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# China News Alert Issue 256

## Capital Markets

### China enhances regulation of funds and securities dealers

Information from stock-oriented funds, such as periodic results announcements, will be regularly published on the China Securities Regulatory Commission's (CSRC) website, using a standard format in the eXtensible Business Reporting Language (XBRL), starting from 1st January 2009, the CSRC said in a statement.

"The move is to further improve the quality of information released by fund companies," said the CSRC.

The new rule is expected to help third-party agencies to evaluate and supervise the management of fund companies. It has been difficult for third parties to collect and analyse first-hand fund information, which was not publicly available.

The CSRC said a new regulation for securities brokers will prohibit them from surpassing their authority by manipulating customers' accounts or providing investment advice.

The dealers will also be forbidden from "offering or spreading false or misleading information", or "tempting customers to make unnecessary deals," said the CSRC. Nor can they make agreements on sharing investment proceeds with customers, or promise gains or compensation for losses.

"The law is aimed at protecting the legal interests of fund investors and ward off risks caused by poor regulation of securities dealers," said the CSRC in a separate statement.

The watchdog's actions are part of China's recent efforts to strengthen regulation of the stock market and lay a solid foundation for long-term development.

The CSRC announced earlier that it will raise the refinancing threshold for listed companies, saying dividends paid to shareholders in the previous three years must be no less than 30 per cent of its distributed profits, compared with the previous limit of 20 per cent.

Listed companies' refinancing plans had led to share price declines and complaints in China as liquidity concerns loomed over the stock market. Investors also blamed their losses on insider trading and the lack of transparency of fund companies.

Last week, a draft amendment to the Criminal Law was submitted to China's top legislature, stating that employees of financial institutions will face criminal prosecution for insider trading. Currently there are no such provisions in the Criminal Law.

China's benchmark Shanghai Composite Index has lost more than 60 per cent from its peak in mid October 2007.

In the first half of 2008, 364 funds in the country incurred a record loss of 1.08 trillion yuan (US$154 billion), with more than 90 per cent coming from stock-oriented or hybrid funds, according to statistics from the TX Investment Consulting Company.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-09/02/content_6990694.htm) ([see archive](China_enhances_regulation_of_funds_securities_dealers.pdf))

### Shareholders entitled to apply for increase in holdings

The China Securities Regulatory Commission (CSRC) is encouraging listed firms to increase their holdings of their own firms stock. The CSRC has introduced a new application for the increase in holdings.

On 27th August, the CSRC released details of its decision to modify the 'Administrative Measures for the Takeover of Listed Companies'.

According to the decision, the requirements for the application are that the equity held by the shareholders is equal to or exceeds 30 per cent of the firm's outstanding stock and that any stock increase within the following 12 month period does not exceed 2 per cent of the firm's outstanding stock.

To meet supervision requirements, the CSRC has also adjusted the term for handling applications from the previous 5 working days to 10 working days.

The two mainland securities exchanges will also provide specific business rules, stating that major shareholders of listed firms must fulfill their information disclosure obligations and disclose their subsequent stock expansion plans when they make their first stock expansion or their stock increases by 1 per cent.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=4605) ([see archive](Shareholders_Entitled_to_Subsequent_Immunity_Application.pdf))

### SSE issues format instruction for mineral rights disclosure

The Shanghai Stock Exchange (SSE) has recently issued 'No.18 Format Instructions on Temporary Announcements of Listed Companies' to regulate the information disclosure of listed companies concerning acquisition and transfer of mineral rights (including prospecting rights and mining rights).

Listed companies are required to detail their mineral rights in line with the instruction, if they acquire, receive or relinquish mineral rights, plan to purchase or sell the equities of other companies whose major assets are mineral rights, or plan to establish joint ventures by contributing mineral rights.

The instruction specifies the requirements for disclosing mineral rights ownerships, exploitation approvals and mining rights evaluations.

Listed companies must verify whether they have obtained related prospecting or mining licenses, disclose whether they have necessary project approvals and environmental protection approvals as well as production safety licenses for exploitation, and disclose, in line with industry standards, such factors as recoverable reserves and duration of mineral rights. It also requires listed companies to disclose qualifications and production conditions, anticipated production times and maximum production capacities concerning their mining rights.

