



CHINA LEGAL BRIEFING 80

WENGER VIELI BELSER BEIJING OFFICE

June 28-July 2, 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 Administration of Approving and Filing Personal Insurance Products

人身保险产品审批和备案管理办法

【**Issued By**】 China Insurance Regulatory Commission (CIRC)

【**Subject**】 Personal Insurance Products

【**Promulgated on**】 June 29th 2004

【**Effective From**】 July 1st 2004

【**Source**】 www.circ.gov.cn

This regulation consists of 6 parts: general principles, scope of approval and filing, applications for approval and filing, procedure of approval and filing, responsible persons for actuarial and legal affairs.

The Products for the purpose of this regulation refer to personal insurance products developed by China-based insurance companies conducting such business as life insurance, health insurance and accidental injury insurance.

The following insurance products are subject to an approval by the CIRC: (1) Products determined by the CIRC as relevant to social public interest; and (2) Products whose purchase is made compulsory by statutory provisions; and (3)

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

life insurance products determined by the CIRC as newly developed. All the other products falling out the above three categories are subject to filing with the CIRC.

The decision on applications for approval shall be made within 20 days and in any event within no more than 30 days, excluding the time used to invite comments from experts and to hold hearings in the case of products relevant to social public interests. No sale can be initiated until the approval has been guaranteed by the CIRC. Both the applications for approval and the applications for filing shall be submitted by the headquarters of the insurance companies.

Each insurance company shall appoint a person responsible for actuarial affairs and a person responsible for legal affairs, both shall be acknowledged by the CIRC. The CIRC would not accept declarations and reports signed by persons unacknowledged by the CIRC.

Provisions on Administration of Operation of Securities Investment Funds

证券投资基金运作管理办法

【Issued By】 China Securities Regulatory Commission (CSRC)

【Subject】 Securities Investment Fund

【Promulgated on】 June 29th 2004

【Effective From】 July 1st 2004

【Source】 www.csrc.gov.cn

This regulation applies to activities concerning the operation of securities investment funds such as fund raising (Part II), subscription and redemption (Part III), investment of funds and distribution of profits (Part IV), convening of the conference of fund unit holders (Part V), and other activities related to the operation of the funds.

The proposed fund manager and custodian shall respectively be a fund management company duly incorporated and a commercial bank holding the qualification for custodianship. The proposed fund should meet the following conditions: (1) have clear, specific and legitimate investment direction; and (2) have clear and specific operation means; and (3) in conformity with rules of the CSRC on categories of funds; and (4) not identical to the funds already managed by the proposed manager; and (5) legal documents such as fund contracts and prospectuses are in line with laws, administrative regulations and rules of the CSRC; and (6) the name of the fund indicates the category and investment features of the fund, free from contents which may harm national and public interests, mislead investors and infringe legitimate rights and interests of others.

***Rules of Procedure for Administrative Approval by China Securities Regulatory Commission
(Trial Implementation)***

中国证券监督管理委员会行政许可实施程序规定(试行)

【Issued By】 China Securities Regulatory Commission (CSRC)

【Subject】 Administrative Approval

【Promulgated on】 July 1st 2004

【Effective From】 July 1st 2004

【Source】 www.csrc.gov.cn

The Rules provide procedures for matters regarding administrative approval from the CSRC: ordinary procedure (Part II), summary procedure (Part III) and special procedure (Part IV). They also deal with time limit and service of documents (Part V), announcement (Part VI), and administration of files and statistics (Part VII).

The Ordinary procedure, applying to matters not covered by summary procedure and special procedure, consists of three stages: acceptance, examination, and decision. The department of the CSRC in charge of receiving applications shall notify the applicants whether the application has been accepted within 5 days after receiving it. When examining the application, the CSRC may request further clarifications and explanations from the applicant. The decision, unless otherwise provided for by laws and administrative regulations, shall be made within 20 days and in no event within more than 30 days.

The Summary procedure governs matters that are simple, for which the examining standards are clear and specific and to which the uniform application forms apply. The decision on acceptance can be made immediately after receiving the application. The time limit applies to summary procedure as it applies to ordinary procedures.

The Special procedure applies to two scenarios: (1) the circumstances in which local offices of the CSRC make preliminary decisions, which are to be reviewed and finally decided by the CSRC; or (2) the circumstances in which the CSRC and other governmental agencies make joint decisions. The time limit for the first scenario is 40 days: 20 days for the local office and another 20 days for the CSRC.

Decision on Revising Provisions on Administration of Publication Markets

关于修改《出版物市场管理规定》的决定

【Issued By】 General Administration of Press and Publication (GAPP)

【Subject】 Securities Investment Fund

【Promulgated on】 June 18th 2004

【Effective From】 July 1st 2004

【Source】 www.gapp.gov.cn

The Decision, as a step by the GAPP towards the implementation of the *Law on Administrative Approval* (2003), revises the *Provisions on Administration of Publication Markets* (GAPP, 2003).

The provisions now state that the position of a legal representative in institutions conducting overall issuance and wholesale is no longer limited to persons holding senior or medium professional issuance certificates. People with a medium technical qualification acknowledged by the GAPP as relevant to the issuance of publications are also eligible. Further, the qualification requirement regarding issuance personnel has been removed.

Another substantial change is that the publishers may simply file their intention and necessary documents (i.e. their license) before they start to establish entities without legal personalities to issue publications of their own. Before the revision, the establishment of such entities was subject to approval by local offices of the GAPP.

© Wenger Vieli Belser, Beijing, July 2, 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

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.