



## CHINA LEGAL BRIEFING 79

WENGER VIELI BELSER BEIJING OFFICE

June 21-June 25, 2004

*CHINA LEGAL BRIEFING is a weekly collection of Chinese law related news gathered from various media and news services, edited by WENGER VIELI BELSER and distributed to its clients and CHINA LEGAL REPORT SUBSCRIBERS. WVB does not accept responsibility for accuracy of quotes or truthfulness of content. CHINA LEGAL BRIEFING is not intended to provide legal advice.*

### 1. National

#### *Provisions on Registration of Foreign Trade Dealers*

对外贸易经营者备案登记办法

【**Issued By**】 Ministry of Commerce

【**Subject**】 Foreign Trade Registration

【**Promulgated on**】 June 15<sup>st</sup> 2004

【**Effective From**】 July 1<sup>st</sup> 2004

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

This regulation is enacted under Article 9 of the revised Law on Foreign Trade (CLB No.69), which provides that a foreign trade dealer shall be registered at the department of the State Council in charge of foreign trade.

Foreign trade dealers, either dealing with goods or technologies, shall be registered at the Ministry of Commerce or institutions authorized by the ministry, unless the laws, administrative regulations and decrees of the Ministry of Commerce provide otherwise. Customs authorities shall not accept applications for customs clearance from unregistered foreign trade dealers.

The registration authorities shall finish the registration procedure within 5 days from the receipt of the application materials and stamp the Registration

Telephone +86 10 64687331  
Fax +86 10 64603132  
电话: +86 10 64687331  
传真: +86 10 64603132

mail@wenfei.com  
www.wenfei.com

Wenger Vieli Belser  
Room 722  
Golden Land Building  
No. 32 Liang Ma Qiao Road  
Chaoyang District  
Beijing 100016 P.R.C

北京办事处  
北京市朝阳区亮马桥路32号  
高澜大厦7层722  
邮编: 100016

Offices Zurich  
Wenger Vieli Belser  
Dufourstrasse 56 and  
Mühlebachstrasse 38  
CH-8034 Zürich

Office Zug  
Industriestrasse 7  
P.O. Box  
CH-6301 Zug

Forms. Foreign trade dealers shall complete relevant procedures at local authorities responsible for customs, quarantine, inspection, foreign exchange and taxation within 30 days of the stamp date. The Registration Forms shall automatically be void if the foregoing procedures are not completed within the time-limit.

Any later changes to the inputs in the Registration Forms shall be reflected by correction at the registration authorities and other relevant authorities (customs, quarantine, inspection, foreign exchange, taxation) within 30 days of such changes. Failure to abide by the time-limit will result in automatic avoidance of the Registration Forms.

### *Provisions on the Administration of Names of Foundations*

基金会名称管理规定

**【Issued By】** Ministry of Civil Affairs

**【Subject】** Foundation, Name

**【Promulgated on】** June 23<sup>rd</sup> 2004

**【Effective From】** June 7<sup>th</sup> 2004

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

This regulation applies to foundations established in accordance with the Regulation on Foundations (CLB No.66).

The name of a foundation shall contain the mark, the scope of its activities for public interests and shall end with "foundation". Public foundations may not use marks in their names. Nationwide public foundations shall use "China", "national" or "State" in their names. Non-public foundations shall not do so.

The mark in the name of a foundation shall be composed of at least 2 Chinese characters. It shall not be a surname, a name of an administrative region of a county. For public foundations, the mark shall not be the name of a natural person, a legal person or other entities. For non-public foundations, such restrictions shall not apply except for the names of persons whose civil rights have once been deprived of due to criminal offences and the names of leaders of the State, the Party or the old generations of revolutionists.

The name of a foundation shall not include, among other things, the following contents and words: (1) names of foreign countries, regions and international organizations; and (2) names of political parties, governmental agencies and military units; and (3) names of other foundations; and (4) foreign languages, pinyin (拼音) and numbers.

The name of the representative institution of a foreign foundation shall be composed of the following sequen-

tial parts: name of the foundation, name of its seat in China, and “representative office” (or liaison office, etc.)

