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# China News Alert Issue 272

## Capital Markets

### Interest rates cut again to spur growth

The central bank has rolled out the fifth interest rate cut in four months - in its latest attempt to shore up investment and boost the economy.

The People's Bank of China lowered the benchmark one-year lending and deposit rates by 0.27 percentage point to 5.31 percent and 2.25 percent, it said in a statement.

The central bank also lowered the reserve requirement ratio for lenders by 0.5 percentage point to 13.5 percent. The reduction in the reserve requirement, which refers to the deposits commercial banks are required to set aside in reserves, will take effect from Dec.25. Analysts estimate the move will free up another 300 billion yuan ($43billion) for possible lending.

"The combination of interest rate and reserve requirement ratio cuts will be more effective in helping stabilize the weakening economy," Dong Xian'an, a macroeconomics analyst at China Southwest Securities, said.

Latest figures show the national economy is slowing drastically as a recession tightens its grip in the nation's major trade partners such as the US and Japan.

The nation's exports dropped by 2.2 percent year-on-year in November, the first time in seven years; while year-on-year industrial output growth slowed to 5.4 percent in November, down from 8.2 percent in October.

GDP growth slowed to 9 percent in the third quarter of this year, the fifth quarterly decline. Many economists forecast that growth could drop below 8 percent in the fourth quarter.

Analysts say the government's decision to reduce borrowing costs and pump up money supply would support its recent moves to boost investment and spur domestic demand.

"Monetary policy is now all about freeing up funds to be lent to government-backed investment projects, as well as driving down borrowing costs," said Stephen Green, an economist with Standard Chartered Bank.

Top policymakers announced a 4 trillion yuan ($586 billion) economic stimulus package last month. Besides 1.18 trillion yuan from the State coffers, the lion's share of the package will be financed by bank loans.

The central bank has lowered interest rate by 216 basis points over the past four months, including a cut of 108 basis points on Nov 26, the biggest in 11 years. Earlier this month, the State Council, or the Cabinet, also raised the money supply growth target from 16 percent in 2008 to 17 percent, trying to ensure ample liquidity.

Zhou Xiaochuan, governor of the central bank, said earlier this month that China was facing pressure to cut interest rates from now until early next year.

The World Bank forecast that China's GDP growth could be as low as 7.5 percent next year. Many economist forecast that it could be about 8 percent.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/23/content_7330060.htm) ([see archive](Interest_rates_cut_again_to_spur_growth.pdf))

### CBRC for consumer finance firms

The nation's banking regulator has proposed the establishment of new consumer finance companies specializing in consumer loans as part of the government efforts to boost domestic consumption.

China Banking Regulatory Commission (CBRC) has recommended the idea to the government and proposed pilot projects in the major cities such as Beijing and Shanghai, according to a report in Guangzhou Daily. These companies would not be allowed to accept deposits.

The proposed finance companies are expected to provide unsecured loans to individuals for the purchase of consumer durables such as refrigerators and air-conditioners, and expenses on education, tourism and wedding ceremonies.

Economists and financial experts said the new move would help promote domestic consumption by making bank credit more easily available to consumers.

"The establishment of the finance companies could be good news at a moment when the country is trying to increase the contributions of consumer spending to economic growth," said Hu Yonggang, a professor of economics at Shanghai University of Finance and Economics.

Considering the potentially higher risks associated with unsecured loans, the source of funds of these proposed consumer finance companies should be confined to capital investment by qualified domestic or foreign investors, and borrowings in the inter-bank market, which is expected to be limited to no more than 100 percent of total capital.

The proposed regulation is also expected to allow only investors who can meet stringent standards to own and manage the new consumer finance companies.

The Guangzhou Daily report said an institution wishing to open a consumer finance company must have capital of no less than 300 million yuan and total assets of at least 80 billion yuan, a minimum five years experience in consumer finance services and have been making a profit for two consecutive fiscal years.

In addition to meeting those requirements, an overseas investor must have established a representative office in China for more than two years.

To avoid excessive consumption, the maximum loan amount given to consumers will be limited to five times their monthly income.

To minimize risks, the proposed finance companies are required to maintain a capital adequacy ratio of no less than 10 percent.

But financial experts also warned that the regulator need to further improve risk control on the operation of the new consumer finance companies, because of the lack of a nationwide credit information system.

