



CHINA LEGAL BRIEFING 72

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1. *National*

Reminder of Entry into Force

As of May 1st 2004, the following instruments will enter into force:

- Law on the Safety of Road Transportation (“道路交通安全法”, CLB No.46)
- Interpretation of Certain Issues Regarding the Applicable Law in the Adjudication of Compensation for Personal Injuries (“关于审理人身损害赔偿案件适用法律若干问题的解释”, CLB No.54)
- Provisions on Penalties of Misconducts of Lawyers and Law Firms (“律师和律师事务所违法行为处罚办法”, CLB No.67)
- Rules of Procedure for the Collection of Legal Fees by Law Firms (“律师事务所收费程序规则”, CLB No.67)
- Provisions on the Administration of Related Transactions between Commercial Banks and Insiders or Shareholders (“商业银行与内部人和股东关联交易管理办法”, CLB No. 69)
- Provisional Rules on the Administration of Pension Funds of Enterprises (“企业年金基金管理试行办法”, CLB No.71)

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Response to the Question Applicability of Environmental Assessment in the Event of Changes to Enterprise Registration

关于企业工商变更登记环境影响评价制度适用问题的复函

【Issued By】 State Environmental Protection Administration

【Subject】 Environmental Assessment

【Promulgated on】 April 12th 2004

【Effective From】 April 12th 2004

【Source】 www.zhb.gov.cn

In a Response to the question put forward by the Shanghai Bureau of Environmental Protection regarding the environmental assessment issue in the event of changes to the enterprise registration, the Administration makes the following observations:

The Law on Environmental Assessment (“环境影响评价法”) and the Regulation on the Administration of Environmental Protection in Construction Projects (“建设项目环境保护管理条例”) provide that environmental assessment shall be conducted for construction projects. The enterprises whose construction projects are underway shall re-file the environmental assessment reports for approval in the event that there are material changes to the nature, dimension or site of the construction projects or to the production methodologies applied after the initial environmental assessment report has been approved.

With reference to the issue of environmental assessment in the event of changes to the enterprise registration, provisions on environmental assessment shall apply to the construction project given that the previous enterprise has been terminated and a new one is to be established. However, no environmental assessment is required to be conducted or re-conducted where the changes to enterprise registration are limited to the legal representative, the name, and are unaccompanied by material changes to the nature, dimension or site of the construction projects or to the production methodologies applied.

***Provisions on the Administration of Financial Companies of Enterprise Corporations
(Consultation Paper)***

企业集团财务公司管理办法（征求意见稿）

【Issued By】 China Banking Regulatory Commission

【Subject】 Financial Companies

【Closing Date】 May 20th 2004

【Source】 www.cbrc.gov.cn

The draft regulation is divided into seven parts with the following headings: general principles, establishment of and changes to institutions, business scope, rules of operation, supervision & administration and risk control, reform & receivership and termination, final clauses. It also governs financial companies established by foreign investment companies to provide financial services to the enterprises invested by them.

The Enterprise Corporation in this regulation refers to a combination of enterprise legal persons which are registered in PRC, comprising of the parent company and its subsidiaries as its main part and other member units ("Member Units"), connected by the nexus of capital and governed by the articles of association of the Corporation.

The financial company in this regulation refers to the non-banking financial institution established to provide financial management services to the Member Units of the Enterprise Corporation with a view to reinforce the collective management of funds within the Corporation and improving the efficacy in the utilization of the funds.

The application for the establishment of financial companies of the Enterprise Corporation shall be made by the parent company to the China Banking Regulatory Commission.

The Enterprise Corporation itself shall meet the following criteria :

1. Be in accord with state industry policies;
2. The registered capital of the parent company is no less than RMB 10 billion;
3. The total assets of Member Units is no less than RMB 50 billion and the net asset ratio is no less than 25% on the prescribed consolidated basis;
4. The annual revenue of Member Units in the past two consecutive years before application is no less than RMB 40 billion on the prescribed consolidated basis and the annual tax contribution is no less than RMB 2 billion within that period;
5. There is a large amount of cash flow within the Corporation;
6. The parent company has been in operation for more than 2 years with the experience in internal financial and funds management for the Enterprise Corporation.

Provisions on the Administration of Investing Insurance Funds listed on the Stock Market

《保险资金投资股票市场管理办法》即将出台

【Source】 www.law-star.com

It is reported that under the Provisions on the Administration of Investing Insurance Funds listed on the Stock Market, there will be more investment options for insurance companies. In addition to circulated A Shares, insurance funds may be invested in non-circulated shares in the A Share Market including state owned shares, legal person shares, convertible bonds and other products acknowledged by the China Insurance Regulatory Commission as related to A Shares.

The insurance funds that may be invested include reserves, capital, operation funds, accumulation funds, undistributed profit, and other various assets formed on the basis of other debts and insurance funds.

For internal control, insurance companies are required to establish a firewall to guarantee the independence of departments dealing with stock trading, fund allocation and accounting.

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