Charltons - China News Alerts Newsletter - 05 January 2009

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# China News Alert Issue 273

## Capital Markets

### Shanghai and Shenzhen Stock Exchange Tightened Control over File-recording of Independent Directors

Shanghai Stock Exchange (SSE) released to all listed firms on December 29, 2008 the Circular on Strengthening the Qualification File-Recording of Independent Directors of Listed Companies (Circular), which shall take effect on December 30, 2008.

Under the Circular, the listed firms must provide, within three trading days since the disclosure of the information of independent director candidates, channels to notify the circumstances of the candidates, and must report all feedbacks and materials to the SSE.

Besides, the Shenzhen Stock Exchange also released on December 30, 2008 the Individual Director File-recording Measures of the Shenzhen Stock Exchange (Revised in 2008). The Measures stipulated that the bourse will mainly focus on the following circumstances of independent director candidates: be older than 70 years old, but hold posts simultaneously in multiple companies, institutions or social organizations.

[Source: China Daily](http://hk.lexiscn.com/latest_message.php?id=5185) ([see archive](Shanghai_and_Shenzhen_Stock_Exchange_Tightened_Control_over_File-recording_of_Independent_Directors.pdf))

### CSRC Authorized the Examination and Approval of Fund Companies' Establishment of Subordinates

Beginning on January 1, 2009, if fund management companies apply for establishing subordinates within the territory of China (excluding Hong Kong, Macao and Taiwan Region), branches of the China Securities Regulatory Commission (CSRC), which are located in the place where the fund management companies plan to establish their subordinates, are eligible to accept such applications and render the related administrative licensing decisions.

The aforementioned provisions were made by the Decisions on Authorizing All Branches with the Examination and Approval the Establishment of Subordinates by Fund Management Companies, which was released by the CSRC on December 26, 2008. The Decisions also stipulated that CSRC's branches which are located in the place where the fund management companies plan to establish their subordinates must report, within 5 working days since the date when the related administrative decisions are made, the approval circumstances to the CSRC.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5181) ([see archive](CSRC_Authorized_the_Examination_and_Approval_of_Fund_Companies_Establishment_of_Subordinates.pdf))

## Corporate & Commercial

### New FDI rules to open up hinterland

Foreign investors can open hospitals in Jilin, run gas stations in Hubei and develop Tibetan medicines in Tibet starting in 2009.

The expanded business opportunities were among those listed in the central government's updated foreign investment directory for the middle and western regions.

Made public recently by National Development and Reform Commission (NDRC), the new directory will replace the version unveiled in 2004 and will take effect on Jan 1. It can be downloaded on the Chinese version of the commission's online directory.

To attract foreign investment, local governments in the western and central areas have come up with various preferential measures such as tax breaks, low-interest loans and cheap rent on industrial-purpose land.

"The new directory is well fit into local conditions and their own development blueprints," said an NDRC spokesman yesterday. "And we hope it can attract more foreign investment to middle and western parts."

Each municipality, province and autonomous region has identified its own investment preferences in the updated 28-page catalogue. Foreign investors are encouraged to invest in agriculture, environmental protection, infrastructure and industrial upgrades in the 21 provinces, autonomous regions and municipalities in western and middle China.

With tax breaks, they can also invest in occupational training, operation of holiday destinations and even passenger transportation by bus or train.

The NDRC spokesman said overseas investors can start businesses on their own or via joint ventures with Chinese partners.

Since the turn of the new century, China has launched the national development program to rejuvenate the economy in the western and middle parts of the country after the eastern and coastal regions have become economic powerhouses.

In recent years, the foreign direct investment (FDI) growth rate has sped up in the western and middle regions compared with that of eastern China, Commerce Minister Chen De-ming said earlier.

But FDI in the country dropped by 36.52 percent year-on-year in November to $5.3 billion, down from $6.72 billion in October.

NDRC's vice-minister Du Ying said the less-developed central and western parts are likely to suffer more than coastal regions in the unfolding global economic slowdown because of fledgling industrial structures, sharply declining resource prices and a weaker capability to handle risk and social conflict.