"The lack of a well-established credit information system in China should be developed in line with the projected growth in consumer credit," Hu said.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/23/content_7330482.htm) ([see archive](CBRC_for_consumer_finance_firms.pdf))

### CBRC Standardizes the Business Cooperation between Banks and Trust Companies

The China Banking Regulatory Commission (CBRC) released on December 22 a document governing the business cooperation between banks and trust companies, urging banks and trust companies to establish risk management systems within their responsibilities, and provide services based on clients' risk preference, risk acknowledgement and acceptability.

According to the Guidelines for the Business Cooperation between Banks and Trust Companies, banks may not provide guarantees in any form for the trust products involved in the bank-trust financing cooperation and the targets of property operation under the trust products. Trust companies shall invest in a buy-out form in banks' assets such as credit assets and note assets held by banks, and the banks may not repurchase them in any form.

Besides, the business cooperation between banks and trust companies must comply with related rules governing association transactions and conduct information disclosure as required.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5155) ([see archive](CBRC_Standardizes_the_Business_Cooperation_between_Banks_and_Trust_Companies.pdf))

## Corporate & Commercial

### China seeks foreign assistance to pursue fugitive foreign investors

China is seeking foreign help to pursue overseas investors who flee the country without properly liquidating their assets.

China's ministries of commerce, foreign affairs, justice and public security jointly issued recently a guideline for cross-border investigation and litigation of fugitive foreign investors.

The country would follow both international rules and domestic regulations to address such cases and seek assistance from foreign countries, the ministries said.

China would also request extradition or case transfer when a "huge amount of money" was involved, it said.

There are increasing cases in China of foreign investors who do not go through the formalities of declaring bankruptcy, but instead slip away, leaving behind equipment, unpaid wages and debts. Most of those fleeing investors were in small and labor-intensive companies.

Most foreign-funded companies in China are supported by domestic companies, and any capital withdrawal by the foreign-funded companies would affect the domestic ones, industry experts said.

According to previous media reports, 87 companies funded by investors from the Republic of Korea (ROK), withdrew from Shandong Province without proper liquidation of assets last year. The figure was 21 in 2003.

In January, more than 10 ROK company officials suddenly abandoned their Yantai Shigang Fiber Co. in Shandong and fled because of financial difficulties. They left without paying the wages of more than 3,000 employees and large debts.

[Source: Xinhua](http://news.xinhuanet.com/english/2008-12/20/content_10530737.htm) ([see archive](China_seeks_foreign_assistance_to_pursue_fugitive_foreign_investors.pdf))

### China issues draft rule on investment using equity interest

China's national industrial and commercial regulator recently released a draft measure that would provide the first national standards on how companies could use equity to invest in other entities.

At present, there is no national standard for such investments, only a series of varying provincial requirements.

The rule, from the State Administration for Industry and Commerce, will cover all types of listed and unlisted companies, including state-owned enterprises.

The length of the comment period will depend on how many comments are received, the regulator said.

Under the draft rules, equity interest that has been mortgaged, frozen, or locked-up should not be used for investments. Also, non-cash capital, including equity interest, should not account for more than 70 percent of the target company's registered capital.

The practice of investment using equity is fairly new in China, and it has mostly been tried on the provincial level in Zhejiang, Jiangsu and Shandong. Analysts said that early attempts at financing investment in this way appeared to be effective.

For example, a government mining agency in Zhejiang Province used equity interest from its five subsidiary companies and 15 million yuan (about 2.2 million U.S. dollars) to set up a parent company. Using cash would have cost an estimated 50 million yuan.

[Source: Xinhua](http://news.xinhuanet.com/english/2008-12/18/content_10524853.htm) ([see archive](China_issues_draft_rule_on_investment_using_equity_interest.pdf))

### Call for law to punish fleeing bosses

The National People's Congress (NPC) should introduce a new legislation that makes it a crime for business owners to flee without paying workers, a senior Guangdong official said recently.

Liu Youjun, deputy director of the provincial labor and social security department, said his proposal will be officially submitted to the NPC at next year's session.

In Dongguan, a major manufacturing base in Guangdong, 117 firms closed down in September and October.

In each case, the owners fled, leaving more than 20,000 people without wages, the Hong Kong-based Takungpao reported recently.

Local governments and taxpayers were left to pick up the bill, it said.

There is currently no criminal law covering this sort of behavior, Liu said.

Labor and social security departments can issue administrative punishments to business owners, such as preventing them from investing in the future, but they are not enough to stop unscrupulous operators from re-offending, he said.

