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1. *National*

Law on Securities Investment Fund

On 28 October 2003, Standing Committee of National People's Congress adopted Law on Securities Investment Fund ("证券投资基金法"), which will take effect as of June 1 next year. This Law, being drafted since 1999, is the first in China to regulate the new securities fund industry, which can be seen as a significant measure to safeguard the interests of investor and promote the development of China's capital market at the basis of law.

The law formally acknowledges the function and role of securities investment funds, frames the regulatory system, sets the market entry threshold and specifies the liabilities of the practitioners.

This Law applies to public offering of securities investment fund, leaving the issue of private placement to be resolved by State Council by enacting specific regulation. According to the Law, the securities investment company shall have an actually-contributed registered capital in cash of no less than RMB 1 billion. The trustee shall be a commercial bank holding the permit to conduct such business.

The shares of the fund may not be publicly traded unless and until : (1) the term of fund contract is over 5 years; and (2) the capital raised by the fund in

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question is no less than RMB 2 billion; and (3) the share holders of the fund in question are no less than 1000.

The assets of the fund may not be used to: (1) underwrite securities; (2) extend loans or provide security; (3) make investment which may potentially incur unlimited liabilities; (4) purchase and sell shares of other funds except otherwise provided by regulation of State Council; (5) invest in the custodian or the trustee, or purchase and sell shares and bonds issued by them; (6) purchase and sell securities issued by an entity controlling in terms of shareholding the custodian or the trustee, or otherwise having material stakes with the custodian or the trustee; (7) engage in inside trading, market manipulation or other improper transactions; (8) conduct other activities enjoined in accordance with laws and regulations of State Council by department thereof in charge of securities supervision.

However, this Law also leaves a large number of issues in the fund industry unaddressed. Apart from funds that target securities investment, many other types of investment funds have been operating in a grey area, which easily brews irregularities. Even for the securities investment fund business, the new law fails to touch on some crucial points, such as whether open-ended funds can acquire short-term loan from banks. In addition, the new law confers the right of interpretation of some terms and issues to related government departments, which may put ordinary investors in a disadvantageous position in case of disputes.

At the end of September, China had 32 fund management companies, which had issued 87 investment funds, including 33 open-ended funds. The net asset value of the funds totaled 155.3 billion Yuan (US\$18.8 billion), accounting for about 13 per cent of the market capitalization of A shares.

www.people.com.cn (www.chinadaily.com)

Law on Safety of Road Transportation

On 28 October 2003, Standing Committee of National People's Congress passed Law on Safety of Road Transportation ("道路交通安全法"), which will come into effect as of May 1 next year. Under the Law, life safety of pedestrians is emphasized by providing that the engine-driven vehicle shall decelerate when passing by the crosswalk. Where there are pedestrians using the crosswalk, the engine-driven vehicle shall stop to give way. Moreover, the engine-driven vehicle is obligatory to give way to pedestrians in absence of traffic signals. Further, medical units are mandated not to hold off treatment of the injured on account of financial matters. WVB handled a case some time ago in which the lack of such provisions was crucial.

With regard to division of liabilities among parties to an accident, the Law prescribes that liability shall be primarily borne by the engine-driven vehicle where an accident occurs between the engine-driven vehicle and non-engine-driven vehicle or pedestrians. However, the liability on the part of engine-driven vehicle may be mitigated where it can be proved that the driver of the non-engine-driven vehicle or the pedestrian has contravened laws and regulations on safety of road transportation, and that the driver of the engine-driven vehicle has adop-

ted necessary means to prevent the occurrence of the accident.

To give the victims adequate remedies, the Law establishes compulsory third party liability insurance for engine-driven vehicles and mutual help fund. (www.people.com.cn)

Supreme Court Rules on Registrar

On 27 October 2003, Supreme Court released Provisional Rules on Registrar of People's Court ("人民法院书记员管理办法"), which has taken effect as of promulgation. The highlight of this regulation is that the registrar will be administered as an independent serial separated from the judge, which has put an end to the previous possibility of upgrading the registrar to the judge. According to this regulation, the registrar refers to auxiliary personnel undertaking administrative work of the court under the supervision of the judge. (www.xinhuanet.com)

SAFE Manual on Forex Administration of Insurance Business

On 8 October 2003, State Administration of Foreign Exchange promulgated Manual on Foreign Exchange Administration of Insurance Business ("保险业务外汇管理操作规程"), which will take effect as of November 1. This Manual sets rules based on different transactions for administration of foreign exchange in the case of entry and exit of market by insurance entities, including legal basis, required documentation, observed principles, matters calling for special attention. (www.safe.gov.cn)

SAFE Circular on Reform in Forex Administration for Overseas Investment

On 15 October 2003, State Administration of Foreign Exchange put forward Circular on Certain Issues Regarding Further Reform in Foreign Exchange administration of Overseas Investment, ("关于进一步深化境外投资外汇管理改革有关问题的通知"), which will commence its effect as of November 1. According to the Circular, the bureaus of foreign exchange administration in Pilot Areas (Zhejiang, Jiangsu, Shanghai, Shandong, Guangdong, Fujian, Beijing, Tianjin, Sichuan, Hei Longjiang, Chongqing, Guangxi, Hubei, Hainan) may approve projects in respect of foreign exchange to which the capital contribution from the Chinese party is less than USD 3 million. Furthermore, the said bureaus in these areas may approve outbound remittance of foreign exchange for expenditure occurred before formal establishment of the enterprises overseas. (www.safe.gov.cn)

CBRC Guidelines on Credit to Group Debtor

On 23 October 2003, China Banking Regulatory Commission promulgated Guidelines for Risk Management of Commercial Banks for Credit to Group Debtors (“商业银行集团客户授信业务风险管理指引”). For the purpose of this Guideline, group debtors mainly refer to enterprises or institutions controlling or controlled by other enterprises or institutions, or commonly controlled by third party enterprises or institutions, or directly or indirectly controlled by principal investors, key members of management and/or his family members. To mitigate risk, the Guidelines requires the commercial banks resort to syndicate loan, joint loan or loan transfer once the overall credit extended to a single group debtor exceeds 15% of its remaining capital. (www.cbrc.gov.cn)

SARFT Regulation on Joint Production of Films

On 8 October 2003, State Administration of Radio Film and Television released Provisions on Administration of Sino-Foreign Joint Production of Films (“中外合作摄制电影片管理规定”), which will be effective as of December 1. According to the Provisions, Sino-foreign joint production of films may take three forms. It may be in the form of Combined Production (“联合摄制”), whereby both parties invest, produce and share the profits. It may also be organized as Cooperative Production (“协作摄制”), under which the foreign party invests, assisted by the Chinese party who will provide equipments, fields and service, to produce films in China. The third form is Commissioned Production (“委托摄制”), in case of which the Chinese party is commissioned by the foreign party to produce films on its behalf in China. (www.sarft.gov.cn)

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