He asked the local governments in the regions to roll out more preferential policies to attract foreign investment while exploring domestic investment and consumption potential.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/26/content_7342629.htm) ([see archive](New_FDI_rules_to_open_up_hinterland.pdf))

### Shanghai dreams beckon more foreign investors

Bucking the national trend, Shanghai has managed to attract more foreign investment and also offer a higher rate of return for investments, according to a white paper released by the local authorities recently.

The region had an average investment return of 24.73 percent in the first 11 months compared with the national average of 22 percent, said the Shanghai Foreign Investment Environment White Paper 2008 published by The Shanghai Municipal Commission of Commerce (SMCC).

The study showed that between January and November, the number of foreign investment projects in the region rose 18.3 percent to 3,522. These projects involved a foreign investment of nearly $15.838 billion, it said.

The annual foreign investment in Shanghai would touch a new high of over $10 billion in spite of the global economic woes and would account for more than 10 percent of the country's total volume.

"As the commercial center in the affluent Yangtze River Delta and the gathering place for multinational companies, Shanghai has the most sophisticated logistic facilities and ample talent pool. We feel comfortable to stay with other foreign enterprises here," said Guo Chunyang, accounts manager of Japanese company Pakata Automobile Electronic Ltd.

Guo added that the preferential tax policies for foreign enterprises have also given Shanghai an edge.

There are over 34,000 foreign-funded firms in the city, accounting for 61.4 percent of such companies present in China, the study said.

According to SMCC, of the 671 foreign deals under the "headquarter economy plan", 223 firms chose Shanghai as their regional headquarters, and 270 as their research and development center, making the city the second largest pool for foreign capital after Hong Kong.

Figures show that the number of multinationals that established new offices in Shanghai accounted for 57 percent of the nation's total as of this November. Banks in Shanghai with foreign funds account for 80 percent of the total in China.

According to a survey of over 10,000 overseas investors conducted by Shanghai WTO Affairs Consultation Center and Shanghai Foreign Investment Enterprises Association, Shanghai has become the favored location for foreign firms due to its prosperous economy, sound industrial structure, ample market size, business opportunities and sophisticated basic infrastructure.

However, investors also said Shanghai faces challenges of rising cost of living, higher rentals for office buildings as well as the emergence of alternative locations in the Yangtze River Delta.The study urges the region to improve its administrative efficiency and IPR protection to create an even better investment environment.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/31/content_7356006.htm) ([see archive](Shanghai_dreams_beckon_more_foreign_investors.pdf))

## Real Estate

### Favorable loan policies for second-time buyers

Shanghai is to enact favorable loan policies for second-time home buyers under a new stimulus package designed to boost the city's property market.

From January 1, people who buy second houses to improve their living conditions will be able to enjoy favorable lending rates currently only available for first-time home buyers, the local government said in a statement released recently.

In addition, the mortgage lending ceiling in the city's housing fund program will be doubled to 400,000 yuan (US$58,400) for second-time buyers if at least two people cover the repayments.

These families will be eligible for a maximum loan of 600,000 yuan if they have an extra funding account.

However, the ceiling will remain unchanged - at 200,000 yuan and a maximum loan of 300,000 yuan with the extra funding account - if only one person is to cover the repayment, according to the announcement.

In Shanghai, people covered by the public housing fund system, which gives more favorable lending rates than commercial banks, pay between 5 percent and 7 percent of their monthly salary to the fund and their employers are required to match the amount.

Employees can also pay an extra 1-8 percent of their monthly salary to the fund.

"This is a major step made by the local government to boost market demand by encouraging people to improve their living conditions," said Xue Jianxiong, an analyst with E-House (China) Holdings Ltd.

"However, it remains hard to say whether it can effectively boost sales as home prices are still high for most wage earners," Xue said. "What people really want are direct price cuts or more forceful policies such as individual income tax rebates for home buyers."

The package, which will be in effect until December 31, 2009, also enables anyone who has owned a home for at least two years to sell it without having to pay tax. The previous waiting period for a tax-free sale was at least five years.

Anyone selling a home less than two years after buying it will pay tax only on the profit. The tax rate of 5.55 percent remains unchanged.

Anyone who purchases homes defined as ordinary housing and no larger than 90 square meters will be subject to a deed tax of 1 percent, the announcement said. Currently, only first-time home buyers can enjoy the 1 percent rate while others were required to pay 1.5 percent.

