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# China News Alert Issue 222

## Capital Markets

### China relaxes restrictions on foreign participation in securities companies

China eased some of its restrictions on foreign participation in domestic securities companies in a revised regulation published recently.

The move honoured a pledge made during a high-profile dialogue with the United States.

The revised regulation allows more foreign companies access to Chinese securities companies. Foreign invested companies will be given access to Chinese securities companies through an increased number of channels, said a China Securities Regulatory Commission (CSRC) official.

The new rule expands access for foreign investors from securities companies alone, stipulated in the previous 2002 rule, to all financial institutions and common institutional investors.

Qualified investors must have been in operation for five consecutive years, a decrease from the previously demanded 10 years.

At least 30 employees of the foreign investor are required to have a license to be engaged in a securities business, down from the previous 50.

For joint-venture securities companies, however, the maximum shares held by overseas investors remains capped at 33 per cent.

Overseas investors can either hold shares in listed domestic securities companies via securities traded on the stock exchange or by establishing a strategic cooperation with a Chinese partner to become its shareholder, the new regulation said.

The new regulation also outlined the regulatory supervision of such foreign participation. Foreign investors must report their share purchase and suspend share trading if they want to buy a five per cent stake or higher in a Chinese securities company. The CSRC must decide whether the foreign investors are qualified shareholders.

Foreign investors also need CSRC approval if they want to become a shareholder of a Chinese company through becoming its strategic partner.

The new rule states that shares held by an individual foreign investor in a listed Chinese company must be kept below 20 per cent. Overseas investors as a whole are restricted to a combined maximum of 25 per cent.

[Source: Ministry of Commerce](http://english.mofcom.gov.cn/aarticle/counselorsreport/americaandoceanreport/200712/20071205311934.html) ([see archive](China_relaxes_restrictions_on_foreign_participation_in_securities_companies.pdf))

### China's A-share IPOs raise 447 billion yuan

China's A-share markets raised a total of 447 billion yuan (US$60.82 billion) from initial public offerings (IPOs) in 2007, topping the world in terms of the amount raised, according to China Securities News.

By the end of 2007, Chinese stock markets had witnessed a total of 120 IPOs, with 409.7 billion yuan raised in Shanghai and 37.3 billion yuan in Shenzhen.

The largest 12 Chinese stocks raised more than 10 billion yuan each from their IPOs. They were: China Pacific Insurance, China Shipping Container Lines, China Railway, PetroChina, China Shenhua Energy, China Construction Bank, Bank of Beijing, China COSCO, Bank of Communications, China Citic Bank, Ping An Insurance, and Industrial Bank.

Of the total 447 billion yuan raised from IPOs, the above-mentioned 12 enterprises raised a combined amount of 382.89 billion yuan, accounting for 85 per cent of the total.

Ernst & Young explained that China, with the world's most dynamic economy, attracted global investors. Among the top 10 IPO issuers worldwide this year, seven were from developing countries, including six from China.

[Source: China Daily](http://www.chinadaily.net/bizchina/2007-12/21/content_6342854.htm) ([see archive](Chinas_A-share_IPOs_top_the_world_this_year.pdf))

### Chinese banks get UK stocks go-ahead

China will let its commercial banks invest in UK stocks and funds in the first expansion of the country's international investment program outside Hong Kong.

The nation reached an agreement with the UK financial regulator for investment by banks under the qualified domestic institutional investor, or QDII program, the China Banking Regulatory Commission said on its Website recently.

The government is relaxing restrictions on overseas investment to counter-balance a record trade surplus that has driven up local stock and property prices. The mainland will "soon" come to a similar agreement with American authorities, the regulator said.

"Expanding the number of markets that QDII funds can invest in helps raise banks' investment and risk management capacity, and also helps investors diversify their risk," the statement said, without providing further details.

The release didn't say when QDII funds can start investing in the UK.

The mainland is steering QDII fund managers to invest in "mature" foreign markets to spread risk, and is encouraging individuals to draw upon the expertise of institutional investors, said Li Fu'an, who oversees product innovation at the banking watchdog.

"Many Chinese investors are inexperienced in overseas markets and therefore should go through the QDII program to benefit from the knowledge of institutional investors," he said.

Under the QDII program, the country's banks, fund managers and insurers may purchase products such as overseas equities, government and corporate bonds, and fixed-income instruments.

[Source: China.com](http://english.china.com/zh_cn/business/news/11021613/20071218/14557414.html) ([see archive](Mainland_banks_get_UK_stocks_go-ahead.pdf))

## Corporate & Commercial

### China drafts law to protect State assets

China's top legislature began to deliberate its first state assets law, designed to protect State-owned assets from being illegally seized and to maintain the country's basic economic system.

