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1. National

Provisions on Consolidate Supervision of Foreign Invested Banks

外资银行并表监管管理办法

【**Issued By**】 China Banking Regulatory Commission (CBRC)

【**Subject**】 Consolidate Supervision, Foreign Invested Bank

【**Effective From**】 April 1st 2004

【**Source**】 www.law-lib.com

This regulation is adopted as a response to the call of CBRC for consolidate supervision of the foreign invested banks mushrooming in China. The banks to which this regulation is applicable include (1) wholly foreign invested banks and Sino-foreign joint venture banks, which have their business and auxiliary branches in China; and (2) foreign banks which have more than one business branch in China. Through consolidate supervision the supervisory authority will supervise the global operations and risk situations of the legal persons incorporated in China. At the same time the onshore operation and risk situations of foreign banks will be supervised, with due regard to their performance in a global context.

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The relevant players in the consolidate supervision scheme are: (1) the principal reporting bank, which is usually the headquarters of the wholly foreign invested bank and the Sino-foreign joint venture bank or the branch authorized by the headquarters of the foreign bank; (2) the consolidate supervisory authority, which is the regional office of CBRC at the seat of principal reporting bank; (3) the locus supervisory authority, which is the regional office of CBRC at the seat of the branch other than the principal reporting bank of the foreign invested bank.

The consolidate supervision may be conducted either by documentary review or by on site inspection. The documentary review is the responsibility of the consolidate supervisory authority, while the on site inspection is jointly carried out by the consolidate supervisory authority and the locus supervisory authority or by the CBRC itself. Based on the overall results of the consolidate supervision, a tripartite meeting will be convened by the CBRC in which the CBRC together with the consolidate supervisory authority and the locus supervisory authority, the independent auditor and the foreign invested bank will be present. The consolidate supervisory authority will be charged with supervising the implementation of recommendations made to the foreign invested banks.

Provisions on the Administration of Related Transactions between Commercial Banks and Insiders or Shareholders (Draft for Consultation)

商业银行与内部人和股东关联交易管理办法（征求意见稿）

【Issued By】 China Banking Regulatory Commission (CBRC)

【Subject】 Related Transactions, Commercial Bank

【Close of Consultation】 March 26th 2003

【Source】 www.cbrc.gov.cn

This regulation will apply to all the commercial banks incorporated in China including domestic Chinese commercial banks, wholly foreign invested commercial banks and Sino-foreign joint venture commercial banks. To regulate related transactions, it defines the scope of related parties and related transactions and sets out rules for management and administration of related transactions. It also provides the CBRC with teeth to enforce the regulation.

The related parties include natural persons, legal persons and other entities which are related to the commercial bank. Although the regulation sums up the related parties, it suggests that the list is not exhaustive. Article 11 provides that other influencing parties may equally be treated by the commercial bank as related parties where they engage in a transaction which is unfair and not carried out on market basis, making such parties benefit on the cost of the commercial bank.

The related transaction may take one of the following forms: grant of credit, guarantee, transfer of assets, pro-

vision of services and other related transactions defined by the CBRC.

As to the management and administration of related transactions, the regulation requires that a management system has to be established by the commercial bank, with the commission on related transactions, chaired by an independent director comprising 3 members, as its main organ.

The powers entitled to the CBRC with regard to the enforcement of this regulation are important: it may restrict the rights of shareholders who engage in the misconducts as specified by the regulation and can even authorize the compulsory transfer of shares in case of a controlling shareholder's "serious misbehavior". The CBRC may also request the commercial bank to reassign its directors and senior management staff who are involved in irregularities as provided for in the regulation.

Provisions on Customs' Administration and the Supervision of Goods under Processing Trade

海关对加工贸易货物监管办法

【Issued By】 Customs General Administration

【Subject】 Processing Trade

【Adopted On】 February 26th 2004

【Effective From】 April 1st 2004

【Source】 www.law-lib.com

This regulation applies to the record, declaration, import, export, processing, supervision, administration and write-off of goods under processing trade, which refer to imported raw materials for processing final products as well as remains of raw materials, defective products and by-products. The customs may request security for the goods under processing trade. These goods, however, are not subject to mortgage, pledge and lien.

The import and export of goods under processing trade may be made through overseas special areas under the supervision of the customs (e.g. bonded zones), bonded warehouses and transferred for further processing. Within 30 days of the export of the last block of final products under processing trade, the enterprises shall report to the customs for confirmation and write-off. The security on the goods under processing trade will be lifted after the completion of the write-off by the customs.

Circular on Certain Issues Related to the Administration of Foreign Exchange for Non-Resident Individuals

关于规范非居民个人外汇管理有关问题的通知

【Issued By】 State Administration of Foreign Exchange

【Subject】 Non-Resident Individual

【Adopted On】 February 16th 2004

【Effective From】 March 1st 2004

【Source】 www.safe.gov.cn

This circular governs such foreign exchange related transactions as transfer, sale, purchase and the use of a foreign exchange bank account, which are conducted by non-resident individuals in China.

For the purpose of this circular the non-resident individuals refer to three categories of persons: (1) foreign natural persons, including stateless persons; (2) compatriot residents in Hong Kong, Macao and Taiwan; (3) Chinese passport holders who have resided in foreign countries.

Non-resident individuals may open a foreign currency account for the deposit of commercial instruments and a foreign cash deposit account. The Customs declaration form or the original withdrawal receipt shall be issued where the non-resident individual wishes to deposit cash to his foreign cash account held in China above USD 5000 within one day. The same requirement shall also apply where he wishes to sell foreign currency worth more than USD 5000 or equivalent from his foreign cash account. The sale of foreign currency from a foreign currency account shall be approved by the local foreign exchange administrations where the accumulative sale of one person within one month has exceeded USD 50 000 or equivalent.

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