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# China News Alert Issue 232

## Capital Markets

### The CBRC specifies the administrative accountability of large banks when dealing with banking crimes

Recently, the China Banking Regulatory Commission (CBRC) held its 2008 national work conference on the supervision of large banks, during which the administrative accountability of large banks when dealing with banking crimes was detailed.

The CBRC requires commercial banks to improve their internal control management and operational procedures by conducting stress testing and identifying any loopholes in the system in order to prevent illegal activities.

According to the conference, banks are required to combat fraud, especially cases involving a cash value of more than RMB1 million.

If a case occurs involving a cash value of more than RMB1 million or two cases occur involving a cash value of more than RMB0.5 million each, at a sub-branch or at a local office under its administration, the head of the sub-branch will take responsibility in the first instance, and the deputy head of the upper bank in charge of the sub-branch will impose the relevant administrative punishments.

If a case occurs involving a cash value of more than RMB5 million or two cases occur involving a cash value of more than RMB3 million each, at a second-tier branch or at a local branch office under its administration, the head of the second-tier bank will take responsibility in the first instance, and the deputy head of the upper bank (provincial branch) in charge of the second-tier bank will impose the relevant administrative punishments.

If a case occurs involving a cash value of more than RMB10 million or two cases occur involving a cash value of more than RMB5 million each, at a first-tier branch (provincial branch) or at a local branch office under its administration, the head of the first-tier branch will take responsibility in the first instance, and the deputy head of the upper bank (headquarters) in charge of the provincial branch will impose the relevant administration punishments.

[Source: China Banking Regulatory Commission](http://www.cbrc.gov.cn/EngdocView.do?docID=20080310ED9BD7218A3731D2FF58931849250400) ([see archive](The_CBRC_specified_the_administrative_accountability_of_large_banks_for_the_occurrence_of_bank_crimes.pdf))

### SSE Regulates the Business Operations of Listed Companies

The Shenzhen Stock Exchange recently released "Guidelines for the Business Operations of Listed Companies No. 1-9" (Guidelines), to regulate and advise listed companies on their information disclosure and to strengthen risk controls.

The Guidelines made stipulations on the following practices: information disclosure, digital certificates, exchange of supervisory information, modification of the companies' full name or the securities' shortened form, modification of the industrial classification of companies, private placement of new shares, equity allocation, bond interest payment and the adjustment of interest rates.

Industry insiders point out that the Guidelines not only clarify information disclosure procedures and enhance the exchange's transparency, but also help to regulate information disclosure practices by listed companies and reinforce risk control.

A Shenzhen Stock Exchange source said risk prevention and business regulation are two issues on the exchange's agenda for this year and they have begun a revision of related operational procedures and processes in the hope of catering to the demands of listed companies and providing them with improved supervision and services.

[Source: Shenzhen Stock Exchange](http://www.szse.cn/main/en/aboutsse/marketnews/2008031312221.shtml) ([see archive](SZSE_issues_operational_guidelines_for_listed_firms.pdf))

## Corporate & Commercial

### Banking institutions required to develop credit-granting facilities provided to small enterprises

The China Banking Regulatory Commission (CBRC) urged various financial institutions in the banking sector to develop the credit-granting facilities provided to small enterprises, and meet the credit demands of various types of small enterprises, including labour-intensive industries and the service industry.

Under the "Circular on Further Improving the Work of Financial Service to Small Enterprises under the Condition of Implementing Tight Monetary Policy" (Circular), recently released by the CBRC, the aforementioned small enterprises include technologically innovative enterprises in the stage of rapid growth and manufacturers that meet energy-consumption and environmental protection standards.

The CBRC also stipulated that financial institutions must modify their interest rate pricing mechanisms. They are eligible to independently set lending rates according to such factors as risk, managing costs and the interest rates of local markets.

All banking regulatory bureaus will speed up the release of incentive policies for the development of credit-granting facilities for small enterprises. The incentive policies include financial compensation for lending risks, exemption and deduction of business tax and the pre-tax deduction of loan loss reserves.

[Source: Lexis Nexis](http://www.lexiscn.com/latest_message.php?id=3216) ([see archive](Lexis_China_Legislation_in_Progress_Banking_Financial_Institutions_Required_to_Develop_the_Credit-granting_Business_Provided_to_Small_Enterprises.pdf))

## Real Estate

### Construction of affordable housing exempt from urban land use tax

Real estate developers can be proportionally exempted from urban land use taxes if they construct low-rent housing in their affordable and commercial housing projects.

