

# CHINA LEGAL BRIEFING\* 208

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## **Code of Conduct for Staff of China Securities Regulatory Commission**

中国证监会工作人员行为准则

Issued By	<b>China Securities Regulatory Commission</b>
Subject	<b>Code of Conduct</b>
Promulgated on	<b>November 4<sup>th</sup>, 2009</b>
Effective from	<b>November 4<sup>th</sup>, 2009</b>
Source	<a href="http://www.csrc.gov.cn">http://www.csrc.gov.cn</a>

On November 4, 2009, China Securities Regulatory Commission (“CSRC”) issued a Code of Conduct for Staff of China Securities Regulatory Commission (hereinafter referred to as “Code of Conduct”). It is the first time that CSRC publicly releases a code of conduct for its internal staff. The Code of Conduct binds behaviors of the staff from five aspects, namely the supervision according to law; diligence; fairness; honesty and confidentiality. The Code of Conduct has taken effect on November 4, 2009.

According to Article 18 of the Code of Conduct, the staff of CSRC should comply with the provisions of the state, which prohibits the securities and futures regulatory agency staff from being involved in the sale of stocks and futures trading. They are not allowed to disclose business secrets, which have been obtained during work, and insider information about securities and futures trading.

In accordance with the Code of Conduct, the staff of CSRS must not engage in a behavior, which conflicts with the interest of the regulatory duties. In carrying out official duties, if the staff of CSRS could affect the impartial performance of the official duties, the staff of CSRS should take the initiative to apply for avoidance and not exert influence on the matter.

No staff member may work concurrently in the regulatory objects and other profit oriented organizations. Without approval, the staff of CSRS must not serve concurrently in the community and other non-profit organizations. Even if approved, the staff members must not receive any remuneration for such part-time.

For a long time, many CSRC officials have been serving as senior management personnel in fund companies or securities companies after their resignation from CSRC. In this regard, the Code of Conduct clarifies: “After resigning from CSRC, the staff should not serve in the regulatory object within the prescribed period.”

The Code of Conduct states: “If the staff of CSRC violates the Code of Conduct, insiders can inform the units, in which the staff works, or higher units. After receiving a report or

complaint, the relevant units or departments of CSRS shall promptly investigate and handle the incident.”

The Code of Conduct is issued in the form of a CSRC document. It is conducive to a social supervision, so as to better regulate the conduct of staff and promote healthy and stable development of the capital market.

### **Decision on the Abolition of “Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies” and other Regulations**

关于废止《设立外商控股、外商独资旅行社暂行规定》等规章的决定

Issued By	<b>The National Tourism Administration of the People's Republic of China and Ministry of Commerce of the People's Republic of China</b>
Subject	<b>Foreign-invested Travel Agencies</b>
Promulgated on	<b>October 11<sup>th</sup>, 2009</b>
Effective from	<b>October 11<sup>th</sup>, 2009</b>
Source	<a href="http://www.cnta.cn">http://www.cnta.cn</a>

On October 11, 2009, the National Tourism Administration of the People's Republic of China and the Ministry of Commerce of the People's Republic of China jointly issued an order to abolish the “Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies”, “Amendment of Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies” and “Additional regulations to Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies”.

With the abolishment of these three regulations, the only remaining law applicable to foreign investors entering China's tourism market is the “Regulation on Travel Agencies” (hereinafter referred to as “the Regulation”). This means that foreign investors will be able to enjoy "national treatment" to operate travel agencies in China.

The Regulation provides less restriction for foreign investors to operate travel agency in China. For example, to apply for establishing a travel agency and operating domestic tourism business and inbound tourism business, the foreign invested agency, like a Chinese agency, only needs to meet the following conditions: (i) have a fixed business place; (ii) have necessary business facilities; (iii) have a registered capital of not less than RMB 300,000. Annual revenue, registered capital and many other restrictions are no longer required.

It is understood by the travel agencies that, among three major businesses (inbound travel, domestic travel and outbound travel), outbound travel makes the highest profits. However, according to Article 10 of the “Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies”, no foreign-controlled or wholly foreign-funded travel agency was entitled to manage the business related to Chinese citizens’ overseas tours or the businesses relating to the tours of tourists from other regions of China to Hong Kong or Macao Special Administrative Regions or Taiwan. In the past, this provision largely hindered the development of foreign invested travel agencies in China.

With the abolishment of the above mentioned three regulations, restrictions on operating outbound travel offered by foreign-invested travel agencies became loosened. In this respect, the Regulation provides: No foreign-invested travel agency may operate in China mainland the business relating to residents’ traveling to other countries or Hong Kong and Macao Special Administrative Region or Taiwan region, unless it is otherwise decided by the State Council; or provided by the free trade agreements signed by China; or provided by the arrangements on establishing closer economic partnership between Mainland and Hong Kong/Macao. According to this provision, foreign-invested travel agencies may obtain the right to operate outbound travel.

## **Measures for the Classified Administration of Enterprises Exporting Industrial Products**

### **出口工业产品企业分类管理办法**

Issued By	<b>General Administration of Quality Supervision, Inspection and Quarantine of the People’s Republic of China</b>
Subject	<b>Foreign economy and Trade</b>
Promulgated on	<b>June 14<sup>th</sup>, 2009</b>
Effective from	<b>August 1<sup>st</sup>, 2009</b>
Source	<a href="http://www.aqsiq.gov.cn">http://www.aqsiq.gov.cn</a>

For purposes of regulating the inspection, supervision and administration of enterprises manufacturing industrial products for export, enhancing the effectiveness of inspection, supervision and administration, encouraging the good faith of enterprises manufacturing industrial products for export, enhancing the awareness of accountability and promoting the improvement of the quality of export products, on June 14, 2009, the General Administration of Quality Supervision, Inspection and Quarantine of the People’s Republic

of China issued the “Measures for the Classified Administration of Enterprises Exporting Industrial Products” (hereinafter referred to as “Measures”). The Measures took effect on August 1, 2009.

The Measures only apply to the inspection, supervision and administration of enterprises, whose products are listed in the “Catalogue of Import and Export Commodities Subject to the Inspection and Quarantine of Entry-Exit Inspection and Quarantine Institutions”. They are inapplicable to the administration of enterprises producing food, animal and plant products for export.

According to the Measures the enterprises are classified into Category I, Category II, Category III and Category IV, on the basis of their credit, quality guarantee capacity and product quality status, and should apply in different ways of inspection, supervision and administration in light of the risk levels of its products (high risk, relatively high risk and ordinary risk). There are 5 different ways of inspection and supervision, namely, special supervision and administration; close supervision and administration; ordinary supervision and administration; verification-based supervision and administration; and credit-based supervision and administration.

The Measures strengthen scientific and effective combination of inspection and supervision and shift the focus from product inspection into the production process supervision. Moreover, the implementation of the Measures can make the products of those enterprises, which have strong quality assurance ability and a high degree of integrity, being exported faster, so that those really good enterprises can get more comfort and benefit. In addition, it also encourages enterprises to strengthen self-discipline and actively improve the quality of its export products.

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