



## CHINA LEGAL BRIEFING 92

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### 1. *National*

#### *Provisions on Service of Civil Litigation Documents by Post in the Form of Special Judicial Express*

最高人民法院关于以法院专递方式邮寄送达民事诉讼文书的若干规定

【**Issued By**】 Supreme People's Court

【**Subject**】 Civil Procedure

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

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

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

The Provisions authorizes the courts to service the documents related to civil proceedings by post in the form of special judicial express once they satisfy themselves that it is difficult to make direct hand-over. However, the service by post shall not apply in the following circumstances:

- the addressee or his counsel, or the agent designated by the addressee agrees to take the delivery at the courts within the specified time-limit;

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- the whereabouts of the addressee is unknown;
- special means of service otherwise have been specified by laws or international agreements to which China is a Party.

The Parties shall provide or confirm the addresses for service when they file actions or make pleadings, and fill in the Confirmation of Addresses for Service. In case of declination of the Parties to provide addresses for service, the courts shall inform the Parties of the adverse effects of the declination and record such declination into the transcripts.

Service by post is accomplished in the following circumstances:

- the addressee signs, stamps or presses fingerprints over the post return receipt;
- the statutory agent signs and accepts the post where the addressee has no or limited civil capacity;
- the legal representative, the principal leader, or the staff at the general office, the mail office and the security office accepts the post where the addressee is a legal person or an entity;
- the legal representative for the addressee accepts the post;
- the agent designated by the addressee accepts the post;
- (6) the adult dependents co-inhabiting with the addressee accept the post.

### ***Provisions on Administration of Securities Investment Fund Management Companies***

证券投资基金管理公司管理办法

**【Issued By】** China Securities Regulatory Commission

**【Subject】** Securities Investment Fund

**【Promulgated on】** September 16<sup>th</sup> 2004

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

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

**【Repeal】** Provisional Rules on Administration of Securities Investment Funds 1997

("证券投资基金管理暂行办法")

The Provisions are composed of seven parts, respectively dealing with general rules, establishment of the securities investment management company ("Company"), changes and dissolution of the Company, establishment of, changes to and termination of branches, operation and governance of the Company, supervision and administration, and miscellaneous matters.

Principal conditions for establishing a Company include, *inter alia*,

- shareholders satisfy provisions of Law on Securities Investment Funds and of this Provisions;
- articles of association meet requirements laid down by Law on Securities Investment Fund, Company Law and rules of China Securities Regulatory Commission (CSRC);
- the registered capital is no less than RMB 100 million, actually contributed in cash, or in freely convertible currencies where shareholders come from overseas;
- it is equipped with senior management personnel satisfying relevant laws, administrative regulations and rules of the CSRC, and professionals engaging in research, investment, evaluation and marketing. The number of the envisaged senior management personnel and other business professionals is no less than 15, all of whom shall have obtained qualification for fund business.

Overseas investors (including those from HK, Macao and Taiwan) of Sino-foreign jointly invested Companies shall meet the following conditions:

- overseas investors shall be financial institutions duly incorporated under the law applying in the places of business, lawfully in existence, having experiences in financial asset management, steady in accounting, with sound credit records, and have not been imposed penalties by supervisory bodies or judicial bodies within the past three years;
- There are well established legal rules on securities and supervisory system at the places of incorporation. The supervisory bodies at the places of incorporation have concluded MOUs on cooperation in supervision with the CSRC or other institutions recognized by the CSRC, and have being maintained effective cooperation in supervision;
- Capital actually contributed in freely convertible currencies is no less than what is equivalent to RMB 300 million;
- Other requirements laid down by the CSRC rules approved by State Council are satisfied.

***Provisions on Administration of the Appointment of Senior Management Personnel for Securities Investment Companies***

证券投资基金管理公司高级管理人员任职管理办法

**【Issued By】** China Securities Regulatory Commission

**【Subject】** Securities Investment Fund

**【Promulgated on】** September 22<sup>nd</sup> 2004

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

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

**【Repeal】** Provisional Rules on Administration of Qualification for Fund Business Professionals 1999

("基金从业人员资格管理办法暂行规定")

The Provisions consists 6 parts, respectively addressing such issues concerning senior management personnel as general rules, conditions for appointment and assessment procedure, code of conducts, supervision and administration, legal sanctions, and miscellaneous matters.

The body of senior management personnel for the purpose of this Provisions includes the Chairman, the general manager, the vice general manager, the chief supervisor, and persons actually discharging the aforesaid responsibilities in a securities investment management company; and the general manager, the vice general manager, and persons actually discharging the foregoing responsibilities in the fund custodian division of the custodian bank for the fund.

Persons applying for qualification for senior management personnel of securities investment management companies shall:

- have obtained qualification for fund business;
- have passed tests of legal knowledge on securities investment for senior management personnel organized by the CSRC or its authorized institutions;
- have at least three years of experience in such financial areas as funds, securities and banking, and have management experience corresponding to the applied positions. The chief supervisor shall further have work experience in legal, accounting, supervision and audit;
- have no circumstances contained in Company Law, Securities Investment Fund Law, and relevant administrative regulations preventing them from taking the position of the director, the supervisor, the manager and the fund business professional;

- have not been imposed administrative penalties within the past three years by authorities in charge of securities, banking, industry and commerce, and taxation.

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