The draft State-owned assets law was recently submitted to the Standing Committee of the National People's Congress (NPC) for first deliberation.

The draft, with nine chapters and 76 provisions, stipulates that the central government should set up a budget system for the operation of State-owned assets, managing revenue and payout.

"The profit made by State-owned enterprises ("SOEs"), which should contribute to State assets, the income from State asset transfers, and income belonging to State-owned assets during the calculating and checking of SOEs, should be written into the budget," it said.

The draft details procedures of SOE restructuring, stipulating that SOE assets should be accurately calculated, audited and assessed before restructuring or ownership transfer. "State assets should be transferred at reasonable prices," it said.

SOEs, prior to mergers, restructuring, and applications for bankruptcy, should consult trade unions and solicit advice from employees through meetings or other methods, the draft stated.

The draft bans the management of SOEs from embezzling State-owned assets. People involved will be punished according to relevant laws and regulations if they are found guilty of seizing, withholding, or embezzling State assets. They will also face punishment if found to have transferred State assets at unreasonably low prices, caused economic loss to State assets by dereliction of duty, or committed other misconducts.

China has been implementing reforms in its State enterprises over the past two decades; restructuring enterprises with sole State ownership into joint-venture companies and transferring SOEs into non-SOEs.

China's Constitution stipulates that public ownership should be the leading force of the socialist market economy, of which the private economy is a major component.

According to statistics provided by China's State-owned Assets Supervision and Administration Commission (SASAC), China had nearly 120,000 State-owned enterprises that possessed assets worth more than 9.7 trillion yuan (US$1.33 trillion) in 2006. These included enterprises or companies with sole State ownership, and joint-venture companies with the State as the biggest shareholder.

[Source: Ministry of Commerce](http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/200712/20071205301056.html) ([see archive](China_drafts_law_to_protect_state_assets.pdf))

### Chinese government unveils draft investment guide

China's government yesterday unveiled a draft investment guide aimed at phasing out resource-intensive industries in line with the nation's development policy.

The government is seeking public opinion on the revised 45-page guide, which can be downloaded from the National Development and Reform Commission (NDRC) website.

The draft lists the industries and sectors that are encouraged, limited or prohibited. For example, scientific research on improving crop yield and construction of nuclear power stations are on the encouraged list, which includes 1,000 items. Outdated and small-scale coal mining, power generation, and iron and steel projects are prohibited.

The new guide, which will be approved by the State Council after the feedback process, will replace the current 2005 version.

A source from the commission's industrial policy department said the revision was part of a government push for an energy-saving, environment-friendly society.

"The most evident change is that we have listed many outdated industrial development methods under 'limited' and 'prohibited'," the source said.

The source expects the revised investment guide will meet the demands of China's new Scientific Outlook on Development, which was written into the national constitution in October.

"This was the guide for our revision of the investment lists," said the official, adding that the drafting process began in 2006.

The central government earlier released an updated guide for industries open to foreign investment, which replaced the 2004 version.

The NDRC source said foreign investors should base their activities on this guide. It encourages foreign investors to help develop service outsourcing and modern logistics. They are also invited to join efforts to promote clean production, renewable energy use and environmental protection.

The manufacturing sector is open to foreign investment in hi-tech, equipment manufacturing and new materials industries. Investment in traditional manufacturing industries in which China has "mature technology and relatively strong production capacity" is not encouraged.

[Source: China.com](http://www.china.org.cn/english/business/237188.htm) ([see archive](Govt_unveils_draft_investment_guide.pdf))

### Ban targets processing trade

China will ban almost 600 additional items from the processing trade in a bid to curb exports of low value-added products and lift businesses further up the industrial chain.

Exports of 589 items will be banned in order to stop processing firms from importing raw materials and re-exporting finished duty-free products, according to a new Prohibited List for Processing Trade released recently by the Ministry of Commerce and the General Administration of Customs.

Some steel, petrochemical, aluminum and mineral products are on the list, which will take effect on 21 January, bringing the total number of prohibited items to 1,729.

The new blacklist follows a similar one released in April 2007, which banned the processing trade of fuel oil and heavy diesel, as well as some metals.

Given that most items in the new ban are primary goods, the move aims to curb exports with low added value and low-end technologies, the commerce ministry said in a statement.

The ministry said it anticipates that the ban will spur processing enterprises to develop and enter sectors with more advanced technologies and to add more value to their finished products.

The list also shows that the government is highlighting the protection of resources, said Mei Xinyu, a researcher with the Chinese Academy of International Trade and Economic Cooperation, a think tank affiliated with the commerce ministry.

