



## CHINA LEGAL BRIEFING 42

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### 1. National

#### *Reminder of Effectiveness of Rules*

As of 1 October 2003, a block of rules relating to finance has taken effect.

These rules include:

- Circular on Certain Issues Regarding Further Regulating the Initial Public Offering (“关于进一步规范股票首次发行上市有关工作的通知”) (China Legal Briefing No.41)
- Provisional Rules on Bonds Issued by Securities Companies (“证券公司债券管理暂行办法”) (China Legal Briefing No.37)
- Provisional Rules on Administration of Service Fees of Commercial Banks (“商业银行服务价格管理暂行办法”) (China Legal Briefing No.31)
- Administrative Rules Governing Auto Financing Company (“汽车金融公司管理办法”) (China Legal Briefing No.42)
- Circular on Further Relieving Limitation on Business Areas of Insurance Companies (“进一步放宽保险公司营业经营区域限制的通知”) (China Legal Briefing No.39)
- Circular on Certain Policies for Deed Tax in the Case of Enterprise Transformation and Restructure

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(“关于企业改制重组若干契税政策的通知”) (China Legal Briefing No.39)

- Provisional Rules on Accounting Treatment of Loss in Enterprise Assets  
(“企业资产损失财务处理暂行办法”) (China Legal Briefing No.42)
- Circular on Issues Regarding Domestic Inter-Bank Borrowing/Lending in Foreign Exchange Conducted by Insurance Companies (“关于保险公司开办境内外汇同业拆借业务有关问题的通知”) (China Legal Briefing No.39)
- Provisions on Administration of Write-Off of Export Proceeds in Foreign Exchange  
(“出口收汇核销管理办法”) (China Legal Briefing No.36)
- Detailed Rules for Provisions on Administration of Writing-off of Export Proceeds in Foreign Exchange  
(“出口收汇核销管理办法实施细则”) (China Legal Briefing No.41)
- Provisions on Administration of Foreign Exchange in Border Trade (“边境贸易外汇管理办法”) (China Legal Briefing No.40)
- Circular on Two-Way Dealing of Inter-bank Foreign Exchange Market  
(“关于银行间外汇市场开展双向交易的通知”) (China Legal Briefing No.40)
- Circular on Adjusting Policies for Purchase of Foreign Exchange by Domestic Residents Under Current Account (“关于调整境内居民个人经常项目下购汇政策的通知”) (China Legal Briefing No.38)

### ***CBRC Rules on Auto Financing Company***

On 3 October 2003, China Banking Regulatory Commission released Administrative Rules Governing Auto Financing Company (“汽车金融公司管理办法”), which has taken effect as of promulgation. The auto financing company (AFC) for the purpose of this regulation refers to a non-bank financial institution that provides loans to both auto buyers and dealers in the mainland of China. Foreigners may invest in AFC, as China has committed to opening its auto financing market without restrictions on the capacity of shareholders of an AFC. However, it does set some requirements for prospective investors and the AFC itself.

To be a qualified investor, it shall

- (1) be an entity incorporated either in or outside China. This entity can be either a non-financial enterprise or a non-bank financial institution. In case of a non-financial enterprise, the total assets of the previous year shall be no less than RMB 4 billion or equivalent convertible currencies, and business revenue of the previous year shall be no less than RMB 2 billion or equivalent convertible currencies. In case of a non-bank financial institution, the registered capital shall be no less than RMB 300 million or equivalent currencies; and
- (2) be well-performed and profitable for the last 3 consecutive years; and

(3) be an auto enterprise or a non-bank financial institution where it is a principal investor of the AFC, which holds no less than 30% of the outstanding shares.

To be a qualified AFC, it shall

(1) own a registered paid-in capital of no less than RMB 500 million or equivalent convertible currencies; and

(2) satisfy the qualifications required by relevant Chinese laws including the Company Law as well as in this Rules; and

(3) be equipped with senior managerial personnel who is familiar with the auto financing and related businesses;

(4) establish sound organizational structure, management system and risk controls; and

(5) have a proper business venue, safety measures and other necessary facilities for operations.

This regulation emphasizes that the major subscriber of an AFC, which invests most to the AFC and the subscribed capital is no less than 30 of the total capital of the AFC, shall be auto enterprises and no-banking financial institutions. Furthermore, an enterprise as a legal person shall not invest on more than one AFC.

It can be foreseen that the Rules will stimulate the development of auto production as well as sale. And the auto credit market of China will be greatly changed as a result of the rising of foreign-funded AFCs.

[www.cbrc.gov.cn](http://www.cbrc.gov.cn)

#### ***MOF Regulation on Accounting Treatment of Loss in Enterprise Assets***

On 3 September 2003, Ministry of Commerce adopted Provisional Rules for Accounting Treatment of Loss in Enterprises Assets (“企业资产损失财务处理暂行办法”), which will take effect as of October 5. The loss in enterprise assets referred to by this regulation include loss incurred from default credit, inventory, fixed assets, project under construction, guarantee, equity investment, bond investment, securities dealing, futures dealing and foreign exchange dealing. This regulation elaborates accounting treatment of each aforesaid scenario.

[www.mof.gov.cn](http://www.mof.gov.cn)

#### ***MOF & SAT Circular on Insurance Commission***

On 12 September 2003, Ministry of Finance and State Administration of Taxation released Circular on Pre-Tax Deduction of Commissions of Insurance Enterprises

(“关于保险企业代理手续费支出税前扣除问题的通知”). According to this circular, as of 1 January 2003, commission collected by an insurance enterprise may be deducted before tax up to 8% of the total premium income of that enterprise. [www.law-lib.com](http://www.law-lib.com)

***2001 Amendment to International Rules for the Avoidance of Collision at Sea Took Effect***

On 28 September 2003, Ministry of Communications announced that China would be bound by 2001 Amendment to International Rules for the Avoidance of Collision at Sea, to which China had raised no objections. The Amendment was adopted on 29 December 2001 and will formally take effect as of December 29 this year.

([www.moc.gov.cn](http://www.moc.gov.cn))

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