To prevent misunderstanding by investors, the instruction lays more emphasis on due diligence obligations of listed companies' directors and requires them to verify the issues that must be disclosed according to the instruction. Their independent directors can, if necessary, engage professional institutions for consultation.

Meanwhile, insiders must fulfill confidentiality obligations, and listed companies must issue special notices in a timely fashion and apply for trading suspensions if relevant information is leaked.

[Source: Shanghai Stock Exchange](http://english.sse.com.cn/aboutsse/news/c/28509.shtml) ([see archive](SSE_Issues_Format_Instruction_of_Mineral_Right_Disclosure.pdf))

## Real Estate

### China tightens credit control on property projects

The People's Bank of China (PBOC) and the China Banking Regulatory Commission (CBRC) are urging rigorous credit management for commercial property projects to curb possible risks that could threaten the banking sector.

Analysts said the policy aimed at improving the property credit market, with the central bank's resolution to implement a tight economic policy and the banking regulator's prevention against possible financial risk.

The policy will have significant impact on property developers as financing will become more difficult.

According to the joint-circular issued recently, no loan will be given to developers to cover land transfer costs. Loans for land reserve acquisition will be secured by property developers through the use of mortgages and will require a legal land use certificate. The loan amount must be less than 70 per cent of the estimated value of the project. The credit period will be confined to two years.

Provision of credit will be more cautious to government-approved construction projects that do not start within a year of the land concession contract being signed. This will also apply to projects where the developed land area is less than one-third of the total, or where the investment is less than a quarter of the total within a year after starting construction.

No credit of any kind will be offered to projects where land has been idle for two years or more, the statement said.

Analysts said the policy will keep lenders away from risks caused by the possible reform of the country's property sector due to the global economic downturn and China's possible post-Olympics economic slowdown.

In the first half of 2008, nationwide credit for commercial real estate amounted to 5.2 trillion yuan (US$761.5 billion), up 22.5 per cent year on year, accounting for 15 to 20 per cent of the total assets of the banking industry.

Analysts say the rate of non-performing loans is increasing. Stagnation in property sales will leave banks subject to high risk, which will in turn put the country's economy in danger.

In the first half of 2008, cash outflow was greater than cash inflow among 55 developers by 25.5 billion yuan, up 477.2 per cent from a year-earlier, according to Wind Info, a Chinese financial data provider.

Developers posted their operating income at 58.3 billion yuan, up 37.96 per cent year on year. Operating profit was 13.02 billion yuan, up 44.46 per cent, while net profit stood at 9.94 billion yuan, up 49.4 per cent. These figures are far from the over 80 per cent year-on-year growth rate posted last year.

Due to the credit crunch, property developers have sought to broaden channels of financing. They have shifted some of their attention to trusts, funds and bonds.

The PBOC and the CBRC also called for financial support for indemnified housing construction. Strict credit management on rural collective land for construction should be improved. Loans will not be given to projects in such areas for commercial properties or to rural residents' land purchase for home construction.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/90884/6488861.html) ([see archive](China_tightens_credit_control_on_property_projects.pdf))

## Corporate & Commercial

### SAFE to start annual checks on banks' foreign exchange controls

China is to launch annual checks of banks' foreign exchange management to strengthen the country's control over foreign currency, the State Administration of Foreign Exchange (SAFE) said.

The country's top foreign exchange regulator will examine the implementation of the foreign exchange rule in banks, according to a statement on its website recently.

The checks will cover domestic, joint venture and solely-funded foreign banks, as well as the outlets of foreign banks, the administration said.

The checks will be annual, but this year's review will run from 1st September to the end of 2008.

The move is the latest step in the government's efforts to improve its control over cross-border capital flow.

The country published its revised version of the foreign exchange rules on 7th August with immediate effect. The new stipulations are aimed at tightening control over the transfer of foreign currencies in and out of China.

The new rules include hefty fines of up to 30 per cent of the capital involved in the unauthorised inward or outward transfer of money.

On 14th August, the People's Bank of China, the central bank, set up a foreign exchange department to administer foreign currencies.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/90884/6489832.html) ([see archive](SAFE_to_start_annual_checks_on_banks_foreign_exchange_controls.pdf))

### Representative offices of foreign companies may not be involved in profit-making activities

China's Legislative Affairs Office of the State Council recently modified the registration and administration rules governing resident representative offices. The rules define a representative office as a non-profit office, with no professionally qualified legal personnel and not engaged in for-profit activities.

