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# China News Alert Issue 235

## Capital Markets

### Curbs on insurance joint ventures likely

China may prohibit foreign insurers from buying into more than one domestic insurance company, in an effort to avoid competition between buyer and seller.

"Foreign insurance companies that have already received the green light to invest in a Chinese counterpart may not be allowed to take equity stakes in other local firms operating in the same business area," said the China Insurance Regulatory Commission (CIRC), the industry regulator.

The statement comes at a time when the CIRC is fine-tuning the draft rules on insurance companies' stake management and seeking public suggestions. The regulator prepared the draft rules in August.

According to Hao Yansu, an insurance professor with the Central University of Finance and Economics, the move is aimed at preventing foreign insurers from gaining more market share by acquiring Chinese rivals.

Currently, several foreign insurers have more than one joint-venture operation in China. For instance, ING has CPIC-ING Life Insurance Company based in Shanghai and ING-Capital Insurance headquartered in Dalian. US insurer Metlife also has two joint-venture life insurers, one based in Beijing and the other in Shanghai.

"There might be more detailed explanations about this article in the final rule," said Hao, adding that smaller stakes in several domestic insurers may not be prohibited in the final rule.

The revised draft would also ease requirements for investors who buy equity in insurers via the stock market. They won't have to meet the asset and profit standards demanded for off-market stake acquisitions, according to the statement. These investors must have assets totaling at least US$2 billion and must have recorded a profit for at least three consecutive years.

The CIRC is also adding qualification requirements for insurers seeking an initial public offering or to sell additional equity. The tighter rule comes after shares of Ping An Insurance (Group) Company, the country's second largest insurer, fell nearly 50 per cent since its January announcement of plans to issue new shares.

Companies planning initial share sales or refinancing must meet regulatory requirements for solvency capacity, corporate governance and internal risk control, the statement said, without giving exact criteria. They are also required not to have violated any laws and regulations in the past three years.

[Source: Law Info China](http://www.lawinfochina.com/Search/DisplayInfo.aspx?lib=news&id=6582) ([see archive](Curbs_on_insurance_JVs_likely.pdf))

### China encourages mineral firms to list overseas

China will encourage domestic mineral exploration companies to list on overseas exchanges to raise funds for their development, the Ministry of Land and Resources said.

The government will support their foreign and domestic listings, according to China's first geological exploration plan, which was issued by the ministry recently.

Analysts said overseas listings would address the lack of funds that had hindered the development of China's mining and minerals sector, which has long relied on state finance.

Government-backed exploration had dominated the sector, which didn't suit a market economy and weakened the industry, said Hu Cunzhi, director of the ministry's planning department.

The plan stated that exploration should focus on commercially viable projects and the government wouldn't invest in profit-making projects in principle.

It said that foreign investment would be encouraged in domestic mining and exploration. The government would support joint efforts by private and state-owned companies to form large mining groups with an internationally competitive edge.

By 2010, China aims to have established a group of overseas bases for the exploration and production of oil, natural gas, coal, iron and copper, according to the document. The goal is to have found 10 oil fields with reserves above 100 million metric tons each and eight to 10 natural gas fields with more than 100 billion cubic meters of reserves each.

China is paying more attention to building up its mineral resources to keep up with its economic growth.

Last year, it discovered three oil fields with reserves all exceeding 100 million tons, five gas fields each having more than 30 billion cubic meters of reserves and 14 major coal deposits.

As the world's second biggest oil user after the United States, China imported 159.3 million tons of oil and produced 186.7 million tons last year.

[Source: CRI English](http://english.cri.cn/4426/2008/04/06/1601@342443.htm) ([see archive](China_Encourages_Mineral_Firms_to_List_Overseas.pdf))

## Corporate & Commercial

### Mainland public firms catch up on global listing

The latest Forbes Global 2000 list of the top public companies worldwide showed that China's public listed companies are rising up the world rankings.

PetroChina, the country's largest oil and gas producer, led the charge by ranking 30th on the list, up from 41st place last year.