The only effective solution is to introduce a law that makes it a crime for company bosses to flee their failing businesses, he said.

Meanwhile, Liu Bingquan, director of Guangdong's small and medium enterprise bureau, told NPC deputies on a visit to Guangzhou recently that in the first 10 months of the year, 15,661 local SMEs either closed down, suspended their operations or moved away.

In some parts of Guangzhou, local government teams have even been set up to monitor suspect firms to ensure their owners do not flee, he said.

However, not all company chiefs are on the verge of fleeing.

Harley Seyedin, president of the American Chamber of Commerce (AmCham) in South China, told: "Multinational firms don't behave like that.

"They want to expand their businesses in China, and many will be hiring more people next year."

A recent study conducted by AmCham found that most of its 1,300 member companies in South China had decided to shift the focus of their business from America and Europe to China.

"The Chinese market is getting stronger compared with the Western market," Seyedin said.

"So firms are hiring more people, rather than laying them off."

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/18/content_7316585.htm) ([see archive](Call_for_law_to_punish_fleeing_bosses.pdf))

## Real Estate

### Details of Real-estate Stimulus Package

The General Office of the State Council, or Cabinet, recently unveiled more details of a real-estate stimulus package adopted at an executive meeting of the Council earlier.

The document, called A Number of Opinions Concerning Boosting Healthy Development of the Property Market, was posted on the central government's official website. It emphasized low-income housing and home ownership.

The five-point opinions included building more houses for low-income urban families, encouraging home buying, supporting property developers to deal with changing market, enhancing role of local governments in stabilizing the real estate market, and improving surveillance on the property market.

The document repeated the earilier decision that the government will solve the housing problem for 7.47 million low-income urban families and 2.4 million households in shantytowns in the next three years. Rural homes in dangerous condition will also be renovated.

It detailed the goal for 2009, during which the government will help overcome housing difficulties for 2.6 million low-income urban families and 800,000 households in shantytowns.

It also repeated all other major points adopted by the earlier executive meeting of the Council.

According to the package, someone who has owned his home for two or more years can now sell it without having to pay business taxes. Previously, owners had to wait at least five years before selling houses tax-free.

If they sell their houses within two years, owners only have to pay taxes levied on the profit, not the sales price.

To boost home buying, the government also allows people with "smaller-than-average" apartments to buy a second apartment under favorable loan terms. Size limits are different in every city.

This is the latest in government efforts to prop up the real estate sector. Previous measures include pledges to build more low-income housing and cuts of mortgage rates and down payments for first home buyers.

Property prices in 70 major Chinese cities rose 0.2 percent in November from a year earlier. The growth rate was the lowest since the government started to publish the figure in July, 2005.

A total of 2.7 trillion yuan (387.5 billion U.S. dollars) was pumped into real estate development nationwide in the first 11 months of the year, up 22.7 percent year-on-year.

However, the growth rate was 1.9 percentage points lower than the January-October level.

Between January and November, total sales were 490 million sq m, down 18.3 percent year-on-year. Residential sales fell 18.8 percent.

[Source: China Daily](http://www.chinadaily.com.cn/china/2008-12/22/content_7327538.htm) ([see archive](Details_of_real-estate_stimulus_package_revealed.pdf))

### Property norms may be eased

China is prepared to take a more flexible approach in vetting property investment by foreign institutions without modifying its existing policy, government and industry sources said.

This change in approach is part of the government's latest efforts to revitalize property markets. Real estate investment growth in the country slowed to 22.7 percent during the January-November period, down from 24.6 percent in the first 10 months, according to the National Bureau of Statistics.

"So far, we haven't received any instruction to revise the policy on foreign investment in the real estate sector," said an official from the Ministry of Commerce, who preferred to remain anonymous.

"But as the power of examination and approval has been transferred to the local authorities, they can take a more flexible approach on each property project and to speed up the process," he added.

In the past few months, the Chinese government has launched a slew of measures to revitalize the property sector. The sector is one of the biggest drivers of domestic consumption contributing a quarter of fixed-asset investment and employs over 77 million people.

However, none of these measures touched on foreign institutional investment.

"Before the government sees a clear trend of the foreign capital flow, it will not rush into changing its policy," a source with the China Real Estate Association told.

Ji Gang, head of investment at Savills in Beijing, said there is no obvious fall in the number of foreign investors contacting him, but transaction volume has been plummeting. Savills is an international real estate agent.

