Charltons - China News Alerts Newsletter - 02 March 2009

[online version](http://www.charltonslaw.com/china-news-alert-issue-280/)

# China News Alert Issue 280

## Capital Markets

### More insurers may test market waters

China's insurance regulator is working out modalities to allow qualified small and medium-sized insurers to invest directly in the stock market, officials from the China Insurance Regulatory Commission (CIRC) said recently.

"We are studying the relevant detailed regulations, and the qualification criteria will be out soon," Su Jianyong, director of the Insurance Fund Investment Supervision Department of the CIRC, said.

"Risk control would be the top-most item on our agenda," Sun said.

Prior to this, smaller insurers had to piggy-back on fund and asset management firms to invest in the stock market.

Large insurers such as China Life Insurance Co, Ping An Insurance (Group) Co and China Pacific Insurance (Group) Co, can buy stocks directly through their own asset management companies. Insurers' investment in stocks is currently limited to 15 percent of their total assets as of 2008.

"The new policy would provide us with another option, but that does not mean we would choose to manage the stock investment by ourselves as the regulator has yet to define the qualification parameters," said an investment manager with Skandia-BSAM Life insurance.

But he admitted that the new policy would help in reducing investment costs.

According to Hao Yansu, an insurance professor from the Central University of Finance and Economics, the new policy would be more like an official hint to encourage insurers to become stronger and bigger.

"Only those insurers with a certain scale can apply for more investment channels such as infrastructure and equity investment," said Hao. "In fact, establishing a professional investment team could also be costly, especially for those insurers at the initial stage of development."

He expects the CIRC to also lower the threshold for smaller insurers to apply for a license to set up an asset management company.

"Once the regulator allows qualified small and medium-sized insurers to invest directly in the stock market, they have to perfect other supporting measures," Hao said.

"The policy change will have a limited impact on the stock market in the short term," Hao said.

CIRC's Sun said at a conference held in Shanghai that the regulator had hammered out a new policy package to make proper adjustments and seek new growth points to help buoy economic development during the financial crisis.

The new package aims at enriching bond investments, issuing debenture bonds and promoting asset securitization.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2009-02/24/content_7505606.htm) ([see archive](More_insurers_may_test_market_waters.pdf))

### Chinese oil firms to get financial support on forex surplus for M&A

China's oil and gas companies could soon benefit from the government's plan to make better use of its vast foreign exchange reserves.

As part of the National Energy Administration's three-year plan for the oil and gas industry, the government is considering setting up a fund to support firms in their pursuit of foreign mergers and acquisitions, the report said.

The plan was submitted at the National Work Conference on Energy held in Beijing earlier this month.

Firms will be able to benefit from low-interest loans and in some cases, direct capital injections.

Policy researchers have long suggested China diversify the use of its 1.95-trillion-U.S. dollar reserves, other than simply investing in dollar-denominated assets, such as U.S. treasury bills.

Fang Shangpu, deputy director of the State Administration of Foreign Exchange, said earlier this week that more measures will be introduced to support firms seeking to expand overseas.

Analysts have said an oil and gas development fund will provide greater energy security and also aid China's sustainable economic development, as it becomes increasingly dependent on external resources.

Veteran analyst Han Xiaoping said the time is now ripe for China to covert some of its capital reserves into resources reserves, as global oil prices have fallen 70 percent since last year, to about 40 U.S. dollars a barrel.

"We shouldn't miss this opportunity use our foreign exchange reserves to build up our oil stocks," he said.

The senior executives of the country's three largest oil companies, PetroChina, Sinopec and CNOOC, have all expressed their desire to expand their overseas operations through mergers and acquisitions.

Jiang Jiemin, chairman of PetroChina, said recently," The low share prices of some global resource companies provide us with some fresh opportunities."

According to a recent forecast by the State Information Center, China will depend on imports for 55 percent of its oil consumption next year, with the figure rising to more than 65 percent by 2020.

[Source: Xinhua](http://news.xinhuanet.com/english/2009-02/21/content_10860529.htm) ([see archive](Chinese_oil_firms_to_get_financial_support_on_forex_surplus_for_M_and_A.pdf))

## Corporate & Commercial

### Technology sector gets more bytes

China will step up investments in new technologies over the next three years in an effort to boost domestic consumption that will counter weakening global demand for the country's exports.

The nation will invest about 600 billion yuan to promote 3G mobile communication services, digital TVs and next generation Internet, a stimulus plan approved by China's State Council, or the Cabinet, recently has chalked out.

The investments will be used to promote innovation, increase financing and foster widespread use of information technology.

The cabinet also agreed to promote outsourcing and to encourage electronics and information technology enterprises to go overseas to build research and development centers, production bases and marketing networks.

The stimulus plan is the latest effort by the government to pump up its economy, which has been impacted by the global economic slowdown. The government has unveiled similar plans for the auto, steel, shipbuilding, textile and machinery manufacturing industries.

According to the Ministry of Industry and Information Technology (MIIT), China's imports and exports of electronic and information technology products reached $885.4 billion last year, up 10 percent over 2007.