As many as 151 companies listed in the mainland, Hong Kong and Taiwan made it on to the annual list compiled by the US magazine, 20 more than last year. As with last year's list, six of the companies were among the top 100. The mainland had 70 companies listed, 26 more than last year.

"The rising presence of Chinese enterprises in the list is in line with the booming Chinese economy, as they are all leading blue chips that have significant weight in the economy," Wei Weixian, economist with the University of International Business and Economics, said.

China's economy grew by an average of more than 10 per cent during the past five years, boosting corporate revenues and profit levels.

The Forbes list selects companies using composite scores based on their rankings for sales, profits, assets and market value.

Companies from 60 countries made it on to the global 2000 this year, with UK-based banking giant HSBC Holdings, third last year, topping this year's list. It replaced another financial group, Citigroup, which held the top entry last year but now ranks 24th as a result of the worsening US subprime crisis.

The US had 598 entries in the list, 61 less than last year. The world's biggest economy still dominated the list of global corporate giants, occupying five out of the top 10 places. US-based technology and services conglomerate General Electric ranked second, up two places from last year.

India had 48 companies in the list, compared with 34 last year, reflecting the rising influence of the emerging economy. Japan led Asian countries in the list with 259 entries.

The banking industry, with 315 entries, had the biggest presence in the list in terms of number of companies. Oil and gas companies led in terms of aggregate revenues.

Mainland enterprises that made it on to the top 100 were those in the oil, banking and telecommunications sectors.

The Industrial and Commercial Bank of China ranked 42nd, compared with 53rd last year. Sinopec, Asia's top refiner, ranked 52nd, compared with 71st last year.

There were 39 Hong Kong-listed companies in the list, six less than last year. Among them, China Mobile ranked 78th, up 11 places from last year.

The total revenue for the top global 2000 companies amounted to US$30 trillion, with profits of US$2.4 trillion. About 72 million people work for these companies worldwide.

[Source: CRI English](http://english.cri.cn/3130/2008/04/05/48@342031.htm) ([see archive](Mainland_Public_Firms_Catch_up_on_Global_Listing.pdf))

### Prospecting and mining rights get price tag

Mine owners will have to pay for their mining rights and local governments must turn in 20 per cent of the proceeds to the national coffer, according to a notice jointly issued by the Ministry of Finance and the Ministry of Land and Resources.

According to the notice, land and resource management departments will increase regulation of mining charge payments by installments in a reform pilot scheme, with mines being required to pay off the installments before they can pass certificate registration and annual inspections.

Paying for prospecting and mining rights will be the focus of the reform. If the prospecting charges are less than 5 million yuan or the mining charges less than 30 million yuan, then the charges should be settled by a one-off payment.

Prospecting and mining rights that receive registered certificates issued by related provincial governments will see one-off payment standards made by their respective provincial government according to local conditions.

Mining claimants should submit applications and installment payment plans to land and resource management departments within two months of putting the charge assessment on record. The departments will issue a "payment notice" after auditing the installment payments' terms and amounts.

Meanwhile, mining claimants have to bear the capital occupation fees in accordance with bank loan benchmark interest rates set by the People's Bank of China.

For mining revenues after 1st September 2006, 20 per cent goes to the central government and 80 per cent to the local government. The provincial finance department should divide the mining revenue according to its own management methods and distribute more to the original resource region, the notice said.

"The distribution is in the interest of local economic development and aims to stimulate enthusiasm among local people," said an official with the Ministry of Land and Resources.

[Source: Ministry of Commerce](http://english.mofcom.gov.cn/article/newsrelease/counselorsoffice/westernasiaandafricareport/200804/20080405461839.shtml) ([see archive](Prospecting_and_mining_rights_get_price_tag.pdf))

## Taxation

### State Administration of Taxation regulates corporate income tax

The State Administration of Taxation has recently issued a circular requiring tax authorities to levy corporate income tax according to the range and level set by law and appropriately apply the assessed tax.

It is restricted for tax authorities to impose an assessed tax amount on enterprises merely based on their industry or size.

