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# China News Alert Issue 264

## Capital Markets

### Securities companies allowed to introduce new services

Chinese securities companies can introduce new services more frequently as the country adjusted its regulation on management on such kind of companies, said the country's securities regulator.

China Securities Regulation Commission (CSRC) published a provisional regulation on examination and approval of securities company's business scope recently. The regulation will take effect as of December 1.

According to the regulation, securities companies - financial institutions engaged in securities trading, capital management of customers, and securities investment consultation - can apply to the government to introduce new services six months later after the previous one. The old rule said the time span should be no less than one year.

Under Chinese regulation, if a securities company wants to introduce a new business or service, it should apply to the government for approval.

Experts say this move aimed to boost domestic securities and stock markets, because such companies can do business in a more active and free manner after restriction has been removed or loosened.

China's stock market dropped more than 66 percent from its peak last October. The negative impact of the world financial crisis made the situation even more arduous.

The regulation also ordered securities companies to establish evaluation and examination mechanism before introducing new services, map out business management mechanism, and adopt risk-control measures.

The previous regulation on securities companies monitoring, which took effect in 1999, will expire on December 1.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-11/01/content_7167566.htm) ([see archive](Securities_companies_allowed_to_introduce_new_services.pdf))

### Chinese, US exchanges to jointly develop futures, options markets

China's largest futures exchange by volume, Dalian Commodity Exchange (DCE), signed a memorandum of understanding with US-based NYSE Euronext recently to develop futures and options markets in the two countries and internationally.

The agreement, designed to extend the global reach of both exchanges, enables the two to explore opportunities for information sharing, exchanging employees and working together on IT solutions as well as product design.

"The global financial turmoil has triggered wide-spread suspect on the derivatives market. As market organizers, we are obliged to set up an information sharing system to promote healthy development of the market," said DCE President Liu Xingqiang.

"We are committed to the success of this alliance as part of our long-term commitment to China, sharing valuable growth opportunities and promoting the development of the regional and global financial market," said Duncan Niederauer, CEO of NYSE Euronext.

DEC is one of the three commodity futures exchanges in China. Major contracts traded on the exchange include corn, soybean and palm oil futures. DCE has been the largest futures exchange by volume in China since 2000 and the second largest soybean futures market worldwide.

NYSE Euronext, according to its website, is the world's largest exchange group by number of listings and market capitalization, and offers financial services for issuers, investors and financial institutions in cash equities, options, futures and derivatives.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-11/04/content_7173622.htm) ([see archive](China_US_to_jointly_develop_futures_options_markets.pdf))

### China cuts benchmark interest rates by 0.27 percentage points

China's central bank announced on Oct. 29 it would cut benchmark interest rates by 0.27 percent to spur economic growth.

The move would become effective on Oct. 30.

The benchmark one-year deposit rate would drop to 3.60 percent from 3.87 percent, while the benchmark one-year lending rate would fall from 6.93 percent to 6.66 percent.

The central bank had just announced another rate cuts two weeks ago. The move came amid rate cuts by worldwide central banks to stimulate the slacking economy.

[Source: People.com](http://english.people.com.cn/90001/90776/90884/6523749.html) ([see archive](China_cuts_benchmark_interest_rates_by_027_percentage_points.pdf))

## IPR

### China's judiciary improves IPR protection

A vice president of the Supreme People's Court told recently that the abilities of Chinese courts to protect intellectual property rights (IPR) have constantly improved in recent years.

Xi Xiaoming said that the courts had rendered verdicts on all kinds of IPR infringement cases, covering the creation, use, protection and management of intellectual property.

Before the mid-1990s, IPR court cases mainly concerned technology contract disputes. Between the mid-1990s and 2002, most IPR cases involved patent infringement. Since 2002, copyright violation cases have soared and become the dominant type of cases, Xi said.

Xi said courts at all levels had fully used their civil, criminal and administrative trial functions to provide comprehensive judicial protection of IPR.

From 2001 to 2007, courts received 77,463 civil IPR cases, of which 74,200 had been concluded.

From January to September this year, courts initially received 18,545 civil IPR cases, up 39 percent year-on-year.