He described the new list as "environment-oriented", as it contains items made from endangered animals or plants. Many items also involve polluting and energy-intensive chemical and steel products.

China previously encouraged processing as part of its export-led growth policy. But it is now trying to limit export industries that are energy-intensive, heavily polluting, or likely to cause trade frictions with other countries.

Processing trade increased 18.7 per cent year-on-year to US$894.6 billion in the first 11 months of 2007, accounting for nearly half of the country's total imports and exports. It is also a major source of China's widening trade surplus.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/26/content_6349305.htm) ([see archive](Ban_targets_processing_trade_items.pdf))

### 3G network on track for 2008

China will launch a special program to develop technology for a "next-generation broadband wireless mobile communication network" in 2008, said Wang Xudong, the minister for the information industry.

The next-generation technology will be in line with developing trends in information technology and will contribute to innovation and global competitiveness, the minister said.

Additionally, the country will focus on the research and development of other key technologies such as those for core electron devices, high-end general chips and ultra-large integrated circuits, he said.

Recently, the State Council approved a plan to develop a next-generation network, which analysts said was related to 3G services.

The country is expanding TD-SCDMA (Time Division Synchronous Code Division Multiple Access) network tests to prepare for 3G services during the Beijing Olympics in 2008.

The TD-SCDMA is a homegrown 3G technology standard. The other two types of CDMA technologies are the US standard, CDMA 2000, and the European WCDMA.

There is, as yet, no timetable available for the issuance of 3G licenses, since relevant departments are still considering how the services will operate, but analysts said the homegrown standard is most likely to be granted the first license.

The nation's four major telecom operators―China Telecom, China Netcom, China Mobile and China Unicom―each monopolise one or two services.

In a recent report, the country's top economic planner said that the four operators should be reorganised so that they each offer "full-range" services. This means major communication businesses such as fixed lines, Internet access and mobile communication services would no longer be monopolised by one or two operators.

The report said such a reorganisation would create a "relatively fair" market environment and would benefit consumers.

[Source: China Securities News](http://cs.xinhuanet.com/english/ei/200712/t20071228_1268971.htm) (Link no longer active)

## Real Estate

### MOF likely to levy property taxes in 2008

The Ministry of Finance (MOF) may pilot property taxes in 2008, probably starting with commercial premises, said Feng Changchun, director of Beijing University Real Estate Research Institute, at the China Real Estate Summit recently.

According to Feng, a member of the working group responsible for drafting property tax-related policies, the ministry intended to launch the taxes in 2007, but was delayed by certain issues.

Feng said, given the relatively small number of commercial premises, the taxes will first apply to office buildings and commercial locations. Following that, the government will tax owners with more than one property, and then extend the taxation system to all real estate owners.

Currently, the MOF is researching methods to value real estate locations and establish appropriate tax bases and tax rates.

By increasing the costs associated with owning property, property taxes are considered an effective measure to curb real estate speculation and overinvestment. Presently, 10 provinces have their property tax system in place, triggering speculation that the taxes may take effect in 2008.

[Source: China Securities News](http://cs.xinhuanet.com/english/tnews/) (Link no longer active)

## Taxation

### Transitional policies regarding corporate income tax are released

The state council has recently released a Circular Concerning Transitional Policies Regarding Corporate Income Tax, stipulating that, as of 1 January, 2008, enterprises under the preferential tax rate will gradually move to a statutory rate over 5 years; enterprises under "two years' exemption and three years' half exemption" or "five years' exemption and five years' half exemption" are entitled to the previous favourable allowances under relevant laws, regulations and policies until the end of their favourable periods. However, favourable periods start from 2008 for those enterprises that haven't begun to make profits. Preferential policies granted to enterprises in western regions will continue to be effective.

The Circular stipulates that as of 1 January, 2008, enterprises under the preferential tax rate will gradually move to a statutory rate over 5 years. Enterprises under the previous 15% tax rate will change to 18% in 2008, 20% in 2009, 22% in 2010, 24% in 2011 and 25% in 2012; enterprises under the previous 24% tax rate will change to 25% in 2008.

Enterprises under "two years' exemption and three years' half exemption" or "five years' exemption and five years' half exemption" are entitled to the previous favourable allowances under relevant laws, regulations and policies until the end of their favourable periods. However, favourable periods start from 2008 for those enterprises that haven't begun to make profits.

The Circular states that only enterprises with establishment registration under the AIC before 16 March, 2007 are entitled to the above transitional policy.

