



## CHINA LEGAL BRIEFING 103

W E N G E R & V I E L I B E I J I N G O F F I C E

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### 1. National

#### **Circular on the Implementation of the "Interim Provisions on the Administration of Chinese-Foreign Joint Ventures Enterprises in Television Program Broadcast and Production"**

关于实施《中外合资、合作广播电视节目制作经营企业管理暂行规定》有关事宜的通知

**【Issued By】** State Administration of Radio, Film and Television (SARFT)

**【Subject】** Television Program Broadcast and Production

**【Promulgated on】** February 25<sup>th</sup> 2005

**【Source】** <http://www.law-star.com/>

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This Circular is issued for the purpose of regulating and standardizing the administration of Chinese-Foreign joint venture enterprises in television program and broadcast and production. It provides supplementary provisions for the "Interim Provisions on the Administration of Chinese-Foreign Joint Ventures Enterprises in Television Program Broadcast and Production", which was jointly formulated by the State Administration of Radio, Film and Television (SARFT) and the Ministry of Commerce and took effect on November 28<sup>th</sup> 2004.

The Circular stipulates that the Chinese party should play a leading role in the joint venture enterprise in administration and operation, and the foreign party of the joint venture enterprise should be an expert enterprise in the field of television and broadcast. The contents of the programs produced by the joint venture enterprises should be inspected and supervised by the SARFT or other provincial administrative television and broadcast bodies authorized by the SARFT. The amount of programs relating to the Chinese subjects should not be lower than the proportion of 2/3 of the total annual amount of programs produced by the joint venture. The Circular also articulates that the examination of approval of such joint venture enterprises should be as strict as stipulated in relevant laws.

### **Administrative Rules for Pilot Incorporation of Fund Management Companies by Commercial Banks**

商业银行设立基金管理公司试点管理办法

**【 Issued By 】** People's Bank of China, China Banking Regulatory Commission, China Securities Regulatory Commission

**【 Subject 】** Commercial Bank

**【 Promulgated on 】** February 20<sup>th</sup> 2005

**【 Effective From 】** February 20<sup>th</sup> 2005

**【 Source 】** <http://www.pbc.gov.cn/>

The Rules are promulgated for the purpose of carrying out the State Council's "Initiatives on Promoting the Reform, Opening Up and Stable Development of the Capital Market", advancing coordinated financial market development, encouraging financial innovations and ensuring steady progress in the pilot incorporation of fund management companies by commercial banks, as well as governing the connected transactions and cross-market risks resulted from the incorporation of fund management companies by the commercial banks as their shareholders.

The Rules set detailed regulations on the segregation of banking business and fund management business and

on the respective responsibilities of the three regulatory authorities.

The Administrative Rules include 29 articles in five chapters - General Provisions, Application and Approval Procedures, Risk Control, Supervision and Regulation, and Supplementary Provisions. They mainly deal with issues concerning the following three aspects: approval procedures for the incorporation of fund management companies by the commercial banks; isolation of risks in the fund management business from those in the banking business; respective responsibilities and coordination of relevant supervisory authorities.

The Administrative Rules only apply to incorporation of fund management companies by the selected pilot commercial banks. The scope of application is subject to changes made by relevant authorities in light of developments in the economic and financial situations and of the progress achieved in the pilot program.

Regarding the application and approval procedures, the Administrative Rules provide that the commercial banks shall submit to the China Banking Regulatory Commission relevant documents. Under the pilot program, copies of these documents should be sent to the People's Bank of China. The China Banking Regulatory Commission will, from the perspective of overall risk monitoring, review the qualification of the commercial banks and issue regulatory conclusions.

The commercial banks that have got the approval from the China Banking Regulatory Commission, shall, in accordance with the Administrative Rules for the Securities Investment Fund Management Companies and other relevant laws and regulations, submit to the China Securities Regulatory Commission documents relating to the incorporation of fund management companies for approval. Under the pilot program, these documents should be copied to the People's Bank of China.

### **Provisional Regulation on Administration of Loans Investment Projects for International Financial Organizations and Foreign Governments**

国际金融组织和外国政府贷款投资项目管理暂行办法

**【Issued By】** State Development Planning Commission

**【Subject】** Loans Investment

**【Promulgated on】** February 28<sup>th</sup> 2005

**【Effective From】** March 1<sup>st</sup> 2005

**【Source】** <http://www.sdpc.gov.cn/>

This regulation is promulgated by the State Development Planning Commission (SDPC) to strengthen the administration of loans investment projects for international financial organizations and foreign governments and increase the effectiveness of use of foreign loans. It elaborates that the purposes of foreign loans are mostly for the development of the public interests and infrastructures, protection and improvement of ecological environments and promotion of economic and social development in under-developed districts.

According to the Regulation, any project which is desired to take use of foreign loans has to be accepted as a short-listed foreign loans project by the Chinese government. Should the project not be short-listed, no relevant body of the State Council or local government or organ which initially launches the project concerned is entitled to apply for loans to international financial organizations or foreign governments, under no circumstances.

The Regulation also articulates that in order to get SDPC's approval of asking for overseas loans the project initiator should, pursuant to Article 17 of the Regulation, obtain a preliminary permit of loaning from the international loaning organization in advance in addition to fulfilling other obligatory requirements. The Regulation also sets forth provisions to prevent debtors from escaping returning debts.

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