"More foreign investors are apparently taking a much more cautious approach now and have adopted a wait-and-see attitude," said Ji. Those who wanted to buy now are finding it "difficult to obtain bank financing because of the global credit crunch".

Statistics from Savills Beijing show that only five large-scale property transactions involving foreign institutional investors were inked in 2008, compared with 14 in 2007.

"But interestingly, more foreign developers, with most of them from the US and Europe, are showing an interest in developing projects in China because they are confident that the Chinese market will recover at a much quicker pace than those in the developed economies," Ji said.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/23/content_7330458.htm) ([see archive](Property_norms_may_be_eased.pdf))

## IPR

### China mulls security scrutiny for patent applications

Chinese inventors who wish to apply for patents for their innovations in foreign countries must go through government scrutinies first to find out if such innovations should be made national secrets, according to a draft amendment to the country's patent law.

The Standing Committee of the National People's Congress (NPC), China's top legislature, recently discussed some proposed amendments to the 23 year-old Patent Law at the opening session of its bimonthly meeting.

The draft amendment says innovations that have not been subject to security scrutinies will not be granted Chinese patents, and that those who leaked national secrets by failing to apply for the scrutinies will be punished according to the law.

The amendment applies to all inventions completed in China.

Another amendment under discussion is that foreign nationals or institutions must find a patent agency to represent them in applying for patents in China and in other patent-related matters.

Another amendment says patent holders or other concerned parties may ask the court to stop acts that breach their patent rights before a lawsuit could be filed. The court must make a decision within 48 hours.

The Patent Law, which was enacted 1985, has had two major revisions in the past.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/23/content_7331903.htm) ([see archive](China_mulls_security_scrutiny_for_patent_applications.pdf))

### Samsung Ruled to Pay 50 mln yuan for Patent Infringement in East China

Samsung Electronics Co. of the Republic of Korea has been ordered to pay 50 million yuan (7.3 million U.S. dollars) to a company in east China's Zhejiang Province for infringing the latter's dual-mode cell phone patent.

The rule was made by the Intermediate People's Court of Hangzhou, capital of Zhejiang Provinces recently.

Zhejiang-based Holley Communications alleged last year that cell phones made by Samsung violated its patent which allowed cell phones to operate on both CDMA and GSM networks.

"Samsung has sold more than 700,000 cell phones that contain Holley's patented technologies. The patents are still on sale. The compensation is only part of the sales," Ge Chen, Holley's executive director, told.

The patent of CDMA/GSM double-mode mobile communication method and its communication equipment was obtained in 2002, it said.

This has been the largest compensation in China's cell phone industry, but officers of Holley said they would continue to seek more compensation.

"We are sincere to hold discussions with Samsung in an attempt to resolve the issue of compensation," he said.

The 20-month patent dispute started when Holley filed the lawsuit in April 2007, calling for a stop of the violation and seeking compensation.

A month later, Samsung requested that China's State Intellectual Property Office (SIPO) declare that the patent was invalid.

The court opened the session in May this year after the SIPO made a response to declare it valid.

[Source: China Securities Journal](http://www.cs.com.cn/english/com/200812/t20081223_1691707.htm) ([see archive](Samsung_Ruled_to_Pay_50_mln_yuan_for_Patent_Infringement_in_East_China.pdf))

## Taxation

### China approves scheme on fuel taxation, pricing

China has approved a long-awaited scheme on fuel taxation and reform of the country's refined oil pricing mechanism, the country's economic planner said recently.

The State Council had decided to put the scheme into effect on Jan. 1, 2009, said the National Development and Reform Commission.

The country will annul six types of fees on road maintenance and management, and at the same time raise the gasoline consumption tax from the current 0.2 yuan each liter to one yuan per liter and diesel consumption tax from 0.1 yuan per liter to 0.8 yuan one liter, according to the approved scheme.

These details of the scheme are the same as stated in a draft, which was unveiled earlier this month to solicit public opinion.

The commission also said the country would slash the benchmark prices for fuel starting midnight Dec.18, by 900 yuan (131.7 U.S. dollars) per tonne for gasoline and 1,100 yuan per tonne for diesel.

In the meantime, the benchmark prices for jet fuel would be lowered to 5,050 yuan per tonne, down 2,400 yuan from 7,450 yuan.

The commission explained that gasoline prices at the pump stations would be tuned down by 0.91 yuan per liter, from midnight Dec. 18, and diesel prices down by 1.08 yuan per liter. It added that domestic fuel prices would remain unchanged on Jan. 1, 2009, when the fuel tax is expected to kick in.