On 1st September, the Legislative Affairs Office released the 'Regulations on the Registration and Administration of Resident Representative Offices of Foreign Enterprises (Draft for Comment)'.

According to the draft, if international treaties and conventions that China has concluded or participated in stipulate that foreign enterprises may establish representative offices to be involved in for-profit activities, such stipulations shall prevail.

The public-input process is scheduled to conclude on 25th September.

The draft governs the annual reporting system for representative offices, requiring that such offices must submit their annual reports to the registration authorities between 1st March and 30th June each year.

The representative office may choose its resident locations and terms, and their representatives, with written authorisation from the foreign enterprises, may conclude contracts on behalf of the foreign enterprise.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=4631) ([see archive](Representative_Offices_of_Foreign_Companies_May_not_be_Involved_in_For-profit_Activities.pdf))

## Other

### China adopts recycling law to boost sustainable development

China's top legislature passed a law to promote a recycling economy on Friday at the closing of the fourth session of the Standing Committee of the 11th National People's Congress (NPC).

The draft law was ratified after its third reading, and President Hu Jintao signed it into law. It will come into force on 1st January 2009.

The aim of the law is to boost sustainable development through energy saving and the reduction of pollution.

"Developing a recycling economy will help the country to achieve maximum economic efficiency through minimal energy consumption and emissions," said Ni Yuefeng, a NPC Standing Committee member. It is a significant step in establishing an energy-saving and environment-friendly society, Ni added.

Under the new law, the government will launch close monitoring of high-consumption and high-emission industries, including steel and non-ferrous metal production, power generation, oil refining, construction, and printing industries.

Government departments will map out a system for recycling and improve energy-saving and waste-reutilisation standards.

Industrial enterprises are required to introduce water-saving technologies, strengthen management, and install water-saving equipment in new buildings and projects.

Crude oil refining, power generation, and steel and iron production plants must aim to stop using oil-guzzling fuel generators and boilers, in favour of clean energy, such as natural gas and alternative fuels.

The law orders enterprises and government departments to adopt renewable products in new buildings, such as solar and geothermal energies. Meanwhile, enterprises should recycle and make comprehensive use of coal mine waste, coal ash, and other waste materials.

The government encourages farmers and rural departments to recycle maize straw, livestock waste, and farming by-products to produce marsh gas.

Companies and government departments that employ prohibited technologies, equipment and material will face fines of 50,000 yuan to 200,000 yuan.

In June 2008, legislators scrapped a draft provision on progressive pricing for household water, electricity and gas consumption because it was too difficult to assess the basic level of consumption in each household.

The government issued a circular in 2002, urging all cities to implement a pricing system of household water use by the end of 2005. However, only around 80 of the country's 661 cities are using the pricing method, figures from the National Development and Reform Commission show.

The draft law, which was submitted for its first reading in August 2007, stipulates that government at all levels should draw up plans on the development of a recycling economy, establish systems to control energy use and pollutant emissions, and introduce policies to divert capital into environment friendly industries.

According to the law, the central government will allocate funds and capital to enterprises to encourage innovation in recycling technologies. Enterprises will get tax breaks for introducing and using energy-efficient technologies and equipment.

Ni said administrative measures were sometimes inadequate for implementing laws. "Sometimes incentives and favourable taxation policies are more affective."

China has been facing serious environmental and resource problems with its economic development since the 1980s, mainly due to inefficient use of resources, according to the NPC Environmental Protection and Resources Conservation Committee.

The government's effort to make energy use more efficient and cut pollution contributed to the lowering of energy consumption per unit of gross domestic product (GDP). Energy consumption for every 10,000 yuan of GDP stood at 1.16 tonnes of coal equivalent in 2007, down 3.66 per cent from 2006.

The government has set a target of reducing energy consumption per unit of GDP by 20 per cent and major pollutant emissions by 10 per cent from 2005 levels by 2010.

However, the average energy consumption per unit produced for high-energy-consuming industries, such as steel, electric power and cement was 20 per cent higher than the average in developed countries.

[Source: People's Daily Online](http://english.people.com.cn/90001/90778/90857/90862/6489892.html) ([see archive](China_adopts_recycling_law_boost_sustainable_development.pdf))

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