



## CHINA LEGAL BRIEFING 17

WENGER VIELI BELSER BEIJING OFFICE

*March 24 – March 28, 2003*

*CHINA LEGAL BRIEFING is a weekly collection of Chinese law related news gathered from various media and news services, edited by WENGER VIELI BELSER and distributed to its clients and CHINA LEGAL REPORT SUBSCRIBERS. WVB does not accept responsibility for accuracy of quotes or truthfulness of content. CHINA LEGAL BRIEFING is not intended to provide legal advice.*

### **1. National**

#### ***CSRC Supplementary Rules to “Implementing Measures on the Suspension and Termination of Public Trading for Companies Suffering Losses”***

On 18 March 2003, China Securities Regulatory Commission issued Rules supplementing the Implementing Measures on the Suspension and Termination of Public Trading for Companies Suffering Losses, which was promulgated on 30 November 2001. The supplementary rules prescribe the situation under which two consecutive years of losses occur as a result of restating the financial report. Further, the rules grant the shareholders right to act in case of infringement of legitimate interests resulting from failure of the company concerned to implement its obligation relating to resumption or termination of public trading. ([www.csrc.gov.cn](http://www.csrc.gov.cn))

#### ***SAFE Circular on Improving Management of Foreign Exchange Relating to DFI***

As of 1 April 2003, the Circular on Improving Management of Foreign Exchange Relating to Direct Foreign Investment will take effect. Several amendments are made to the former regime of foreign exchange administration. First, foreign exchange account exclusive for foreign investors may be used in the case of direct investment or activities relevant to direct investment

Telephone +86 10 64687331  
Fax +86 10 64603132  
电话: +86 10 64687331  
传真: +86 10 64603132

mail@wenfei.com  
www.wenfei.com

Wenger Vieli Belser  
Room 722  
Golden Land Building  
No. 32 Liang Ma Qiao Road  
Chaoyang District  
Beijing 100016 P.R.C

北京办事处  
北京市朝阳区亮马桥路32号  
高澜大厦7层722  
邮编: 100016

Offices Zurich  
Wenger Vieli Belser  
Dufourstrasse 56 and  
Mühlebachstrasse 38  
CH-8034 Zürich

Office Zug  
Industriestrasse 7  
P.O. Box  
CH-6301 Zug

without establishment of foreign invested enterprise; second, contribution may be made by use of capital from cash account for non-resident individuals and from offshore account at designated banks dealing with foreign exchanges approved by People's Bank of China; third, sources of contribution from foreign investors are extended to assets from liquidation, capital reduction, shares transferal, common reserve fund, common welfare fund, etc; fourth, clarification is made to working procedures for purchase of shares of domestic enterprises by foreign investors; fifth, rules are set for foreign exchange administration in case of domestic investment made by non-investing foreign invested enterprises and foreign invested enterprises in which foreign capital accounts for less than 25% of registered capital. ([www.safe.gov.cn](http://www.safe.gov.cn))

### ***Ministry of Commerce Explained Rules on Foreign Funded Mergers and Acquisitions***

Considering the forthcoming commencement of effect for Provisional Rules on Foreign Funded Mergers and Acquisitions, the Ministry of Commerce made an explanatory note on its application. In the note, the Ministry dealt with such issues as scope of application, foreign investment accounting for less than 25% of registered capital, debt arrangement, Chinese individual shareholders, pricing and payment, government approval, and anti-monopoly. ([www.law-star.com](http://www.law-star.com))

### ***Beihai Export Processing Zone Approved***

On 11 March 2003, the application for establishment of Beihai Export Processing Zone was approved by State Council. This is the first one in the Guangxi Zhuang Autonomous Region. At present, there are totally 38 such zones in China. The local authorities stated that they would boost local economic development by taking advantage of its establishment and the forthcoming establishment of China-ASEAN Free Trade Area. (<http://www.newgx.com.cn>)

