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# China News Alert Issue 269

## Capital Markets

### Brokerage firms still waiting for CSRC guidelines

The timetable of implementing the long-awaited margin trading and short selling may be delayed to next month since brokerage firms haven't received regulator's guidelines as planned.

According to the regulations released by the China Securities Regulatory Commission (CSRC) on October 30, brokerage firms could apply to offer margin trading and short selling as of December 1. Yet as of the supposed starting date, brokerage firms said they were still waiting for the specified guidelines from the regulators, meaning the application of the new measures cannot start on time.

So far, the CSRC hasn't explained the reason for this delay or elaborated on the requirements for the new measures. Insiders said the list for brokerage firms in the first-batch of pilot units can be expected next month.

It's widely accepted that the pilot units in the first batch must be selected from the 11-brokerage firms that have successfully finished on-line testing with China Securities Depositary & Clearing Corp and stock exchange.

On October 25 and November 8, 11 brokerage firms have finished on-line testing in two batches, including Citic Securities, Haitong Securities, Orient Securities, Everbright Securities, Shenyin & Wanguo Securities, Huatai Securities, China Galaxy Securities, Guosen Securities, GF Securities and China Merchants Securities. To cope with potential risks, these companies are all large-scale brokerage firms, with net capital above 5 billion yuan ($726.2 million).

Insiders said Orient Securities might be out of the final pilot list, since its performance in the first half of this year was the worst among the brokerage firms, with a loss of 875 million yuan in net profits in the first six months.

Haitong Securities, the largest brokerage by market capitalization, said in a report that about five to eight brokerage firms of the 11 are likely be in the final list of the pilot units. On Nov 18, Haitong said its operation costs in margin trading and short-selling will not exceed 4 billion yuan, about 11.22 percent of the company's net capital (As of June 30, the company's net capital had amounted to 35.66 billion yuan).

Haitong also predicts the yet-to-be launched new business will likely account for about 20 percent of these brokerage firms' net capital and the revenue from interest spread may reach about 2.69 billion yuan in 2009.

Besides the 11 securities firms, Xinjiang-based Hong Yuan Securities and Shandong-based Qilu Securities also announced they are actively preparing for the new business and the proposal have been approved at the general meeting of shareholders.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/01/content_7257751.htm) ([see archive](Brokerage_firms_still_waiting_for_CSRC_guidelines.pdf))

## Real Estate

### Stricter rules for preliminary examination of land used for construction projects

On November 29, 2009, the Ministry of Land and Resources (“MLR”) released the revised Administrative Measures on Preliminary Examination of Land Used for Construction Projects (the “Measures”), which will take effect as of January 1, 2009. Starting from next year, approvals of all land for construction projects must go through preliminary examination by land and resources authorities at different levels.

This is a compulsory measure made to strictly enforce the preliminary examination system and prevent misuse of land rights. Although the Measures were promulgated 4 years ago, preliminary examination is still not thoroughly carried out as required during the feasibility report period of construction projects. In some places, only land separately selected by enterprises is preliminarily examined while land in many industrial parks is ignored. This has caused much illegal occupation of land.

According to the Measures, land and resources departments are responsible for the preliminary examination of projects (1) to be approved by the government or development and reform commission at the same level; or(2) to be authorized or recorded by the government authority at the same level.

[Source: Xinhua](http://news.xinhuanet.com/house/2008-12/03/content_10447344.htm) ([see archive](Stricter_rules_for_preliminary_examination_of_land_used_for_construction_projects.pdf))

### Ministry vows strict arable land protection

The Ministry of Land and Resources will do all it can to ensure the government's 4-trillion-yuan ($580 billion) stimulus package does not lead to misuse of the country's dwindling land banks, a senior official said recently.

Speaking at a press briefing in Beijing, Vice-Minister Lu Xinshe said land and use conditions are already closely monitored and managed in real-time via satellite, on-site inspections and the Internet.

Anyone, local leaders in particular, found violating them will be severely punished, he said.

Following a recent national land inspection, Xu Shaoshi, minister of land and resources, reprimanded the "primary leaders" of nine cities and asked them to streamline local land use, Lu said.

The government's stimulus package includes numerous large-scale construction projects that will require vast areas of land. But with arable land banks dwindling, and officials vowing to adhere to "the strictest land management policies", authorities are wrestling with the challenge of how to balance supply and demand.

The effective implementation of the stimulus package "needs the solid support of land and coal resources", Lu said.

The land ministry's primary tasks are to "offer proactive support" for the policies, while "strictly regulating and managing" land use, he said.

To that end, it will submit a revised draft of the Land Management Law to the State Council before the end of the year, he said.

The ministry is also determined to ensure farmers are paid reasonable compensation for any loss of land, the vice-minister said.

"Generally speaking, land that needs to be seized shall be seized, but we must also protect the farmers' interests," he said.

In the past, there have been many cases of farmers claiming that they were not fairly compensated for land lost to urbanization projects, which saw huge tranches of arable land being lost across the country.