The Circular on "Related Tax Policies on Low-rent and Affordable Houses and the Housing Lease" (Circular) was jointly released by China's Ministry of Finance (MOF) and the State Administration of Taxation (SAT).

Under the Circular, real estate developers are eligible to be exempt from stamp tax according to the proportion of the total construction area set aside for low-rent and affordable housing.

According to the Circular, individuals will have a reduction of 10% for individual income tax on income derived from low-rent property rentals. The stamp tax for the leasing contracts signed by individuals for rent will be exempt.

[Source: Lexis Nexis](http://www.lexiscn.com/latest_message.php?id=3208) ([see archive](Lexis_China_Legislation_in_Progress_Urban_Land_Use_Tax_Exempted_for_Construction_of_Affordable_Leasing_Houses.pdf))

## IPR

### China has 'made great progress' against counterfeit goods

Anti-counterfeit cooperation between the European Union (EU) and China is making progress, European Commission (EC) President Jose Manuel Barroso has said.

Speaking at the opening of the Global Anti-Counterfeit Summit, Barroso stressed the importance of cooperating with China in anti-counterfeit and intellectual property rights (IPR) protection operations. "Unless we successfully engage China, everything else we do would be a mere side-show. Here too, progress is being made."

The EC recently agreed to develop a joint action plan with China's Customs, and appointed an IPR expert at the EU mission in Beijing, he said.

Last year, the EC launched a new program to ensure IPR enforcement and provide help to Chinese legislative, judicial, administrative and enforcement agencies and institutions, Barroso said.

"I am optimistic about our chances of success. There appears to be a sea of change in Chinese attitudes on IPR, and not just because of our work together."

In recent years, China's IPR office has risen to become the world's third largest recipient of patent applications. Between 1995 and 2005, patent applications by Chinese residents looking to protect their innovations rose by 800 per cent, he said.

Barroso called for more consumer education. "The role of consumer education is paramount. From early years and throughout their adulthood, consumers should become aware that the choices they make every day shape the world, for better or for worse."

About 2.5 million diaries were distributed among schoolchildren across the EU last year with information about brands and the dangers of fake goods.

Barroso said counterfeiting and IPR theft can do "enormous damage to an economy like the EU's, the sort of economy that relies on quality and innovation".

[Source: Law Info China](http://www.lawinfochina.com/Search/DisplayInfo.aspx?lib=news&id=6523) ([see archive](China_has_made_great_progress_against_fakes.pdf))

## Other

### MOJ regulates the joint operation among law firms of Hong Kong, Macao and mainland China

Beginning on 6th March 2008, Hong Kong and Macao law firms that have established representative offices in Mainland China are eligible to engage in joint operations with a law firm in Mainland China, so as to provide Hong Kong, Macao and Mainland legal services to clients.

China's Ministry of Justice (MOJ) released 'Decisions for Modifying the Administrative Measures for Joint Operations between Law Firms of Hong Kong and Macao Special Administrative Region and Law Firms in Mainland China' (Decisions).

Under the Decisions, besides the current requirements, Hong Kong and Macao law firms that apply for joint operations must meet the following requirements: no administrative penalties imposed on their representative offices within 2 years prior to their applications; if the representative offices has been established for less than 2 years when they apply for joint operations, then no administrative penalties must have been imposed on them since the date of the representative office's establishment.

If both parties in the joint operation decide to share an office, they must choose the Mainland representative offices of the Hong Kong and Macao law firm or the Mainland law firm as their public office.

[Source: Lexis Nexis](http://www.lexiscn.com/latest_message.php?id=3160) ([see archive](Lexis_China_Legislation_in_Progress_MOJ_Regulates_the_Joint_Operation_among_Law_Firms_of_HK_Macao_and_Mainland_China.pdf))

### China to set up five new 'super ministries'

China will set up five new "super ministries" in the current round of government institutional restructuring. A plan for the reshuffle was submitted to the National People's Congress (NPC), or parliament, for deliberation on 11th March.

According to the plan, which was distributed to journalists before the NPC meeting, the five new "super ministries" will consist of the ministry of industry and information, the ministry of human resources and social security, the ministry of environmental protection, the ministry of housing and urban-rural construction, and the ministry of transport.

To strengthen the government's management of the energy sector, a high-level inter-ministerial coordinator, the national energy commission, is also to be established. A national bureau of energy to be set up as its working office under the National Development and Reform Commission (NDRC).