Exports rose 13.6 percent to $521.8 billion, which accounted for more than a third of its total last year, while imports increased 5.4 percent to $363.7 billion, or 32.1 percent of the total.

Gao Sumei, an MIIT official, said recently that although China's electronic and information technology industry saw robust growth last year, it did feel the chill of the global economic slowdown in the last three months. She said the industry turnover fell by 3 percent in December last year.

The government has now taken a series of measures to boost investment in the technology sector. In January, it approved the country's long-awaited 3G licensing policy, which is expected to trigger 400 billion yuan in investments into the telecom sector by 2011.

The government has also expanded its efforts to give subsidies for rural people wishing to buy electronic devices such as televisions, mobile phones and personal computers.

MIIT said it expects the domestic market to see a revenue growth of 12 percent this year, the same as 2008.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2009-02/20/content_7495355.htm) ([see archive](Technology_sector_gets_more_bytes.pdf))

### Govt boost for light, petrochem

The government approved a slew of measures, including hikes in export tax rebate and credit support, to help the light and petrochemical industries. The move is expected to spur economic activity to beat the effects of the global financial crisis.

The State Council, or the Cabinet, approved the stimulus package for the two industries at an executive meeting recently.

The light industry, which covers sectors such as food, home appliances and paper-making, is vital as it creates large job opportunities, the State Council said in a statement.

"In order to revive the industry, we must take comprehensive measures to boost urban and rural consumption and explore international markets," it said.

The government will expand a program that subsidizes farmers' purchase of home appliances in a bid to boost consumption in rural areas and help the industry offset any decline in exports.

Under the program, which had been in place in select provinces earlier but which has since been expanded nationwide, farmers can buy TVs, refrigerators, washing machines and mobile phones at a discount.

The government said it would add microwave ovens and electromagnetic ovens into the list of items that enjoys government subsidies. Farmers can now buy two sets of such appliances with subsidies, it said.

The government also said it would further hike the export tax rebate for some products but did not give any details.

Restrictions on some labor-intensive and hi-tech processing trade will be removed, the statement said.

The long-anticipated move, analysts said, is expected to come as a shot in the arm for the light industry, as it is fairly dependent on exports.

The government also said it would step up its clean-up campaign in the food sector by improving the recall and market exit system. It would also raise the industry entry barrier for the sector, which has been hit by a series of scandals over the past two years.

The Cabinet also approved a stimulus package for the petrochemical industry, which focused on industrial restructuring and optimization of the product mix.

Under the package, China would speed up the construction of some giant oil refining and ethylene projects. It will also close outdated manufacturing facilities in the sector.

The country will take measures to limit the blind development of the coal-to-chemical industry.

The government will also stop approvals for those projects that only aim at production expansion.

China's petrochemical industry posted negative income growth in December 2008, the first decline in 10 years, according to the China Petroleum and Chemical Industry Association.

Total turnover in December 2008 fell 6.8 percent from a year earlier.

[Source: China Daily](http://www.chinadaily.com.cn/cndy/2009-02/20/content_7494967.htm) ([see archive](Govt_boost_for_light_petrochem.pdf))

### China applies green index to foreign investment

China will add an environmental protection index and a land-use intensity index to the evaluation of foreign-funded enterprises so foreign capital can be used more effectively, the Foreign Investment Office of the Ministry of Commerce (MOC) said recently.

The environmental protection index will include capital input in the areas of environmental protection, annual sulfur dioxide emission and chemical oxygen demand. These factors will have to be considered by regional economic planners when approving foreign-funded enterprises.

According to a joint statement from the MOC and Ministry of Environmental Protection issued on February 3, foreign-funded companies will have to provide assessments from local environmental protection departments.

These moves are intended to tighten scrutiny of energy-intensive and polluting facilities funded by foreign investments, the MOC said.

The land-use index will include gross fixed-asset investment and the total area of land used, as well as a breakdown of how that land is used - for example, for buildings, residential facilities or "green" areas.

The MOC urged local governments to consider several factors when approving foreign investment, including the investment environment, overall quality, industrial upgrading, innovation, energy conservation and environmental protection and ethical issues.

Foreign direct investment (FDI) in China was $7.5 billion in January, down 32.7 percent year-on-year, the fourth consecutive month of decline. China used $108.3 billion of FDI in 2008, up 29.7 percent.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2009-02/20/content_7497244.htm) ([see archive](China_applies_green_index_to_foreign_investment.pdf))

## Taxation

### QFII required to pay taxes on dividends in China

Qualified foreign institutional investors (QFII) have been required to pay taxes on dividends, bonuses and interest income obtained in China, according to the State Administration of Taxation (SAT).

They are required to pay 10 percent of earnings gained in China in accordance with a regulation on withholding tax of the country's corporate income tax law, the administration said in a recent circular.

The payers of dividends, bonuses and interests shall withhold the income tax at the time of payment, said the circular.

The investors can apply for preferential treatment if necessary.

The administration also ordered local tax bureaus to follow the information about QFII's investment and set up files of taxation management to ensure they are taxed.