Inspections will be carried out on enterprises which pay assessed income taxes in order to prevent them from avoiding taxes.

The assessed tax rate should be determined according to the business, location, size, income level and profit level of the enterprise, thus ensuring equivalent charges for similar enterprises in the same region.

In accordance with the 'Measures Concerning Assessed Corporate Income Tax' (trail version), six types of enterprises are applicable for assessed income tax:

1. those which do not need account books according to laws and regulations;
2. those which need account books but do not have them;
3. those which illegally destroy their account books and refuse to provide tax data;
4. those which have account books but where the relevant costs and vouchers are difficult to find;
5. those which do not claim their tax within a certain period and refuse to claim after ordered by tax authorities; and
6. those which report substantially low taxable amounts without appropriate reason.

The Measures set the range of tax for different industries: agriculture, forestry, animal husbandry and fishery 3% to 10%, manufacturing 5% to 15%, wholesale and retail 4% to 15%, transportation 7% to 15%, construction 8% to 20%, catering 8% to 25%, entertainment 15% to 30%, and other sectors 10% to 30%.

[Source: jrj.com](http://finance.jrj.com.cn/news/2008-04-01/000003475917.html) (Link no longer active)

## IPR

### China's IPR protection on fast track

Qiao Gangliang, vice-president of the UK-based General Electric (GE) Healthcare, was surprised to see his company win a trade secret and copyright infringement case in China within eight months.

"It was much faster than I had expected," says Qiao, who compared the efficiency with that in the United States where he had worked as a law clerk. "As I understand, it usually takes two to three years in the United States."

The case, together with 11 other foreign-related cases, won Best Cases of IPR Protection for 2007-2008, a yearly award granted by the Quality Brands Protection Committee (QBPC) under the China Association of Enterprises with Foreign Investment (CAEFI), in Beijing in late March 2008.

Representatives from major foreign-invested firms and intellectual property rights (IPR) protection experts say they felt China's judicial and law enforcement environment had made great progress, but much work remains to be done.

"These examples of good investigative practice set a worldwide example for other investigators to follow," says John Newton, intellectual property program manager of the International Criminal Police Organisation, at the award ceremony.

"Many foreign companies were impressed by the efficiency and transparency of our case," says Qiao. "It surprised those who had misgivings about China's IPR protection that we won a suit here and secured damages of 900,000 yuan."

The value of counterfeit goods involved in other awarded cases varied from 290,000 to 7.85 million yuan.

Michael Barbalas, president of the American Chamber of Commerce in China (AmCham), says he has seen progress every year in China's efforts to combat fake goods. "We had a survey among our member companies recently and they said generally the legal structure is getting better in China."

Rapid moves and effective cooperation between administrative forces and judicial agencies were most frequently mentioned when the cases were introduced at the ceremony by the QBPC member companies, including Cisco, Nike, Motorola, Sony, and Procter & Gamble.

"We hounored the pioneers in order to encourage stronger law enforcement and good practice in IPR protection to correspond with the efforts the Chinese government made after joining the World Trade Organisation (WTO)," says CAEFI executive vice-chairman Liu Zhiben.

In a bid to create a better market and investment environment for foreign companies, China's supreme court has issued more than 20 judicial interpretations related to IPR protection since 2001, when China joined the WTO.

It ordered the establishment of special courts for IPR cases and lowered the threshold needed to prosecute people manufacturing or selling counterfeit products.

China's legislation in IPR protection is up to international standards, said Sun Hailong, vice-president of the Xi'an Intermediate People's Court, which handled the GE case.

But others say that while legislative progress has been good, stricter enforcement remains a problem. "China has already made great progress in legislation and policies, but we'd like to see tougher enforcement," says Michael O'Sullivan, secretary-general of the European Union Chamber of Commerce in China.

He hopes that Chinese copyright and patent owners will get more involved in pursuing cases and criminal thresholds will be further lowered.

China's actions on IPR protection remains the first issue of interest to foreign companies when visiting China, says AmCham's Barbalas.