The new bureau will integrate the NDRC's functions relating to energy management, the functions of the National Energy Leading Group and the functions of the Commission of Science, Technology and Industry for National Defense on Nuclear Power Management.

The State Council will have 27 ministries and commissions, excluding the General Office, after the reshuffle, compared with the present 28.

State Councilor Hua Jianmin, also secretary general of the Cabinet, presented explanations of the plan to the NPC.

Hua lists the reasons for the government reshuffle as follows:

* The functions of the government have not been completely transformed, and the intervention in the microeconomy is still more than is needed. Public administration and public services are still weak.
* The structure of government institutions is not rational enough. Problems include overlapping responsibilities, powers and responsibilities being not well matched and low efficiency.
* Power, in some regards is too concentrated and lacks suitable oversight. Misuse of authority, abuse of power for personal gains and corruption still exist.

[Source: China Securities Journal](http://www.cs.com.cn/english/ei/200803/t20080311_1393897.html) ([see archive](China_to_set_up_five_new_super_ministries.pdf))

### People's court ready for the implementation of the Civil Procedure Law

Every judge from the Supreme People's Court to the people's court at basic level has received full preparation for the implementation of the amended Civil Procedure Law.

Articles relating to the cause and time limit of retrials have been added to the new law. Jurisdiction over retrial cases has also been clarified: clients can only now apply to the people's court at one level higher than the original hearing court for retrial.

Researches are to be made to accommodate the new law and any new problems arising.

The Supreme People's Court will clear up legal interpretations contradictory to the new law for improved application by judges.

In December 2007, the Supreme People's Court released a notice requesting that people's courts at various levels apply the new law if any contradictions are found in original laws and legal interpretations.

Chapter Nineteen, entitled 'Bankruptcy Procedures for Enterprises', has been abolished.

The Supreme People's Court will modify the format of relevant legal documents and issue them to people's courts at various levels. This amendment poses a great challenge to the internal structure and enforcement supervision mechanism of people's courts.

The courts will adopt a new control system to adapt to the new law and will separate the power of supervision of enforcement and the power of enforcement.

With the implementation of the new law, there will be an increase in workload for judgment enforcement divisions. Therefore, staff numbers in these divisions will be expanded.

[Source: Law Info China](http://www.pkulaw.cn/fulltext_form.aspx?Db=news&Gid=21208&keyword=&EncodingName=&Search_Mode=accurate) ([see archive](Peoples_court_ready_for_the_implementation_of_the_Civil_Procedure_Law.pdf))

### Union calls for regular wage rises

National union leaders said on 14th March that they will strive to secure regular pay rises for workers across the country to counter the effects of surging consumer prices.

Zhang Mingqi, vice-chairman of the All-China Federation of Trade Unions (ACFTU), said it has been working with government departments on a mechanism to ensure stable pay rises for workers so they can benefit from the country's economic boom.

A recent survey by the federation found that more than 26 per cent of China's workers had not received a pay rise in the past five years, despite the economy growing at an average annual rate of 10.6 per cent.

"We are trying to bring pay rises in line with economic growth," Zhang told China Daily.

"Trade unions should speak up for workers and protect their rights."

China's inflation surged to a 12-year high of 8.7 per cent in February 2008, and people across the country, especially those on low incomes, have felt the strain.

The national think tank, the Chinese Academy of Social Sciences, said in a recent report that years of paying low wages had helped Chinese firms boost their profits and increase their competitiveness. The report said the ratio of overall labour costs to GDP fell to 41.4 per cent in 2005, from 53.4 per cent in 1990.

"We are facing many problems in income distribution," Zhang said.

Last year, half of China's provinces, municipalities and autonomous regions increased their minimum wage payments by an average of 10 per cent.

Li Shouzheng, a department director with the ACFTU, said: "We are pushing the government and employers to introduce regular pay rises, especially for the lowest earners."

The federation has mapped out a plan to bring more workers under its umbrella, he said.

By autumn 2008, the number of union members should surpass 200 million, up from 193 million at the end of 2008. Of the country's 120 million migrant workers, 61.89 million are now in a trade union, Li said.

Zhang said the number of disputes over contract violations, workplace injuries, work-related illness, low pay and long hours, is rising at about 20 per cent a year.

"As members of trade unions, workers are more aware of their rights."

[Source: China Securities Journal](http://www.cs.com.cn/english/ei/200803/t20080317_1399552.html) ([see archive](Union_calls_for_regular_wage_rises.pdf))

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