As a result, since 2004, central and local authorities have been closely monitoring the use of land for non-agricultural purposes.

In January of this year, more than 2,700 officials were referred for prosecution on land use violation charges following a 100-day campaign run by the land ministry. The central government has also said that the nation's arable land bank must not fall below 1.8 billion mu (120 million hectares). As of the end of last year, the total area was 1.826 billion mu.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/04/content_7270169.htm) ([see archive](Ministry_vows_strict_arable_land_protection.pdf))

### Enticements for second-house buyers to come

The government may soon loosen its lending policy on those looking to buy a second home, as the latest move to revitalize the sluggish property market.

"We are closely watching the changes happening in the property market and plan to implement more powerful measures to stimulate stagnant sales, including adjusting the lending policies for second-house buyers," Qi Ji, vice minister of the Ministry of Housing and Urban-Rural Development (MOHURD), told a group of reporters from Hong Kong.

This is the government's latest effort to activate the real estate sector, following the central bank's biggest slash in interest rates in 11 years and a taxation cut on property transactions.

Those measures, meant to trigger consumers' interest in the market made little impact as many still have a wait-and-see attitude .

Property prices in China's 70 large- and medium-sized cities rose 1.6 percent year-on-year in October, the lowest growth rate since 2006, according to the National Development and Reform Commission. And real estate transactions in key cities remain low.

"If the property market continue to slide, more proactive policies will be in the pipeline, even those to help property developers shrug off financial difficulties, such as allowing quality real estate developers to issue corporate bonds," said Qin Xiaomei, research chief at CB Richard Ellis' Beijing branch.

The real estate sector plays an important role in stabilizing the country's overall economy, especially when the global financial turmoil is badly hurting China's export industry.

[Source: Ministry of Commerce](http://english.mofcom.gov.cn/article/newsrelease/counselorsoffice/westernasiaandafricareport/200812/20081205926968.shtml) ([see archive](Enticements_for_second-house_buyers_to_come.pdf))

## Corporate & Commercial

### CIRC to Tighten Control over Representative Offices Established by Foreign Insurance Institutions in China

Beginning on December 1, 2008, for foreign insurance institutions that apply for establishing representative offices in China, their year-end assets one year prior to the application must exceed 2 billion US dollars, and the chief representative candidates must soundly understanding the insurance knowledge and the relevant regulations with the representative office operation.

Under the Interpretations on Several Issues Concerning the Application of the Administrative Measures for the Representative Offices in China of Foreign Insurance Institutions (Interpretations), which was released by the China Insurance Regulatory Commission (CIRC) on November 25, 2008, general representatives or chief representatives in China of foreign insurance institutions must not hold a post in more than two representative offices that are established by foreign insurance institutions and other institutions in China.

Besides, the aforementioned representative offices and their staff must not be engaged or participate, in any manner, in the operation activities. Whether the representative offices or relevant individuals have gained interests or not shall not have any impact on cognizing features of their activities.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5048) ([see archive](CIRC_to_Tighten_Control_over_Representative_Offices_Established_by_Foreign_Insurance_Institutions_in_China.pdf))

### MOFCOM approves InBev, AB merger

China's Ministry of Commerce (MOFCOM) recently gave the nod for Belgium brewer Inbev's $52 billion takeover of Anheuser-Busch Cos Inc (AB), but said the two parties are not allowed to increase their ownership stakes in domestic beer companies without approval from the ministry.

This is the first acquisition deal that has passed MOFCOM's review under China's Anti-Monopoly Law since it took effect in August, a ministry spokesperson said.

MOFCOM concluded that the tie-up of the two companies would not restrict competition in the domestic beer market.

However, to maintain a competitive environment, the ministry also instructed that without its approval, AB could not raise its 27 percent share in Tsingtao Beer and Inbev could not increase its 28.56 percent share in Zhujiang Brewery Group.

Also, the two parties are not allowed to acquire shares in CR Snow or Beijing Yanjing Brewery, two of the largest domestic brewers, the statement said.

The conditional approval of the acquisition deal is aimed at upholding fair competition in China's beer market and to protect major domestic brands, said Huang Qiong, a research analyst with Euromonitor International.

Currently, Inbev and AB jointly have a 13 percent share of China's beer market, according to the market research firm.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-11/19/content_7219360.htm) ([see archive](MOFCOM_approves_InBev_AB_merger.pdf))

### Doctors, teachers may face graft charges

Doctors and teachers may now face bribery charges if they receive monetary and other forms of reward in exchange for favors made through their work, the Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) said in a new judicial interpretation issued recently.

Under the interpretation, medical staff faces being charged with commercial bribery if they receive bribes from sales agents of pharmaceutical companies and suppliers of medical equipment, or if they help promote pharmaceutical products through their prescriptions for the benefits.

Similarly, teachers face the charges if they accept bribes from sales agents of textbooks, teaching facilities, school uniforms and other related items during the course of their work. Organizers of sports and cultural activities will also be covered under the interpretation.

Members of judicial or evaluation groups, members of committees for the procurement of items and members of bidding procurement groups, can also be punished for crimes committed under the circumstances of receiving illegal returns.