"Counterfeiting is getting worse, which means more people are doing it in large volumes," he says.

Official data show Chinese courts dealt with 2,962 IPR infringement cases in the past five years, 133 per cent more than the previous five years.

Cross-border IPR crimes were on the rise, though specific data was unavailable, claims QBPC chairman Jack Chang.

"In a number of cases, foreign nationals brought samples from abroad and opened factories in China to make counterfeit items, as China boasts a mature processing industry," he says.

The QBPC will focus on tackling the challenges of organised international counterfeiting groups and regional protectionism, says Liu.

On 28th March, 21 Chinese law enforcement agencies were recognised as "pioneers" by the QBPC, which comprises 177 foreign companies with a combined investment of more than US$70 billion in China.

Sun Hailong said that he and his colleagues just did an ordinary job.

"We handled the GE case just as we did others," says Sun. "Foreign companies should have better knowledge of China's laws and trust in Chinese law enforcers."

[Source: Sina English](http://english.sina.com/business/1/2008/0407/153448.html) ([see archive](China's_IPR_protection_on_fast_track.pdf))

## Other

### New compensation standard for false convictions released

The Supreme People's Procuratorate has recently issued a circular concerning the new compensation standard for false convictions.

According to statistics from the National Statistics Bureau, the nation's average annual wage in 2007 was 24,932 yuan, and the average daily pay was 99.31 yuan.

The compensation standard for false convictions that restricts a citizen's personal liberties will therefore be calculated at 99.31 yuan a day in 2008.

An official in charge of false convictions in the Supreme People's Procuratorate stated that the compensation standard is regulated by the State Compensation Law and figures are released in accordance with the data issued annually by the National Statistics Bureau.

The standard amount has grown in line with the rapid growth of the nation's economy and the increase of employee's daily pay.

The figure was 17.76 yuan when the State Compensation Law came into force in 1995, 63.83 yuan in 2005, 73.3 yuan in 2006, 83.66 yuan in 2007 and 99.31 yuan in 2008.

The compensation standard only serves as a calculation method and it does not mean the value of a person's liberty is based on the person's income. Even the unemployed and farmers have this standard applied to them.

The standard is established according to social economic conditions.

The Amendment to the State Compensation Law is listed in the nation's legislation plan of 2008. The Supreme People's Procuratorate has been engaged in research and study in recent years to assist the amendment of the law.

[Source: China Law Info](http://www.pkulaw.cn/fulltext_form.aspx?Db=news&Gid=21336&keyword=&EncodingName=&Search_Mode=) ([see archive](New_compensation_standard_for_false_convictions_released.pdf))

### Use of foreign investment in western China increases

The increase in actual usage of foreign investment in China's western regions exceeded the nation's average by 128 per cent in the first two months of this year, said an official from the Ministry of Commerce recently.

During the first two months of 2008, the western regions' actual usage of foreign investment was US$1.393 billion, more than double that from the same period in 2007.

A total of 254 foreign companies were approved to invest in the region, said Ji Xiaofeng, a ministry official in charge of foreign investment management at the ongoing 12th Investment & Trade Forum for Cooperation between East and West China.

Ji attributed the increase to the nation's encouraging policy for foreign investment to the middle and western regions. She said the ministry was advocating a transfer of foreign investment from the eastern regions to the western areas and encouraging local governments to use the investment in innovative ways.

She said the ministry would continue improving regulations of foreign mergers and acquisitions and would establish an anti-dumping investigation mechanism. Foreign investors would be welcome to participate in reforms of state-owned companies.

According to available statistics, a quarter of the nation's tax revenue currently comes from foreign invested companies. By the end of February 2008, the number of foreign invested companies was 637,000 nationwide and the actual usage of foreign investment reached US$781.1 billion.

During the first two months of 2008, 4,372 foreign investors came to China and the actual usage of foreign investment rose 75 per cent to US$18.1 billion.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/6387292.html) ([see archive](Use_of_foreign_investment_in_west_China_increases.pdf))

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