In 2007 alone, courts concluded 2,684 criminal IPR cases, in which 4,322 defendants were convicted.

Xi said that this month has been designated to mark public awareness of IPR protection and spark enthusiasm for innovation.

During the month, some IPR infringement cases will be tried in public and some intellectual protection policies will be promulgated.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-11/04/content_7172464.htm) ([see archive](Chinas_judiciary_improves_IPR_protection.pdf))

### IPR mortgage loans prove beneficial

Two years ago, when a few commercial banks in China began accepting intellectual property rights (IPRs) as collateral for loans for small- and medium-sized enterprises (SMEs), many thought it might be too risky.

But the new model is slowly proving to be an effective financing channel for capital-strapped SMEs and a profit making business for commercial banks.

Bank of Communications (BoCom), one of the first to initiate the new financing model, says as of August this year, it had lent 402.75 million yuan (58.89 million U.S. dollars) to 37 enterprises in IPR mortgage loans, all of which were repaid on time.

"The new loan offering not only helped the technology-based SMEs get financed, but also created a new business domain for the bank," Zhang Xin, director of retail credit department of BoCom said at the 10th China Hi-Tech Fair held in Shenzhen in October.

In recent years, many small companies found it hard to get funding when their businesses were still in the initial stages. IPR mortgage loans would be of great benefit for innovative SMEs that possess advanced technologies in certain areas.

According to BoCom's IPR mortgage regulations, enterprises with good credit, and with total assets of no more than 40 million yuan and annual sales of no more than 30 million yuan could use the patents, utility patents or profitable trademark they own as guarantees to apply for the loan. Each company is allowed to ask for a maximum of 10 million yuan with a maturity of three years.

As of the end of last year, more than 300 IPR mortgage contracts involving more than 700 patents with a total value of 6 billion yuan were registered in the State Intellectual Property Office.

Although the business has a rosy picture for further development, it still has risks as IPRs are not as stable as tangible assets, people related to the business say.

"Besides the risks existing in common bank loans, IPR mortgage loans also face legal risks," says Zhang.

"As the law concerning IPR is not comprehensive in China, there are many uncertainties regarding the ownership and owners' interests on the patent rights, " he adds.

To control the risks in IPR loans, BoCom adopted a credit model by partnering with independent rating institutions and law firms for comprehensive assessments and legal advice.

Liu Wutang, director of Beijing-based Liancheng Assets Evaluation Co, which works with BoCom, says evaluating of patent rights is crucial for a successful loan.

"Because factors like technological innovation may affect the value of IPRs rights as time goes by, its risk are more unpredictable than other common assets," Liu tells.

"Risk evaluation analysts are responsible for identifying every possible risk that could happen and provide suggestions for the bank on whether it is controllable or not," he says, adding that the rating institutions and law firms involved share the possible risks with the bank.

Bank of Beijing has also decided to make a foray into the IPR loan business, according to Liu, and provinces such as Hunan and Anhui have also made progress in trying the new loan model. In Changsha, capital of Hunan, the local Intellectual Property Office signed a cooperative agreement with Changsha Commercial Bank earlier last month to provide IPR mortgage loans to SMEs in the province. More than 10 enterprises have applied for the loans.

In Anhui Province, the local Science and Technology Department recently recommended 35 projects touted by 31 enterprises to the Industrial and Commercial Bank of China's Anhui branch. Combining tangible and intangible assets, the bank loans reached 650 million yuan, with 71 invention and utility patents as guarantees.

[Source: People.com](http://english.people.com.cn/90001/90776/90884/6526485.html) ([see archive](IPR_mortgage_loans_prove_beneficial.pdf))

## Corporate & Commercial

### New law adopted to protect state assets

The top legislature recently approved a law to safeguard the country's 30 trillion yuan ($4.4 trillion) worth of State assets.

Following years of debate and repeated revisions by the National People's Congress (NPC), the Enterprise State Assets Law will now oversee the capital of nearly 120,000 State-owned companies, including financial ones, and prevent their assets from illegal seizure.

Government statistics show that between 80 billion and 100 billion yuan worth of State assets are lost each year because of mishandling.