[Source: Xinhua](http://news.xinhuanet.com/english/2008-12/18/content_10525343.htm) ([see archive](China_approves_scheme_on_fuel_taxation_pricing.pdf))

### Detailed Rules for Three Turnover Taxes to be Adopted Next Year

The detailed rules for three major turnover taxes have been released recently and will be implemented on 1 January 2009 together with the three sets of tentative regulations previously released.

The modifications of the said three sets of detailed rules are mainly based on the authorizations by related upper-level legislation to provide operational rules, which particularly specify the rules governing the value-added tax transformation reform, mixed sales activities, definition of taxable labor and services under domestic business tax and the standards on small value-added taxpayers.

Also, certain common clauses of the three sets of detailed rules are also coordinated and connected, including the definition of sales and compensated transfer, conversion of foreign-exchange sales volume, scope of the costs outside of price.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5146) ([see archive](Detailed_Rules_for_Three_Turnover_Taxes_to_be_Adopted_Next_Year.pdf))

## Other

### Damages law tabled for 2nd reading

Suppose a piece of glass fell on your head from a building, do you know who to seek compensation from? Or, if your pet dog bites a person, do you know how much to pay for medication?

The answers can be found in a law drafted to ensure that people are compensated for suffering injuries or losses for no fault of theirs and submitted to the National People's Congress (NPC) for its second reading recently.

If an object falling from a building injures people and it is difficult to find the culprit, all occupants of the building likely to have been responsible should share the compensation, the draft law says.

It clarifies that if a dog bites a person, its owner has to foot the entire medical bill for the victim unless the owner can prove that the person provoked the dog. But even if it is proved that the victim had provoked the animal, the owner could still end up paying the entire medical bill if the dog is not registered.

Besides these two provisions, the 88-stipulation draft tort liability law covers compensations for a number of other civil infringements such as harm caused by defective products, traffic and medical accidents, environmental pollution and Internet abuse.

"It's a basic (draft) law to protect people's civil rights and ensure that their grievances are redressed. It (the draft) is closely connected to everyone," Li Shishi, deputy director of the NPC law committee, told legislators recently.

A number of infringement cases have been filed in recent years, but there is no special law to ensure compensation.

"Last year, courts across the country handled at least 870,000 civil infringement cases, and the number is growing," he said.

Yang Lixin, a professor with the Renmin University of China who helped draft the law, said such a law is urgently needed. The draft tort law was submitted to the NPC Standing Committee for its first reading in 2002 as part of the draft civil law, but the legislature later decided to review it as a separate statute because of its significance and complexity.

"The second draft is so different from the first. It's much more complete and scientific," Yang said.

He said stipulations on how to decide liabilities in defective products and medical disputes, and environmental pollution cases might receive wide public attention.

For example, the draft stipulates that victims can seek compensation for more than their actual losses if a firm continues making a product after knowing that it is defective, Yang said.

Only the US has stipulations on "punitive compensation" now, said Yao Hong, director of the civil law office of the NPC Standing Committee's legislative affairs commission.

"While drafting the tort law, we learnt a lot from similar laws being practiced by Western countries," she said.

A stipulation that allows medical staff to provide emergency medical treatment to serious patients without the authorization of the family is very important, Yang said.

Last November, a 22-year-old pregnant woman Li Liyun died of severe pneumonia because her husband Xiao Zhijun refused to sign papers that would have allowed a Beijing hospital to perform a life-saving surgery.

Xiao insisted till the last moment that his wife was suffering from nothing more than a simple cold.

The incident sparked a nationwide controversy over whether a patient's family members have too much power when it comes to taking decisions on medical treatment.

The case is not over yet because Li's parents have filed a lawsuit against the hospital for failing to perform its duty.

But Yang was "disappointed" to see that the draft does not spell out standard amounts of compensation for different infringements.

"Some details have been cut from the version we experts submitted," Yang said. "An implementation rule is needed after the draft is passed."

A draft law usually receives three readings before being passed by legislators, according to the Legislation Law. But Wang Liming, director of the civil law institute of China Law Society, said the draft tort law might need more readings. "Because this law is a fundamental civil law it could need a nod of a full session of the NPC instead of just the NPC Standing Committee," he said.

[Source: China Daily](http://www.chinadaily.com.cn/cndy/2008-12/23/content_7329533.htm) ([see archive](Damages_law_tabled_for_2nd_reading.pdf))

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