



CHINA LEGAL BRIEFING 104

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

March 7th - March 12th, 2005

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

Provisional Measures on Putting on Record of International Cargo Transportation Agent Enterprises

国际货物运输代理企业备案暂行办法

【Issued By】 Ministry of Commerce

【Subject】 Foreign Trade

【Promulgated on】 March 7th 2005

【Effective From】 April 1st 2005

【Source】 www.mofcom.gov.cn

This provisional regulation is promulgated with a view to improving the management of international cargo transportation agent trade. It specifies regulations on register authority, procedure, modification and cancella-

W E N G E R & V I E L I

ROOM 722, GOLDEN LAND BUILDING, NO. 32 LIANG MA QIAO ROAD, CHAOYANG DISTRICT, BEIJING 100016 P.R.C
PHONE: +86 10 6468 7331 / 32, FAX: +86 10 6460 3132

WE PROVIDE EXTENSIVE LEGAL ADVICE AND REPRESENTATION PRIMARILY IN THE FOLLOWING FIVE PRACTICE AREAS

- FINANCIAL SERVICES (BANKING LAW, STOCK EXCHANGE AND SECURITIES LAW, INVESTMENT FUND LAW)
- TRANSACTIONS (MERGERS AND ACQUISITIONS, PRIVATE EQUITY AND CAPITAL MARKETS)
- LITIGATION/ARBITRATION
- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

tion. Meanwhile, the Ministry of Commerce is well prepared and willing to quicken its process of amendment of the Management Measures on International Cargo Agent Transportation Trade of the People's Republic of China.

The examination and approval of operational qualification of International Freight Forwarding Enterprises are canceled in the provisional regulation concerned, in which the registration of international cargo transportation agent enterprises could be completed upon application and is free of charge.

It also gives prominence to the function of International Freight Forwarders Association. Article 17 of the regulation articulates that International cargo agent trade association should cooperate with competent government administration to put on record for the enterprises and play fully the role of coordination of trade association and enhance trade self-discipline.

Under the provisional regulation, although the Ministry of Commerce is the competent administration of handling the record formalities for international cargo enterprises, it also authorizes local competent commercial administrations to be responsible for putting on record for local international cargo agent enterprises.

According to the provisional regulation, record formalities for international cargo enterprises are as follows:

- Obtain Record Form of International Cargo Agent Enterprises. International cargo agent enterprises may download it through the government network of Ministry of Commerce (<http://www.mofcom.gov.cn>) or get it in local record organs.
- Fill in Record Form. International cargo agent enterprises should fill in the information carefully in accordance with the requirements of Record Form and ensure the filled information completed, correct and true. At the same time, read carefully the provisions on the reverse side of Record Form, sign and seal by legal representative.
- Submit following materials for the record to record organs:
 - The Record Form filled in accordance with the requirements of Article 2 of the provisional regulation;
 - Copy of business license;
 - Copy of organization code;

Besides, foreign invested international cargo agent enterprises are also subject to the Management Measures on Foreign Invested International Cargo Transportation Agent Enterprises.

Measures on the Administration of Pawn Industry

典当管理办法

【 Issued By 】 Ministry of Commerce, Ministry of Public Security

【 Subject 】 Administration of Pawnbroking

【 Promulgated on 】 February 9th 2005

【 Effective From 】 April 1st 2005

【 Source 】 www.mofcom.gov.cn

【 Repeal 】 Measures for the Administration of Pawnshops 2001 典当行管理办法

The Measures is formulated in order to strengthen the supervision and administration of the Pawnbroking and further and regulate the sound industry of Pawnbroking.

The Measures governs the establishment, business scope, business operation, supervision and administration of pawnshops. It also provides principles of punishments and specifies conditions to which the amount of fins and governing provisions apply.

The Measures is acknowledged to: (1) clearly define the procedures of pawn; (2) embody and represent ideas and suggestions of relevant bodies; (3) stress the supervision of pawnbroking and increase the degree of punishment in case of violation; (4) guarantee the legitimate interests of different groups and ensure the fairness of the society.

According to the Measures, pawnshops are not allowed to ask for loans from an organization or individuals other than commercial banks or borrow money from other pawnshops, nor could they conduct overseas investment. The Ministry of Commerce is responsible for registering pawnshops and applications for pawnbroking operation are also subject to the approval of the Ministry of Commerce.

It should be noted that the successful experiences of foreign Pawnbroking laws, together with the actual Chinese situations, are also considered and used as reference when the Measures was enacted.

Provisional Rules on Administration of RMB Bonds Issuance for International Development Organizations

国际开发机构人民币债券发行管理暂行办法

【 Issued By 】 People's Bank of China, Ministry of Finance, State Development Planning Commission, China Securities Regulatory Commission

【 Subject 】 RMB Bonds Issuance

【 Promulgated on 】 February 28th 2005

【 Effective From 】 February 28th 2005

【 Source 】 www.pbc.gov.cn

For the purpose of promoting the opening and development of the domestic bonds market and attracting the advanced experience and management technique of the international bonds issuance, the People's Bank of China, Ministry of Finance, State Development Planning Commission and China Securities Regulatory Commission jointly enacted the Rules to allow qualified international development organizations to issue RMB bonds within the national market.

The Rules clarifies the different functions of governmental bodies by way of introducing the streamlined bonds distributors of international development organizations. It also focuses on legally strengthening and safeguarding the administration of bonds issuance and takes into account China's commitment to WTO of market opening.

The Rules contains 25 articles and comprises 5 parts:

- The first part emphasizes the qualification of the distributors and requires that the credibility level of RMB bonds for international development organizations shall not be lower than the level of AA.
- The second part regulates the procedures of the issuance approval and specifies that it is the Ministry of Finance of People's Republic of China to which the application for RMB bonds issuance by international development organizations shall be submitted. The examinations of application shall be jointly conducted by the People's Bank of China, Ministry of Finance, State Development Planning Commission, China Securities Regulatory Commission or other relevant governmental organs. The final decision is also subject to the approval of the State Council.
- The third part expressly clarifies the different functions of governmental bodies concerning the administration of bonds issuance.

- The fourth part regulates the agencies which involve in the bonds issuance.
- The fifth part restricts the purposes of use of the bonds issuance capitals limiting them to the projects ongoing within the territory of China and it stipulates that the bonds issuance capitals shall not be exchanged into foreign exchanges and be forwarded overseas.

After the Rules have been formulated and published, one or two international development organizations will be chosen as trials. Further legislations and improvement of bonds issuance will take into consideration the implementation of the selected international development organizations.

© Wenger & Vieli, Beijing, March 15, 2005

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 PROVIDES GENERAL INFORMATION WITH REGARD TO ITS SUBJECT MATTER ONLY. IT DOES NOT CONSTITUTE LEGAL ADVICE AND IS NOT INTENDED TO REPLACE SUCH ADVICE. PLEASE REFER TO OUR DISCLAIMER UNDER [HTTP://WWW.WENGERLAW.CH/EN/LEGAL/DISCLAIMER/INDEX.ASP](http://www.wengerlaw.ch/en/legal/disclaimer/index.asp). ALL COPYRIGHTS ARE RESERVED (SEE: [HTTP://WWW.WENGERLAW.CH/EN/LEGAL/COPYRIGHT/INDEX.ASP](http://www.wengerlaw.ch/en/legal/copyright/index.asp)).