Lawmakers have attributed slack management and misconduct of State asset managers to much of the loss over the years.

"China has been devoted to the reform of its State-owned enterprises, and there is an urgent need for legislation to safeguard the management of State capital. This is the collective suggestion of many legislators," Wu Bangguo, the nation's top legislator, said.

"With the law passed, it has become a pillar to supervise the colossal State capital," Wu said before bringing to a close the bimonthly NPC legislative session.

The new law stipulates that if "malicious collusion" is found to have taken place in a deal involving State assets - leading to the loss of assets - the deal is deemed invalid.

Also, State companies are subject to the current Company Law and other related regulations.

While the law covers State-run companies, it excludes the assets owned by government agencies or the State's natural resources such as land, forest, mines and water.

"It is very difficult to cover all assets in one law and I doubt there will be another law governing the other assets, because the current regulations will do," An Jian, a senior NPC lawmaker told at a news conference.

The State Council and its ministries have been implementing a series of laws supervising natural resources, such as the Mineral Resources Law.

Before the six-day legislative session concluded, an amendment to the Fire Control Law was also passed. The revision puts more onus on governments and building owners to ensure fire safety.

Both laws will take effect from May 1.

The session also ratified an extradition treaty China signed with Portugal early last year, and adopted the Convention on the Physical Protection of Nuclear Material as well as a convention and protocol on mobile devices.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-10/29/content_7152421.htm) ([see archive](New_law_adopted_to_protect_state_assets.pdf))

### Central government to support development of border trade with six measures

Chinese central government would boost economic and trade development in border regions by strengthening policies involving preferential measures including public finance, taxation and investment support, according to the news from the PRC Ministry of Finance.

The specific contents of these preferential measures are:

* Increasing public financial support to develop trade in border regions.

Starting November 1, 2008, the central government will replace the existing policy of halving the import tax of small-volume border trade according to statutory rates with transfer payments, and increase the funding year by year.

This policy will be used specifically to support the development of border trade and to increase the capacity of small-volume trade enterprises.

* Raising the duty-free limit of cross border trade for people living in border regions. Starting November 1, 2008, the central government will raise the duty-free limit of daily-use imported articles in cross border trade for people living in border regions to 8,000 yuan per person, per day.
* Supporting the construction and development of border special economic zones.

Preferential policies involving discount interest on infrastructure project loans offered to national economic and technological development zones in China's mid-west, will also be offered to economic border cooperation zones at the national level.

In formulating the future macro plans of special customs surveillance zones, overall consideration will be given to the development of cross border economic tax-free cooperation zones, which will allow the goods coming into the special economic zones from outside the zone, but within the borders, to enjoy tax rebates.

* Further relieving burdens for border trade enterprises, clearing up and standardizing the administrative and service charges involving border trade enterprises and canceling illegal and unreasonable charges.
* Speeding up research on the issue of balancing the general trade export rebates using Renminbi, and prioritizing additional trials in border regions.
* Supporting the construction of frontier ports. The central government will arrange special funds each year to subsidize inspection facilities at Class One ports, and gradually increase the investment amount, raise the subsidy standards and extend the range of support.

[Source: China Securities Journal](http://www.cs.com.cn/english/ei/200811/t20081104_1642423.html) ([see archive](Central_government_to_support_development_of_border_trade_with_six_measures.pdf))

## Taxation

### SAT tightened control over taxation on incomes derived from the asset disposition by enterprises

If enterprises use their assets for producing, manufacturing or processing the other products, such activities shall be regarded as internal asset disposition, and the assets shall be not regarded as being sold when calculating the incomes. Taxation basis of the relevant assets shall be continuously calculated.

Under the Circular on Issues Concerning the Taxation on Incomes Derived from the Asset Disposition by Enterprises (Circular), released by China's State Administration of Taxation (SAT) recently, if enterprises use their assets for market promotion, sale, dividend distribution or external donation and etc., such activities shall not be subject to the internal asset disposition, and the assets shall be regarded as being sold when calculating the incomes.

