing of Governmental Price Decision-making be Effect

The Regulation on the Hearing of Governmental Price Decision-making that promulgated by the State Development Planning Commission will come into force on December 1, 2002. The Regulation consists of five chapters, and thirty-five articles, including the general rules, the organization of hearing, the hearing procedures, legal responsibility, as well as the annexed rules. The Regulation was formulated according to Price Law of the People's Republic of China. The governmental price decision-making is concerned by most of the Chinese people, especially with regard to the price of railways and expressways. (ChinaLawInfo.com, November 26)

MOFTEC and the Ministry of Construction Promulgated the Regulation on the Project Quality of Foreign Contracts

In order to strengthen the supervision of Chinese project enterprises in foreign countries, MOFTEC and the Ministry of Construction recently jointly promulgated the Regulation on the Project Quality of Foreign Contracts. The Regulation will come into effect on December 1, 2002. It consists of fourteen articles, laying down the detailed rules for the qualification, achievement, quality safety management and responsibility of the Chinese enterprises conducting the foreign project contracts. (Law-Star. com, November 26)

Economic Residential Houses Price Will be Supervised

As the first national regulation on the administration of the price of economic residential houses in the urban planned areas, the Regulation on the Administration of the Price of the Economic Residential Houses has been promulgated jointly by the State Development Planning Commission and the Ministry of Construction recently, and will come into force on January 1, 2003. In accordance with this regulation, the price of economic residential houses applies to the governmental guidance price. Any enterprise cannot at its own makes the price for them. The benchmark price of the economic residential houses is composed of three parts, i. e., the development cost, taxation and the profit. (Law-Star. com, November 26)

b) Shanghai

Shanghai Gold Exchange Promulgate the Procedure to Open an Account

Shanghai Gold Exchange recently promulgated the Regulation on the Procedure for the Members to Open Accounts. In accordance with the Regulation, the members shall open special accounts for the agent in the clearing banks designated by the Exchange before doing the agent business. The members can begin the agent business in the next day after receiving the return receipt of opening special accounts. (Law-Star. com, November 27)

c) Local

Foreign Investors Can Establish the Import and Export Companies in Xiamen

From December 11, 2002, the foreign investors will be allowed to establish the import and export companies in Xiamen, Fujian province. Xiamen Trade Development Bureau, Xiamen Foreign Investment Bureau, and Xiamen Industrial and Commercial Bureau jointly promulgated the Regulation on the Permission of Foreign Investors To Establish Import and Export Companies in Xiamen recently. In accordance with this regulation, the wholly foreign capital enterprises in Chinese mainland can establish the wholly foreign capital import and export companies, importing and exporting all the commodities and techniques except those restricted by the State and prohibited from import and export. Meanwhile, the foreign investors that have not invested in Chinese mainland also can establish the import and export companies by means of joint ventures with Chinese enterprises or enterprises with foreign investments in Chinese mainland. They can hold the share proportionate of less than 49%. The lowest registered capital is 2,000,000 CNY. (Law-Star. com, November 28)

The Hearing of April 15 Aircraft Accident Held in Putan, S. Korea

The investigation hearing of April 15 aircraft accident was held in Putan, South Korea on November 25, 2002. This is the first case for S. Korea to hold an international investigation hearing of aircraft accident, and also the first time for CAAC to attend the international hearing of aircraft accident. Air China has safely flined for forty-seven years and enjoyed great reputation in international airlines field, until this April 15, CA 129 line from Beijing to Putan pranged near Putan, causing more than 100 passengers to die. The result of the hearing will be publicized in June 2003. (ChinaLawInfo.com, November 27)

A Large Persons Smuggling Case Tried in Nanjing

Nanjing Intermediate People's Court made a trial of a large person smuggling case on November 26, 2002. The accused, Mr. Chen Wenshu, was charged with smuggling more than one hundred Chinese persons illegal crossing the border in the East China Sea to Japan. On November 25, 2000, the Japanese Ministry of Marine Safe-guarding detained seventeen Chinese in a ship called "Fuyuan" from Xiamen to Japan. In this November, Jiangsu Province Administration Bureau of Frontier Defense investigated this case. Designated by the Supreme People's Procuratorate, this case was transferred from Putian, Fujian province, to Nanjing, Jiangsu province to prosecute. The trial of this case is said to last ten days. (ChinaLawInfo.com, November 26)

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