



## CHINA LEGAL BRIEFING 128

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

August 29 - September 4, 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.**

### 1. National

**Circular on issues relevant to investment of securities investment funds in warrants in the reform regarding the separation of equity ownership and trading rights**

保险机构投资者债券投资管理暂行办法

**【Issued By】** China Securities Regulatory Commission (CSRC)

**【Subject】** Securities

**【Promulgated on】** August 15<sup>th</sup> 2005

**【Effective from】** August 15<sup>th</sup> 2005

**【Source】** China Law & Practice

#### 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

China Securities Regulatory Commission (CSRC) released this circular on August 15, 2005. Therein the CSRC states that Securities investment funds (funds) are allowed to hold warrants passively obtained in the reform regarding the separation of equity ownership and trading rights and that the funds are permitted to sell or exercise such warrants.

Beyond that the funds may invest in warrants issued in the mentioned reform. Before making investment they have to submit the investment scheme to the CSRC and disclose it to the public. If there is fund property used for investment the circular adopts several ratio limits. The total amount of warrants purchased on one trading day by a single fund shall not exceed 0.5 % of the net asset value of the said fund on the previous trading day. The market value of all warrants held by a single fund shall not exceed 3 % of the fund's net asset value and/or the amount of the same warrant held by all the funds managed by it shall not exceed 10 % of the total issue volume of the warrant. Exceptions from these ratio limits, provided by the CSRC are available.

If the investment of a fund does not comply with the investment ratios described above and the fund contract or the fund's warrant investment scheme, the fund manager shall make an adjustment within 10 trading days.

**Supplementary provisions to the "Administrative Measures on the Business Requirements of Foreign Labour Service Cooperation"**

《对外劳务合作经营资格管理办法》补充规定

**【 Issued by 】** Ministry of Commerce and State Administration for Industry and Commerce

**【 Subject 】** Labor Law

**【 Promulgated on 】** August 15<sup>th</sup> 2005

**【 Effective from 】** September 14<sup>th</sup> 2006

**【 Source 】** <http://www.tid.gov.hk/>

The Ministry of Commerce and the State Administration for Industry and Commerce jointly promulgated the Supplementary Provisions to the "Administrative Measures on the Business Requirements of Foreign Labor Service Cooperation" on August 15, 2005, which will take effect 30 days after the promulgation. The Supplementary Provisions is issued with a view to meeting the need of restructuring of enterprises and promoting the development of overseas labor cooperation business of western regions. It mainly covers two supplementary points as below:

Firstly, the following enterprises that comply with the provisions of items (1) to (7) of Article 5 of the Administration Measures on the Business Requirements of Foreign Labor Service Cooperation (excluding the requirements for the time of registration) may continue undertaking overseas labor service business within the former business scope of the enterprises, but shall apply for changing the Certificate of Operation Qualification of Overseas Labor Service Cooperation of the People's Republic of China:

- The enterprise that survives after the merger of any enterprise that has the operation qualification of overseas labor service cooperation (hereinafter referred to as the "operation qualification") with any other enterprise, and the former enterprise is revoked, or the newly established enterprise after such merger; or
- The enterprise that is newly established after the division of any enterprise that has operation qualification, and the former enterprise is revoked or gives up its operation qualification, with its overseas labor service cooperation business incorporated into the newly established enterprise as a whole.

Where any enterprise that has operation qualification is divided, apart from the circumstances as prescribed in the preceding paragraph, the newly established enterprise after the division that complies with the provisions of Article 5 (excluding the requirements for the time of registration) of the Administration Measures on the Business Requirements of Foreign Labor Service Cooperation may apply for operation qualification according to law.

Secondly, the western provinces or autonomous regions which send less than 300 laborers abroad annually may, apart from the enterprises that have had the operation qualification before the promulgation of the present Provisions, give special permit to one enterprise to apply for the operation qualification, and the enterprise shall not be restricted by the requirements for performances as prescribed in item (8) of Article 5 of the Administration Measures on the Business Requirements of Foreign Labor Service Cooperation.

### **Announcement Measures on Behavior Prohibited by Laws and Regulations of Foreign Trade Operator**

中华人民共和国治安管理处罚法

**【Issued by】** Ministry of Commerce

**【Subject】** Foreign Trade

**【Promulgated on】** August 23<sup>rd</sup> 2005

**【Effective from】** September 1<sup>st</sup> 2005

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

The Ministry of commerce promulgated this provision regarding the public announcement of wrong conduct of foreign trade operators. The regulations envision that foreign trade operators violating the Foreign Trade Law, related laws and regulations or imperil foreign trade orders shall be proclaimed to the public through official websites and appointed nationwide publications. The assumption for the publishing is that the foreign trade operator has been punished or charged with criminal responsibility for certain behavior listed in article 5 of the provision. Article 5 designates a wide area of wrong conduct, such as violation of import and export regulations and anti monopolization law, infringement of intellectual property rights, engagement in prohibited international service trade or conducting unfair competition or smuggling.

Article 6 states that information to identify the foreign trade operator, such as the title, organization code and the business location shall be proclaimed as well as the unlawful behavior and the punishment. The Ministry of Commerce shall be the authority in charge, but will work together with local responsible commercial sectors to establish a network to gather and exchange necessary information.

© Wenger & Vieli, Beijing, October 12, 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](mailto: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)).