



## CHINA LEGAL BRIEFING 21

WENGER VIELI BELSER BEIJING OFFICE

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### 1. National

#### **CIETAC Arbitration Rules for Financial Disputes**

Arbitration Rules of China International Economic and Trade Arbitration Commission for Financial Disputes, which was promulgated by the body on 4 April 2003, will take effect as of 8 May 2003. The Rules applies, but not limited, to disputes arising out of such transactions as loan, deposit receipt, guarantee, letter of credit, negotiable instruments, funds and its custodian, bonds, collection and remittance of foreign exchange, factoring, inter-bank settlement agreements. Expediousness features the Rules by shortening award drafting period from 9 months to 45 days, arbitrator selection period from 20 days to 7 days, response preparation period from 45 days to 15 days, and counterclaim filing period from 60 days to 15 days. A pool of arbitrators with expertise in this field is singled out. However, the Rules will not apply unless parties agree on its application.

[www.cietac.org.cn](http://www.cietac.org.cn)

#### **PBC Regulation on Administration of RMB Settlement Accounts**

On 10 April, People's Bank of China, Chinese central bank, issued Regulation on Administration of RMB Settlement Accounts, which will take effect as of 1 September 2003. This regulation applies to RMB settlement accounts held by entities, individual business and natural persons at policy banks, commercial banks and urban & country credit co-operative. However, this regulation does not apply

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to foreign exchange accounts, individual deposit accounts and entity fixed deposit accounts. Compared with its predecessor, this regulation lifts restriction on entity ordinary deposit accounts, narrows the scope of entity specific fund accounts, and widens the scope of entity temporary accounts. Further, geographic restriction upon bank accounts has been revoked. ([www.pbc.gov.cn](http://www.pbc.gov.cn))

#### **SAFE Follow-Ups in the Aftermath of Revocation of Approval Requirements for 26 Items**

On 15 April 2003, State Administration of Foreign Exchange issued an announcement clarifying applicable rules for 26 items the approval requirements of which had been revoked in two installments made on 11 November 2002 and 27 February 2003 respectively. Facing the trend of deregulation, SAFE adopts two major guiding principles in its Announcement: first, indirectly regulate these items through supervising financial institutions conducting foreign exchange business in which the power to review the transactions is invested; second, establish record system as a basic means of administration. ([www.safe.gov.cn](http://www.safe.gov.cn))

#### **SAFE & CGA Circular on Declaration Form for Importation under L/C, D/P, and D/A**

On 9 April 2003, State Administration of Foreign Exchange and Customs General Administration jointly promulgated Circular on Several Issues Regarding Issuance of Declaration Form by Banks for Importation under Letter of Credit and Collection (Delivery upon Payment/Acceptance). It is, according to the preamble, to fight against smuggling, foreign exchange evasion & arbitrage and tax evasion. Under this Circular, for importation under L/C, D/P or D/A, banks, when checking and issuing notice of acceptance/payment to importers, are required simultaneously issue a declaration form, which is to be filled as required and forwarded together with other documents to customs offices for review. ([www.safe.gov.cn](http://www.safe.gov.cn))

#### **Another 13 Export Processing Zones Approved**

It is reported that State Council has approved another 13 applications for establishment of Export Processing Zones, which will raise the number of such zones across the nation to 38. The new comers are located respectively in Shanghai (3), Jiangsu (4: Nanjing, Zhenjiang, Suzhou and Lian Yungang), Shandong (2: Qingdao and Jinan), Liaoning (1: Shenyang), Zhejiang (1: Jiaxing), Guangxi (1: Beihai) and Xinjiang (1: Urumchi). ([www.cs.com.cn](http://www.cs.com.cn))

#### **New QFIs and QFII Custodian**

Recently, China Securities Regulatory Commission has given UBS Warburg and Nomura Holdings the status of qualified foreign institutional investors. Further, the Commission has granted license of QFII custodian to China Merchants Bank. ([www.isinlaw.com](http://www.isinlaw.com))

**Citibank and Pudong Development Bank to Launch Joint Credit Card Center**

Recently, the application for establishment of joint credit card center by Citibank and Shanghai Pudong Development Bank has been approved by People's Bank of China and the preliminary preparing work is under way. However, it is not expected to issue the joint credit card in the first half of this year. The joint credit card center will be an organ affiliated to Pudong Development Bank and Citibank will take a primary role in its management. ([www.isinolaw.com](http://www.isinolaw.com))

**Individual Investors to Have Access to Gold Market**

On 23 April 2003, Director of Shanghai Gold Exchange made it public that individual investors were expected to have access to gold trade in the first half of this year. According to him, four banks, namely Bank of Industry and Commerce, Agriculture Bank, Bank of China, Construction Bank, have been approved by central bank to conduct individual gold trade business. ([www.sconline.com.cn](http://www.sconline.com.cn))

## 2. Local

**Law Suit Against Board Chairman Failed**

Recently, Shenzhen Intermediary Court decided that single retail investor might not file law suit against chairman of the Board for malfeasance unless the motion was approved by all the shareholders. In its decision regarding a complaint against chairman of the Board of Sanjiu Medical & Pharmaceutical Co Ltd, the Court ruled that legal proceedings against senior corporate executives could not begin until the charge was approved by all shareholders. The losing party said he would appeal. ([www.isinolaw.com](http://www.isinolaw.com))

**Overseas Companies to Enter Urban Planning Sector In Fujian Province**

As of 1 May 2003, Overseas Companies will be able to enter urban planning sector by providing professional consultation and design services in Fujian Province once approved by the provincial government. Accordingly, these companies are required to be in good professional standing in their home countries and regions and have a qualified staff comprising at least 20 members. And the proportion of foreign staff must make up at least a quarter of the total employed. ([www.isinolaw.com](http://www.isinolaw.com))

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