Where preferential treatment in the transitional period conflicts with that under the new tax law or its implementation regulations, enterprises have the right to choose the more favourable treatment, with no further changes being allowed.

Released together with the Circular, the Chart of Transitional Policies Regarding Corporate Income Tax details 30 previous laws, regulations and policies that are still effective during the transitional period. Some of them relate to foreign-funded enterprises, some to foreign-funded enterprises in special regions, while others relate to certain special areas.

Among these, the preferential treatment granted exclusively to foreign-funded enterprises includes the stipulation that foreign-funded companies within the manufacturing sector with a business period of over ten years are exempt from corporate income tax for the first and second year following the first profit-making year, and must only pay half during the third to fifth years.

Preferential treatment granted to foreign-funded enterprises in special regions includes the stipulation that foreign-invested enterprises in special economic zones, foreign enterprises in special economic zones for manufacturing or business and foreign-invested manufacturing enterprises in economic development areas fall under a 15% corporate income tax rate; foreign-invested manufacturing enterprises established in Shanghai Pudong New Area and foreign-invested enterprises engaged in the construction of airports, ports, railways, highways and generating plants also fall under a 15% corporate income tax rate.

Regional favourable treatment includes stipulations that enterprises established in Shenzhen, Zhuhai or Shantou special economic zones fall under a 15% tax rate.

The Circular also states that during the transitional period, high and new technology enterprises established in national high and new technology development zones are exempt from income tax for two years after they begin to make a profit.

[Source: China.com](http://www.china.com.cn/economic/txt/2008-01/02/content_9464150.htm) ([see archive](Transitional_policies_corporate_income_tax.pdf))

### Export duties increased to save resources

The government has adjusted the import and export duties on some products as from 1 January to save domestic resources and ensure a better trade balance.

Import duties on alumina, refined copper and coal have been removed, and export taxes on some steel products, coking coal and coke have been raised, the Ministry of Finance said recently.

The government has cut import tariffs on gasoline, diesel and jet kerosene from two to one per cent, a statement on the ministry's website said. The tariffs on these two products were reduced from between five and six per cent to two per cent on 1 November, 2006.

In addition, the three per cent import tax on anthracite and coking coal has been lifted. The export tax on semi-finished steel products has been raised to 25 per cent, and that on some stainless steel, welded pipes and other steel products to 15 per cent. The export tariff on crude oil, however, remains at five per cent, the ministry said.

Mei Xinyu, a researcher with the Chinese Academy of International Trade and Economic Cooperation, affiliated with the Ministry of Commerce, said: "The move won't have a significant impact on China's trade surplus growth."

The country's trade surplus is expected to increase to more than US$250 billion for the whole of 2007. It could reach US$300 billion in 2008, although its yearly growth will slow down significantly, analysts have said.

"The adjustment is aimed at facilitating the country's drive to save energy and resources," Zhang Peisen, a senior researcher with the taxation research institute, under the State Administration of Taxation, said.

China's exports include huge quantities of high energy-consuming products, which also pose a serious challenge to the country's environment, analysts said.

"We should not export refined and finished products whilst increasing the pollution at home to make them," Mei said. "The adjustment (to reduce trade surplus) should not be one-sided."

China Galaxy Securities chief economist Zuo Xiaolei said it is necessary for the country to adjust duties and taxes because "many resources are not renewable and unlimited export will endanger China's economic sustainability".

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/28/content_6355626.htm) ([see archive](Export_duties_raised_to_save_resources.pdf))

### Government sets export tariff on grains

China has introduced an export tax on major grain products, a move to curb rising inflation and meet domestic demand.

Two weeks after removing the tax rebate on grains, including corn, wheat and soybean, the finance ministry announced the export tariff at rates ranging from 5 to 25 per cent.

Experts said the recent export controls are aimed at stabilising domestic demand and agricultural product prices.

China is the world''s largest grain consumer and net exporter of rice, wheat and corn. The nation exported 4.9 million tons of corn in the first 11 months of 2007, a year-on-year increase of 85.3 per cent. The rice export was 1.2 million tons in the same period, up by 7 per cent, according to Customs.

Ding Shengjun, a researcher with the State Grain Administration, said the measures are aimed at curbing exports and securing domestic supply.

"Many companies, attracted by soaring food prices worldwide, increased exports last year," said Ding. "The recent measures are a timely move to ensure supply in the domestic market."

World grain prices have been rising since 2006 due to lower grain output and rising demand, as more agricultural products are used to make ethanol. The world's grain reserves are now at their lowest point for nearly 30 years, according to the United Nations' Food and Agriculture Organisation.