The Circular shall take effect as of January 1, 2008.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=4911) ([see archive](SAT_Tightened_Control_over_Taxation_on_Incomes_Derived_from_the_Asset_Disposition_by_Enterprises.pdf))

### IIT must be paid for virtual currency trading

If individuals up-sell the virtual currency that they purchase from the game players through the internet, individual income tax (IIT) shall be collected on the incomes generated from such sale as per the standard of taxing "income derived from property transfer".

The aforementioned provisions were made by the Reply on Issues Concerning the Collection of Individual Income Tax on Incomes Derived from Trading Virtual Currency via Internet by Individuals, which was recently released by China's State Administration of Taxation (SAT). The Reply also stipulated that original property value of the individuals' virtual currency trading shall be the price and the relevant taxation that they pay for the purchase of virtual currency.

Besides, if the aforementioned individuals fail to provide the relevant original value documents with their properties, the competent taxation authorities must check the original value.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=4901) ([see archive](IIT_Must_be_Paid_for_Virtual_Currency_Trading.pdf))

## Other

### Government to draft plan on human rights

The government is working on a national action plan to protect human rights, the State Council Information Office said recently.

The plan will cover such things as improving government function, expanding democracy, strengthening the rule of law, improving people's livelihoods, protecting the rights of women, children and ethnic minorities, and boosting public awareness of human rights, it said in a statement.

A panel from the State Council Information Office and the Foreign Ministry will draft the document, assisted by specialists from selected nongovernmental organizations and academia.

"The panel will carefully plan the human rights development in detail and put forward practical policies and measures," Wang Chen, minister of the State Council Information Office, said.

Dong Yunhu, vice-president and secretary-general of the China Society for Human Rights Studies, said: "As the first of its kind, the plan will have a major impact on development of human rights.

"Over the past three decades, China has made great progress in protecting human rights practically and theoretically, but it still needs a nationwide plan to guide where the cause should go," he said.

The government issued its first white paper on human rights in 1991, officially adopting the concept of "human rights" in its political strategy.

Since then, it has issued 40 such documents, but never a State action plan in this field.

The plan embodies the government's effort to carry out the country's "constitutional principle of respecting and safeguarding human rights", which was adopted in 2004, and the development concept of putting people first, he said.

[Source: China Daily](http://www.chinadaily.com.cn/cndy/2008-11/05/content_7174372.htm) ([see archive](Govt_to_draft_plan_on_human_rights.pdf))

### New laws to help shape China's Civil Code

China is working on two more important laws on civil relations that will help complete the Civil Code by 2013, a senior official said recently.

"The Law of Torts and Application of Law in Foreign Civil Relations will complete the Chinese corpus on civil law if both are approved by the National People's Congress (NPC)," Kan Ke, spokesman for the general office of the Standing Committee of the NPC, said.

Kan was commenting on a plan to review 49 laws by 2013 pertaining to the NPC, food security, postal services, senior citizens, and other civil, criminal and administrative procedures.

Current laws concerning civil relations already include property, obligations, marriages, inheritance, adoptions, copyrights, trademarks and patents.

NPC Standing Committee vice-chairman Li Jianguo said that China also intends to formulate a socialist law system with Chinese characteristics by 2010.

The laws to be reviewed, and to be incorporated into the social law system within the next five years include ones on mental health, social rescue and relief, and charity.

"It is far too difficult for the country to introduce just one social security law, it must be made up of laws embracing different social security sectors," Kan said.

Currently there are only two social security laws, the Labor Contract Law and the Employment Promotion Law for the protection of workers' rights.

Kan said there are also plans to review the law on supervision of the administration to further extend the legal protection of citizens' rights and interests.

Li pledged that public opinion will be considered in the review of the laws.

"All reviews by the committee, except a few that are confidential, will be made public, we are especially seeking grassroot opinions," Li said.

China currently has 231 laws. Since 1991, the committee has formulated five legislation plans to intensify and strive for the building of a government that exercises the rule of law.

Li said their work is getting tougher each year following the reform and opening up.

"Some social contradictions and problems unavoidably will crop up in our legislation work. We have to find the right solutions," Li said.

[Source: China Daily](http://www.chinadaily.com.cn/china/2008-10/30/content_7156254.htm) ([see archive](New_laws_to_help_shape_Chinas_Civil_Code.pdf))

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