



## CHINA LEGAL BRIEFING 75

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### 1. National

#### *Reminder of Entry into Force*

The Following documents will enter into force as of June 1st :

- Law on Securities Investment Fund (“证券投资基金法”, CLB No.46)
- Regulation on Foundation (“基金会管理条例, CLB No.66)
- Decision on Revising the Regulation on Anti-Dumping (“国务院关于修改《中华人民共和国反倾销条例》的决定”, CLB No.70)
- Decision on Revising the Regulation on Anti-Subsidy (“国务院关于修改《中华人民共和国反补贴条例》的决定”, CLB No.70)
- Decision on Revising the Regulation on Safeguard Measures (“国务院关于修改《中华人民共和国保障措施条例》的决定”, CLB No.70)
- Provisions on the Administration of Foreign Investment to Commerce Fields (“外商投资商业领域管理办法”, CLB No.70)

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- Provisional Rules on the Administration of Insurance Asset Management Companies  
(“保险资产管理公司管理暂行规定”, CLB No.72)
- Guidelines for the Risk Control of the Operation of Insurance Funds  
(“保险资金运用风险控制指引(试行)”, CLB No.73)
- Provisions on the Administration of Foreign Investment in International Carriage by Sea  
(“外商投资国际海运业管理规定”, CLB No.74)

### ***Regulation on Road Transportation***

中华人民共和国道路运输条例

**【Issued By】** State Council

**【Subject】** Transportation

**【Promulgated on】** April 30th 2004

**【Effective From】** July 1st 2004

**【Source】** [www.chinalaw.gov.cn](http://www.chinalaw.gov.cn)

The regulation is divided into seven chapters with the following headings: general provisions, operation of road transportation, businesses incidental to road transportation, international road transportation, enforcement and supervision, liabilities and final clauses.

The regulation applies to road transportation of goods, road transportation of persons, operation of road intervals, repairing of motor vehicles, and training of motor vehicle drivers. It does, however, not apply to urban transportation of persons by bus and transportation of persons by taxi.

Foreign investors may invest in road transportation and its incidental businesses by establishing equity joint ventures, cooperative joint ventures and wholly foreign owned enterprises.

The regulation has a separate chapter dealing with international road transportation. The applicants for international road transportation shall:

- (1) Be legal persons having obtained the road transportation permits either for transportation of goods or for transportation of persons;
- (2) Have engaged in inland road transportation for no less than 3 years during which no severe road accidents have occurred where the applicant has made the fault.

Foreign road transportation operators shall visibly show the signs of their nationality on their vehicles and follow the determined routes. Except with prior consent of the competent authorities the routes shall not be

changed. They may set up representative institutions in China upon approval from the department of State Council in charge of transportation. However, these representative institutions may not conduct business activities in China.

***Circular on Improving the Administration of Examining Foreign Exchange Settlement Under Capital Account by Foreign Invested Enterprises and of Registering Foreign Debts of Foreign Invested Enterprises***

关于改进外商投资企业资本项目结汇审核与外债登记管理工作的通知

**【Issued By】** State Administration of Foreign Exchange

**【Subject】** Settlement, Capital Account, Foreign Debt Registration

**【Promulgated on】** May 17th 2004

**【Effective From】** July 1st 2004

**【Source】** [www.safe.gov.cn](http://www.safe.gov.cn)

The circular adopts a Settlement-for-Payment rule, which requires that the applications for the settlement of foreign exchange should be supported by genuine transactions and demands for payment unless otherwise indicated.

More specifically, applications over USD 200000 shall be supported by a written payment request stating the usage of the funds. The sum shall be directly sent to the payee designated by such payment request.

Applications less than USD 200000 which are to be used for the payment of salaries or the contribution to reserves need not be supported by the aforesaid payment request and may be paid directly to the applicants. However, the applicants shall present detailed reports of funds usage when applying for such next settlement.

The review of applications for the settlement of foreign debts shall follow the same rules as set out above. In particular, no approval shall be granted where the administration of foreign exchange believes that the foreign debts raised by the foreign invested enterprises are to be used to repay their debts in RMB.

The rule that outstanding foreign debts should be below the surplus between the overall investment and the registered capital shall be strictly observed. Where the incoming foreign debt funds have exceeded this limit, the enterprises shall alter their overall investment at the authorities of approval. During this alteration process, the enterprises may withhold the foreign debt funds for up to 3 months. When the grace period expires and the enterprises fail to alter the overall investment, the administrations of foreign exchange shall request the banks of the enterprises to refund the sum exceeding the limit as set out above to the original remitters.

## 2. *Local*

### *Issues Related to HK & Macao Residents Applying to Sit in the National Judicial Examination*

#### *a) Authoritative Documents*

- Provisions on Sitting in the National Judicial Examination by Residents of HKSAR and MacaoSAR (“香港特别行政区和澳门特别行政区居民参加国家司法考试若干规定”), 13 November 2003, [www.xinhuanet.com](http://www.xinhuanet.com).
- Announcement of the Ministry of Justice No.31 (“司法部公告”第31号), 27 May 2004, [www.legalinfo.gov.cn](http://www.legalinfo.gov.cn).
- Explanations on Certificating Degrees of HK & Macao Residents (For the Purpose of Sitting in the National Judicial Examination) (“香港、澳门特别行政区居民申请学历学位认证说明（针对报考国家司法考试）”), 25 May 2004, [www.cscse.edu.cn](http://www.cscse.edu.cn).

#### *b) Eligibility and Documents*

- Citizens of PRC who are permanent residents of HK/Macao should provide the original of HK/Macao permanent resident ID, passport issued by HK/Macao, and their notarized copies
- PRC citizens who hold documents for travelling between the mainland and HK/Macao including the original of HK/Macao resident ID, the documents for traveling between mainland and HK/Macao, the proof of non-relinquishment of Chinese citizenship issued by HK/Macao departments in charge of personal identification, and their notarized copies.
- Educational requirements as applied to mainland examinees;
  - original and copies of educational certificates obtained from mainland institutions; or
  - original and copies of educational certificates obtained outside mainland which are certified by Overseas Study Service Center of Ministry of Education (“教育部留学服务中心”)

#### *c) Application Date*

- 1 July- 31 July 2004

**d) *Place of Application***

- application offices for 2004 National Judicial Exams established by Ministry of Justice in HK/Macao;
- place of study, work, residence within mainland (relevant proof needed)

**e) *Place of Examination***

- Shenzhen, Guangdong Province (applicable to examinees in HK);
- Zhuhai, Guangdong Province (applicable to examinees in Macao);
- place of application (applicable to examinees in mainland China).

**f) *Language***

- The exam papers are printed in simplified Chinese.
- The examinees from HK/Macao may choose to answer the questions either in traditional Chinese or simplified Chinese.

**g) *Useful Links***

- Ministry of Justice: [www.legalinfo.gov.cn](http://www.legalinfo.gov.cn)
- Overseas Study Service Center of Ministry of Education: [www.cscse.edu.cn](http://www.cscse.edu.cn).

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