Those found guilty of the crimes could be jailed.

The latest move by the SPC and SPP is in accordance with two amendments to the Criminal Law issued in November 2005 and June 2006.

Previously, the Criminal Law stipulated that crimes of bribery were limited to government officials or employees of State companies.

An interpretation released last November included commercial crimes of non-government officials and employees to the legal definition.

Public servants, State company employees and those who were "employees of other institutions" were also previously subject to commercial bribery laws.

The new interpretation has clarified that the "other institutions" include State organs, social institutions, community residents' committees, village committees and organizing committees for sports and cultural activities.

"The interpretation further clarifies the circumstances in facing crimes of bribery, especially the affirmation of commercial bribery, to staff of companies, enterprises and other institutions," the SPC and SPP said.

The interpretation also clarified that rewards of monetary value given to suspects will be considered bribes, including home furnishing, travel packages and shopping coupons.

Bribery cases have been on the rise in recent years.

From 2002-2007, official records showed that the SPP dealt with 19,963 commercial bribery cases involving government officials.

Since 2006, the SPC and SPP have reportedly cracked down on commercial bribery by focusing on areas ranging from construction, land transfer, property transactions and the purchase of medical and pharmaceutical products, to bank loans, securities, and commercial insurance.

[Source: Xinhua](http://news.xinhuanet.com/english/2008-11/25/content_10408969.htm) ([see archive](Doctors_teachers_may_face_graft_charges.pdf))

## Other

### Supreme Court Specified Causes of Civil Procedure Retrial

China's Supreme People's Court released on November 25, 2008 the Interpretations for Several Issues Concerning the Trial Supervision Procedures for the Application of the Civil Litigation Law (Interpretations), which shall take effect on December 1.

The Interpretations specified the retrial procedures and nailed down the retrial causes. Under the Interpretations, if laws, regulations or judicial interpretations applicable to the original adjudgment or ruling become invalid or have not taken effect, the people's court shall conclude that "the applicable laws are mistaken indeed".

Besides, if the retrial applicants submit new evidence that exists before the conclusion of the original case and are found after the conclusion, people's court shall cognize such evidence as "new evidence" as stipulated by Phrase 1, Section 1, Article 179 of the Civil Procedure Law.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5067) ([see archive](Supreme_Court_Specified_Causes_of_Civil_Procedure_Retrial.pdf))

### Civil service pay reform to continue

The government is going ahead with a nationwide reform of civil servants' pay that includes raising the salaries of officials in poorer regions, despite the ongoing financial crisis, a publicity official from the Ministry of Human Resources and Social Security said recently.

"At present, we do not have any plans to amend or postpone the scheduled reform," told the official, who did not want to be named.

The salary reform is aimed at regulating the allowances and subsidies of the country's 8 million civil servants, by reducing such payments in affluent areas and boosting them in poorer regions. The changes rolled out in July 2006 and are expected to be completed next year.

Civil servants in the Inner Mongolia autonomous region and in Henan, Hebei and Anhui provinces already saw their allowances raised from last month, the Sichuan-based West China Metropolis Daily reported recently.

Henan provincial authorities received the green light from the State Council to raise the monthly salaries of their officials by 300 yuan ($44) each in mid-November, the newspaper reported.

The move was part of the national reform to regulate civil servants' pay and had nothing to do with the current financial crisis affecting economies worldwide, a Henan official said.

"We made the adjustment because our civil servants have complained about their low income for a long time," said the official, who wanted to be known by his surname Wu, with the finance department of the Henan provincial government.

"The changes have nothing to do with the financial crisis. We submitted the requisite applications last year," Wu said.

Still, other researchers said it was not the right time to continue with the salary reform.

"The timing is not good, as the global economy is in a recession and China is facing mounting economic pressure," Su Hainan, head of the Institute for Labor and Wage Studies, was quoted by The Economic Observer as saying.

The government should step up efforts to fight corruption and lessen tax for companies instead of increasing civil servants' pay, Cao Jianhai, a researcher from the Institute of Industrial Economics at the Chinese Academy of Social Sciences, said.

"Increasing investment on rural education as well as rural infrastructure and agriculture are also among the government's imminent tasks," Cao said.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/02/content_7259484.htm) ([see archive](Civil_service_pay_reform_to_continue.pdf))

### New rules take effect on hearings for govt pricing

New regulations took effect in China on December 1 that require more openness in public hearings, and greater access to information for consumers and the media, when changes are proposed for government-set prices.

The amendment to the regulation on hearings for government pricing was issued by the National Development and Reform Commission, the top economic planning agency, on October 22 following public consultations in July.

One provision of the new regulations states that price hikes for public utilities and "natural monopolies" will not be valid without hearings.

Also, the results of hearings and final decisions must be communicated to the public via official websites and the media.

[Source: Xinhua](http://news.xinhuanet.com/english/2008-12/01/content_10440508.htm) ([see archive](New_rules_take_effect_on_hearings_for_China_govt_pricing.pdf))

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