Wheat and corn prices hit record highs in the past year. In September, the wheat price on the world market rose to over $400 a ton, and corn exceeded $175.

Domestic prices are also rising. The nation's consumer price index (CPI) reached 6.9 per cent in November, the highest in 11 years. Food prices, which make up a third of the CPI basket, rose by 18.2 per cent.

In another development, China has started to curb overseas sales of milled grain flour by issuing export permits. The changes will apply to flour milled from grains, including wheat, corn and rice, the Ministry of Commerce said in a statement.

The government removed export rebates on a range of food commodities on 20 December as part of measures to secure domestic supply.

[Source: People.com](http://english.people.com.cn/90001/90778/90857/90861/6331022.html) ([see archive](Govt_sets_export_tariff_on_grains.pdf))

## Other

### New labour contract law changes employment landscape

A new labour contract law was put into effect on 1 January, 2008, preceded by a string of scandals in many companies.

The 98-article law, approved by China's top legislature in June, entitles staff with over 10 years of service at a company the right to sign contracts that will protect them from dismissal without cause.

It also requires employers to contribute to their employees' social security accounts and set wage standards for workers on probation and overtime.

"The law is constructive in protecting the rights of employees, urging companies to improve their management and social responsibility, therefore creating a good relationship between employers and employees," said Professor Chang Kai, Dean of the Research Institute of Labour Relations under the Beijing-based Renmin University.

The adoption of the law has caused some backlash, the latest being the controversial "voluntary resignation" scheme introduced by the Guangdong-based Huawei Technologies Co Ltd, China's telecom network equipment giant.

Huawei recently initiated a plan calling for staff who had worked for eight consecutive years to hand in "voluntary resignations". Staff would have to compete for their posts, and sign new labour contracts with the firm once they were re-employed. Those who lost out would receive compensation.

"Such a move comes from fear over the new law," said Wu Zhenchang, head of the Association of Taiwan Investment Enterprises in Guangzhou, Guangdong's capital.

Many companies have interpreted the signing of contracts without specific time limits as leading to rising costs through staff redundancies, a reduction of labour flow and thus a weakening of enterprise vitality.

"Although employees are the group that the new law aims to protect, many of them are actually harmed before being benefited," Wu said.

Hong Kong University professor Steven N.S. Cheung expressed his anxiety on his blog over the new law. "What's the effect," wrote the renowned economist. "It would protect the lazy people...and ultimately cripple economic growth."

However, Zhu Shanli, vice president of the Guanghua School of Management under Beijing University, noted such worries were unnecessary.

"Similar laws encouraging labour contracts without specific time limits have been in existence in Western countries since the last century. In Japan, staff can be hired for life, but this hasn't prevented it from becoming the world's second largest economic entity," he said.

Professor Chang added: "It is wrong to interpret the law as ensuring permanence of a staff's post if the worker violates company regulations, is not eligible for the post, or the post is no longer necessary."

[Source: China.com](http://www.china.org.cn/english/news/237697.htm) ([see archive](New_labor_law_changes_employment_landscape.pdf))

### Seven laws passed by the Standing Committee of the National People's Congress

On 29 December, 2007, the 31st Session of the Standing Committee of the Tenth National People's Congress passed seven laws, including the Anti-Drug Law (effective as of 1 June, 2008); the Amendment to the Law on Technology Improvement (effective as of 1 July, 2008); the Amendment to the Traffic Safety Law (effective as of 1 May, 2008); the Amendment to the Individual Income Tax Law (the threshold of individual income tax will be raised from 1600 yuan to 2000 yuan as of 1 March, 2008); the Law on the Arbitration of Labour Disputes (effective as of 1 May, 2008); and the Amendment to the Preservation Law.

Wu Bangguo says this is the third time that the Tenth National People's Congress has amended the Individual Income Tax Law. The first amendment adjusted the threshold from 800 yuan to 1600 yuan and the second amendment authorised the State Council to decide individual income tax rates based on interest from deposits. This next amendment adjusts the threshold of income tax from 1600 to 2000 yuan. The three amendments are aimed at adapting income tax to the growth of people's daily expenditure and to alleviate the tax burden on people with medium and low income.

Passed by the 31st Session, the Law on the Arbitration of Labour Disputes is another important law concerning the employment system, along with the Labour Contract Law and the Employment Promotion Law. This law aims to solve labour disputes fairly and timely, stresses the role of mediation organisations, perfects arbitration procedures, and clarifies that no charge is needed for the arbitration of labour disputes.

[source: Chinalawedu](http://www.chinalawedu.com/news/1000/3/2007/12/ma904946593110321700256-0.htm) ([see archive](Seven_laws.pdf))

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