In addition, commercial banks will be able to decide mortgage rates for customers who purchase more than two houses based on their own evaluation of the risks.

[Source: China Securities Journal](http://www.cs.com.cn/english/ei/200812/t20081229_1699807.html) ([see archive](Favorable_loan_policies_for_second-time_buyers.pdf))

### China strengthens land management to boost domestic demand

China's Ministry of Land and Resources(MLR) said recently that it has issued a circular with 10 other authorities to step up land use planning and management after the country unveiled measures to stimulate domestic demand.

Local authorities should protect the arable land and farmers' legitimate interests in handling land use applications of new projects, according to the circular.

Xu Shaoshi, head of the MLR, said the economic crisis has added difficulty to the country's land management work, as the central and local governments' investment programs have demand for more land.

The MLR shouldered a mounting responsibility of combating malpractice in land use, Xu said.

Chinese government unveiled a 4 trillion yuan ($586 billion) economic stimulus package last month to stimulate economic growth and domestic demand.

The fund is to be spent over the next two years to finance programs in 10 major areas, such as low-income housing, rural infrastructure, water, electricity, transport, the environment and technological innovation.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/31/content_7356909.htm) ([see archive](China_strengthens_land_management_to_boost_domestic_demand.pdf))

## Taxation

### Overseas lenders petition for tax delay

A group of overseas banks have asked the government to delay a newly imposed interest tax on overseas borrowings, although the tax's levy is in line with international practice, media reports said.

In a petition letter, 36 overseas lenders said the withholding tax on interest payments on all loans to mainland banks from overseas creates an excessive burden. The petitioners included HSBC, Citibank, Standard Chartered and Bank of East Asia.

In the petition signed on Dec 23, banks asked that they only be required to pay the withholding tax incurred after Dec 4 with the back payments put on hold. The tax is retroactive to Jan 1 this year.

However, an unnamed overseas banking source said the tax is also levied in other countries and regions. So overseas banks on the mainland must adhere to the law if the government does not approve the delay.

The mainland government levied a similar tax in mid-1997 but suspended it by that year's end after intense lobbying from overseas banks.

On Dec 12, the mainland revived the tax in line with its latest corporate income tax law, which charges about 10 percent in withholding tax on income from interest. The law took effect on Jan 1 this year.

Banking professionals estimated the tax would add 3 to 5 percent to banks' overseas borrowings costs.

That concerns overseas banks on the mainland, which are more reliant on overseas sources, such as their parent companies, for borrowings.

Central University of Finance and Economics professor Guo Tianyong said it would be unfair to domestic banks if only overseas lenders enjoyed lower overseas borrowings costs, as the mainland's interest rate is much higher than overseas rates.

[Source: China Securities Journal](http://www.cs.com.cn/english/ei/200812/t20081230_1701527.html) ([see archive](Overseas_lenders_petition_for_tax_delay.pdf))

## Other

### China drafts first law on social insurance

China's top legislature made public recently a draft law on social insurance, the first of its kind in the country.

It specifies a common right for citizens, urban and rural alike, to pay premiums and enjoy social insurance for medical care, work injuries, unemployment and childbirth.

The draft highlights more efficient fund management. Governments at municipal, provincial and the state-level should encourage and support the public's participation in supervising insurance funds. Any individual or organization has a right to complain or report illegalities.

The law also allows Chinese citizens to pay pension premiums in one place and draw money in another, if they migrate to other cities or provinces. This stipulation is particularity significant as the country has a much more mobile population than in the past.

The draft also determined that a new rural medical system, in which farmers and governments raise funds together, would be included in the medical insurance plan.

Meanwhile, governments will cover medical insurance expenses for citizens who live on low-income subsidies, have serious disabilities or are older than 60 years, the draft said.

The draft law was discussed Dec.29 by the Standing Committee of the 11th National People's Congress (NPC), the country's top legislature.

Public opinions will be gathered and submitted to the NPC by February 15, 2009. The draft law will then be reviewed in committee.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-12/28/content_7347860.htm) ([see archive](China_drafts_first_law_on_social_insurance.pdf))

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