***Provisions on the Administration of the Issuance of Subordinate Bonds by Commercial Banks***

商业银行次级债券发行管理办法

**【Issued By】** People’s Bank of China (PBC) / China Banking Regulatory Commission (CBRC)

**【Subject】** Subordinate Bonds

**【Promulgated on】** June 17<sup>th</sup> 2004

**【Effective From】** June 17<sup>th</sup> 2004

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

The regulation consists of the following parts: general principles, application for the issuance of subordinate bonds and its approval, issuance of subordinate bonds, registration & custodianship and repayment, disclosure of information, and final clauses.

Subordinate bonds for the purpose of this regulation refer to bonds issued by commercial banks the repayment of whose principals and interests is subordinate to other liabilities incurred by the issuing banks but prior to their equity capital. Upon approval of the CBRC, subordinate bonds may be booked as supplementary capital.

The issuer of subordinate bonds shall be commercial banks duly incorporated in China. The issuance may be conducted at the national inter-bank bond market either through public offering or private placement. In addition, commercial banks may issue set-term subordinated debts through private placement in accordance with relevant rules promulgated by the CBRC. The issuer conducting public offering shall have a core capital adequacy ratio no less than 5%, while in the case of private placement the core capital adequacy ratio of the issuer shall not be less than 4%.

The supervisory authorities for subordinate bonds are the PBC and the CBRC. The CBRC is responsible for the examination of the issuers’ qualification and for the supervision of inclusion of subordinate bonds into supplementary capital, while the PBC is in charge of issuance and trading supervision regarding subordinate bonds at inter-bank bond markets.

***Provisions on Administration of Sale of Securities Investment Fund***

证券投资基金销售管理办法

**【Issued By】** China Security Regulatory Commission (CSRC)

**【Subject】** Securities Investment Fund

**【Promulgated on】** June 25<sup>th</sup> 2004

**【Effective From】** July 1<sup>st</sup> 2004

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

This regulation contains 7 parts: general principles, sales agencies, introductory materials for the fund, cost of sale of fund, rules for the conduction of sale, supervision & administration and legal liabilities, and final clauses.

The term “sale” for the purpose of this regulation shall include such activities as marketing, sale, subscription, and redemption conducted by the fund manager or commissioned other agencies.

The candidates for sales agencies are limited to commercial banks, security companies, security consultancy institutions, specialized fund sale institutions, and other institutions as provided for by the CSRC. The eligibility for sale agencies varies and is based upon the category of the candidates.

The introductory materials for the fund, either in writing or in electronic form, being in conformity with fund contracts and prospectus, may include: (1) published materials; (2) information addressed to the public such as leaflets, brochures, and letters; (3) posters and outdoor advertisements; (4) materials available via TV, movie, radio, and internet. However, sale agencies shall not do the following in the introductory materials: (1) make false records, misleading statements or omit material matters; (2) anticipate the investment performance of the fund; (3) undertake to guarantee profit or bear loss; (4) defame other fund managers, fund custodians and fund sale agencies; (5) publish statements of congratulation, compliment and recommendation made by any natural persons, legal persons or other entities; (6) exaggerate or partially publicize the fund, using words which may mislead the investors to form the impression of risk-free such as safety, guarantee, undertaking, insurance, avoidance of risks, safeguard, high profit, risk-free, etc.

© Wenger Vieli Belser, Beijing, June 25, 2004

Check the China Legal Briefing archives on: <http://www.wengerlaw.ch/EN/publications/1/index.asp>  
Obtain your personal subscription from: [china@wengerlaw.ch](mailto:china@wengerlaw.ch)

---

## DISCLAIMER

THIS PUBLICATION IS INTENDED TO PROVIDE ACCURATE INFORMATION IN REGARD TO THE SUBJECT MATTER COVERED. READERS ENTERING INTO TRANSACTION ON THE BASIS OF SUCH INFORMATION SHOULD SEEK ADDITIONAL, IN-DEPTH SERVICES OF A COMPETENT PROFESSIONAL ADVISOR. WENGER VIELI BELSER, THE AUTHOR, CONSULTANT OR GENERAL EDITOR OF THIS PUBLICATION EXPRESSLY DISCLAIM ALL AND ANY LIABILITY AND RESPONSIBILITY TO ANY PERSON, WHETHER A FUTURE CLIENT OR MERE READER OF THIS PUBLICATION OR NOT, IN RESPECT OF ANYTHING AND OF THE CONSEQUENCES OF ANYTHING, DONE OR OMITTED TO BE DONE BY ANY SUCH PERSON IN RELIANCE, WHETHER WHOLLY OR PARTIALLY, UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS PUBLICATION.