



CHINA LEGAL BRIEFING 119

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1. National

Circular on Issues Concerning Further Improving the Review Procedures for Capital-raising Application for Establishment of Securities Investment Funds

关于进一步完善证券投资基金募集申请审核程序有关问题的通知

【Issued By】 China Securities Regulatory Commission

【Subject】 Securities

【Promulgated on】 June 16, 2005

【Effective from】 June 16, 2005

【Source】 <http://www.csrc.gov.cn/>

WENGER & VIELI

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

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- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

The China Securities Regulatory Commission released this Circular on June 16, 2005 with a view of further improving the review procedures, enhancing the review efficiency and quality, and boosting the healthy and standardized development of the fund market.

The Circular articulates that upon accepting a capital-raising application for fund establishment (hereinafter referred to as "capital-raising application"), the China Securities Regulatory Commission (CSRC) will determine, according to the situation, whether or not to organize an expert committee to review the application. As to the capital-raising application submitted to the expert committee, experts shall focus on such factors of the proposed fund as investment management, risk control and so on and independently issue the review opinions, which shall serve as reference for the CSRC.

It is also stipulated by the Circular that In case the capital-raising application is filed by a fund management company which operates in compliance with the laws and regulations, possesses strong research capability and enjoys a good market reputation, such application will not be submitted to the expert committee, unless:

- the fund management company has not been incorporated or operating for one year;
- design of the fund product is relatively innovative;
- design of the fund product has yet to be further improved and requires consultation with the expert committee;
- other circumstances as stipulated by the CSRC pursuant to the prudent regulatory principles.

Furthermore, Article 4 of this Circular provides that in case a capital-raising application is found with problems such as unrefined design, ill-defined operational conceptions and non-complete risk control system, the CSRC may order the filing fund management to make substantial revisions in accordance with the Article 24 and Article 25 of the Procedure Regulations. If such application has been reviewed by the expert committee, a second review might be required based on the particulars of the foregoing revisions.

The solicitor and law firm appointed to issue the legal advice and provide legal services for a capital-raising plan are required by the Circular to duly perform their obligations in compliance with relevant rules, examine and verify the documents and facts involved, and guarantee the truthfulness, accuracy and completeness of the documents they issue.

Circular on Cessation of Implementation of Tax Policy on Processing Export of Specilized Steels

关于停止执行加工出口专用钢材有关税收政策的通知

【 Issued by 】 Ministry of Finance, State Administration of Taxation

【 Subject 】 Tax

【 Promulgated on 】 June 15, 2005

【 Effective from 】 July 1, 2005

【 Source 】 <http://www.china.org.cn/>

The Ministry of Finance and State Administration of Taxation jointly released the Circular on June 15, 2005. The issuance of this Circular reflected China's decision to reinstate a value-added tax on high-end steel products for export from July 1, ending preferential treatment enjoyed by steel makers since 1998.

It is said in the Circular that all high-end steel products made for processing and sale overseas will be subject to the 17 per cent value-added tax from July 1, 2005. It also states that putting a stop to favored conditions is intended to curb the export of products including steel that consume large amounts of energy and pollute the environment.

The release of the Circular repealed several regulations promulgated from 1998 to 2004 by main ministries.

Analysts said the move was more a warning against excess exports than an actual hit for the earnings of steel-makers as their exports remained relatively small versus overall output.

Announcement No. 44, 2005

商务部、海关总署2005年44号公告

【 Issued by 】 Ministry of Commerce, General Administration of Customs

【 Subject 】 Export

【 Promulgated on 】 June 27, 2005

【 Effective from 】 July 1, 2005

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

The Announcement specifies that the Ministry of Commerce released Provisional Administrative Measures on Textiles Export (Ministry of Commerce Decree No. 13, 2005) on June 19, 2005, in accordance with Item 27 of which, automatic export permission of the first batch of commodities in List of Textiles of Automatic Export Permission (Ministry of Commerce and General Administration of Customs Announcement No. 7, 2005) will be terminated as from July 1, 2005. Customs will no longer examine Automatic License of Textiles Export of textiles that are declared to be listed in List of Textiles of Automatic Export Permission after July 1, 2005 and will be exported to America, EU (25 member countries) and Hong Kong Special Administrative Regions.

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