### ***SERC Came into Operation***

On 25 March 2003, the State Electricity Regulatory Commission came into operation. The nascent organ is a law enforcement agency directly under the State Council of China and is responsible for supervising and regulating market competition in the electricity industry. ([www.isinolaw.com](http://www.isinolaw.com))

### ***China to Greenlight the Fifth Aviation Right***

In May this year, China will begin to grant the Fifth Aviation Right to overseas carriers, in accordance with which overseas carriers may pick up passengers and cargo on the Chinese mainland en route to other destinations. The pilot airport is Xiamen Gaoji International Airport, where Singapore Airline will land, pick up passen-

gers and cargo, via Nanjing, then to Chicago. ([www.chinanews.com.cn](http://www.chinanews.com.cn))

### ***Sino-Swiss Venture Capital Established in Beijing***

On 19 March 2003, Sino-Swiss Venture Capital Fund Management Co Ltd (SSVC) announced its establishment in Beijing, with a registered capital of CNY10 million. China Development Bank holds a 67% stake in SSVC and the State Secretariat for Economic Affairs of Switzerland (SECO) holds 33%. SSVC's main business is managing the Sino-Swiss Partnership Fund (SSPF) and providing relevant advisory services. In 1998, the CDB and the SECO jointly founded SSPF, aimed at encouraging the small and medium-sized companies from Switzerland to increase the level of their direct investment in China.

### ***New Telecom Operation Classified Catalogue Issued***

As of 1 April 2003, the revised Telecom Operation Classified Catalogue promulgated by the Ministry of Information Industry will take effect. Under the new catalogue, telecom is divided into two categories: infrastructure telecom and VAT telecom. The former is further grouped into two sub-groups based on such factors as network, information security, market scale. Meanwhile, the latter is also further classified into two sub-groups. Compared with its forerunner, the new Catalogue provides detailed description of each category in respect of technology and management. Further, the categorization will serve as yardstick for level of market access.

([www.chinanews.com.cn](http://www.chinanews.com.cn))

### ***Life Insurance JV Set Up in Beijing***

On 18 March 2003, Swedish-BASED Skandia Insurance Company has been granted a license by the China Insurance Regulatory Commission to conduct life insurance business in Beijing. The company will set up a joint venture with Beijing State-owned Asset Management Corporation. The 50%-50% joint venture will have a registered capital of 24 million US dollars. It is expected to sell policies to Chinese residents in the first quarter of next year. ([www.isinolaw.com](http://www.isinolaw.com))

## 2. *Local*

### *Beijing Gives More Favorable Conditions in Respect of Land Use*

As of 15 March 2003, Beijing Administration of State-Owned Land and Real Estate adopted more favorable conditions in respect of land use for enterprises seating in development zones approved by the state or Beijing municipality. This policy will cover such industries as verified modern manufacture, high technology and other industries encouraged by the city hall.

© Wenger Vieli Belser, Beijing, March 28, 2003

---

#### DISCLAIMER

THIS PUBLICATION IS INTENDED TO PROVIDE ACCURATE INFORMATION IN REGARD TO THE SUBJECT MATTER COVERED. READERS ENTERING INTO TRANSACTION ON THE BASIS OF SUCH INFORMATION SHOULD SEEK ADDITIONAL, IN-DEPTH SERVICES OF A COMPETENT PROFESSIONAL ADVISOR. WENGER VIELI BELSER, THE AUTHOR, CONSULTANT OR GENERAL EDITOR OF THIS PUBLICATION EXPRESSLY DISCLAIM ALL AND ANY LIABILITY AND RESPONSIBILITY TO ANY PERSON, WHETHER A FUTURE CLIENT OR MERE READER OF THIS PUBLICATION OR NOT, IN RESPECT OF ANYTHING AND OF THE CONSEQUENCES OF ANYTHING, DONE OR OMITTED TO BE DONE BY ANY SUCH PERSON IN RELIANCE, WHETHER WHOLLY OR PARTIALLY, UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS PUBLICATION.