



CHINA LEGAL BRIEFING 107

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

Reminder of Entry into Force

As of April 1st, 2005, the following instruments have entered into force:

- 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", CLB No. 104)
- Measures on the Administration of Pawn Industry ("典当管理办法", CLB No. 104)
- Law of E-signature of PRC ("电子签名法")
- Law of Preventing Environmental Pollution of Solid Wastes of PRC ("中华人民共和国固体废物污染环境防治法")

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- LITIGATION/ARBITRATION
- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

- Regulation of Security Protection for Railway Transportation ("铁路运输安全保护条例")
- Administrative Rules on Imports of Auto Parts with Features of Assembling Whole Vehicle ("构成整车特征的汽车零部件进口管理办法")

Circular on Further Enhancing Operational Risk Control

关于加大防范操作风险工作力度的通知

【Issued By】 China Banking Regulatory Commission (CBRC)

【Subject】 Operational Risk Control

【Promulgated on】 March 22nd, 2005

【Source】 <http://www.cbrc.gov.cn/>

China Banking Regulatory Commission (CBRC) has issued a 13-point circular to banks on how to control lending risks better, in order to improve their management of loan risks. The Circular was also issued for the purpose of pushing banks to reorganize, improve management and write off bad loans in preparation for increased foreign competition.

Instructions in the Circular included measures like strengthening internal checks and ensuring that employees did not gamble or take drugs. The CBRC also ordered lenders to declare which managers were responsible for supervision of accounts, loans and other finances.

The Circular instructs banks to strengthen supervision of branch offices, make management more transparent and keep seals and codes secure. It also demands better computer systems for detecting wrongdoing and risks.

Circular on Transmitting Reply of Legislative Affairs Office of the State's Council on Specific Applicable Problems of Investment and Liquidation of Foreign-invested Enterprises

关于转发国务院法制办公室对于外商投资企业投资者出资及清算具体应用问题的复函的通知

【Issued By】 Ministry of Commerce

【Subject】 Foreign-invested Enterprises

【Promulgated on】 March 18th, 2005

【Source】 <http://www.mofcom.gov.cn/>

The Circular contains a letter sent by the Legislative Affairs Office of the State's Council replying to the Ministry of Commerce regarding "Specific Application Problems on Relative Regulations of Investments Made by the Various Parties to Chinese-foreign Equity Joint Ventures and Procedures for Liquidation of Foreign-Funded Enterprises".

In reply to the Ministry of Commerce's questions on "Several Provisions Concerning the Investments Made by the Various Parties to Chinese-foreign Equity Joint Ventures", "Supplementary Provisions to Investment to Several Provisions Concerning the Investment Made by the Various Parties to Chinese-foreign Equity Joint Ventures" and "Procedures for Liquidation of Foreign-Funded Enterprises", the Legislative Affairs Office of the State's Council specifies that:

For problems of "How does the former examining and approving organ confirm that one party offend Article 7 of Investment Provisions": In case one party of the joint venture asks for approval of the former examining and approving organ to disband joint venture or look for other participants in accordance with Article 7 of Investment Provisions, the former examining and approving organ should confirm that one party offends Article 7 of Investment Provisions and authorizes disbandment of the joint venture or authorize observant party to look for other participants in accordance with effective arbitrations of court or relevant arbitral agencies.

On problems of specific explanation of "enterprise decision-making authority" referred in Supplementary Provisions to Investment: "enterprise decision-making authority" referred in Supplementary Provisions to Investment refers to all decision-making authorities of funds providers of enterprises.

Administrative Regulation for Schools of General Higher Education on Students

普通高等学校学生管理规定

【Issued By】 Ministry of Education

【Subject】 Higher Education

【Promulgated on】 March 29th, 2005

【Effective From】 September 1st, 2005

【Source】 <http://www.xinhuanet.com/>

【Repeal】 Administrative Regulation for Schools of General Higher Education on Students (1990)

This Regulation is promulgated for the purpose of better regulating the campus life of students in schools of higher education and promoting the sound improvement of them. The current campus Regulation was issued in 1990.

According to this Regulation, students reaching the legal age for marriage do not have to ask their university for approval when they plan to get married. However, it does not mean that the government encourages collegians to marry during their schooling.

The revised campus Regulation also offers university officials more say in punishing students who are caught cheating in an exam or plagiarizing research achievements. Besides, a university can expel a student if he or she takes an exam for another candidate, hires a proxy to take an exam, organizes exam cheating, cheats through telecommunications devices like a cell phone, or steals ideas from a published research paper. However, to better protect students' rights, the new Regulation also allows students to appeal to an appeals department of their school or even the provincial-level education authority if they are unhappy with a punishment.

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