As of the end of 2008, China had allowed 76 foreign investors to invest in the country's stock market, bonds and mutual funds as qualified foreign institutional investors.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2009-02/22/content_7501023.htm) ([see archive](QFII_required_to_pay_taxes_on_dividends_in_China.pdf))

### China Tightens Control over Charging of Accounting Firms

Beginning on February 15, 2009, accounting forms must implement the government-guiding pricing or market-regulation pricing when charge their customers.

China's National Development and Reform Commission (NDRC) and the State Administration of Taxation (SAT) jointly released the Measures for Administrating the Charging of Accounting Firms (Measures). Under the Measures, accounting firms must adopt the government-guiding pricing when charge their customers for such tax-related authentication business as providing land value-added tax liquidation authentication certificate. But for tax registration, alternating and withdrawing tax registration as agency, the accounting firms are eligible to adopt the market-regulation pricing.

Besides, accounting firms must disclose such information as service items and charging standards on a notable place, so as to accept the social supervision.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=5410) ([see archive](China_Tightens_Control_over_Charging_of_Tax_Firms.pdf))

### Administrative Measures for the Settlement and Payment of Corporate Income Tax for Non-Resident Enterprises Released

To regulate settlement and payment of corporate income tax (“CIT”) by non-resident enterprises (“NREs”), the State Administration of Taxation recently releases Administrative Measures for the Settlement and Payment of Corporate Income Tax for Non-Resident Enterprises (Guo Shui Fa No.[2009]6) (“the Measures”), which provides detail rules concerning the target, deadline, declaration and liability of CIT settlement and payment by NREs.

The Measures prescribe that NREs incorporated under laws of foreign countries or regions and with actual management organs established beyond China shall participate in settlement and payment of CIT in accordance with the PRC Corporate Income Tax Law and the Measures in case that the NREs establish any organizations or premises within Chinese territory, regardless of the profit or loss conditions.

The Measures also prescribe that within 5 months from the end of the previous year, NREs shall make annual CIT declaration with tax authorities and submit the annual CIT declaration form as well as the schedule attached and the annual audit report. The Measures further provide details for the application procedures and legal liabilities.

[Source: Chinaacc.com](http://hz.chinaacc.com/new/184_185/2009_2_9_ma46321261619290021491.shtml) ([see archive](Administrative_Measures_for_the_Settlement_and_Payment_of_Corporate_Income_Tax_for_Non-Resident_Enterprises_Released.pdf))

## Other

### Shanghai offers permanent residence conditionally

People who have lived for seven years cumulatively in Shanghai, China's leading economic hub, could have a chance to get permanent residence, under a regulation posted recently on the municipal government website.

Applicants for resident status should also have participated in the social security system for seven years and paid taxes in Shanghai.

Other conditions include holding middle-level professional certificates and abiding by the country's "one-child" policy.

Under the regulation, the city will impose an unspecified quota on new permanent residents.

Only about 3,000 people are believed to have reached the required number of years of residence, and the number of those meeting all the qualifications would be even lower.

Shanghai mayor Han Zheng said in response to an online query that the city, with a population of 19 million, has 13 million permanent residents.

[Source: China Daily](http://www.chinadaily.com.cn/china/2009-02/23/content_7503316.htm) ([see archive](Shanghai_offers_permanent_residence_conditionally.pdf))

### Collectors of debt see good times

While cornering many industries into a bleak winter, the global financial crisis has ushered in a business bonanza for debt collection service providers in this Southern China city.

According to a report in Guangzhou-based Information Times, the financial crisis has been a boon to local debt collectors, with many seeing a spike in business of 30 percent to 100 percent in recent months.

"It's very normal that such a business is enjoying a golden time amid global economic downturn," said Shi Jiezhan, a financial manager with a private firm in Guangzhou.

"Many companies have been feeling the pinch of capital shortage as the economic condition worsens. As debtors, they may not be able to pay up the debts in time or they may venture not to pay," he said.

He said his company once contacted a couple of such service providers late last year to collect a debt worth about 1 million yuan but later decided to give it up for fear of law violations.

"The Pearl River Delta cities must have over 100 such service providers; it is very easy to search their contact information on the Internet," he said.

Some of these companies have lawyers and accountants as well as other professionals and can provide such services as debt collection, corporate credit investigation and credit risk consulting, Shi said, adding that they generally charge 30 percent to 50 percent of a debt object.

"China forbade any company to be registered for debt collection in 1993. I don't think there can be any officially registered debt-collecting firms," said Jin Deli, a lawyer with the Guangzhou Tongde Lawyer Office. "Many such firms are under the name of business consultation," Jin said.

He said the difficulty in executing an economic lawsuit is an important reason for the existence of debt collection service providers.

However, the lawyer warned, any creditor might be violating the law once the debt collection service provider chooses to collect the debt illegally.

And it would be even tougher for the creditor if the entrusted firm refuses to pay back the debt it has collected.

[Source: People's Daily](http://english.people.com.cn/90001/6597042.html) ([see archive](Collectors_of_debt_see_good_times.pdf))

**This newsletter is for information purposes only.**

Its contents do not constitute legal advice and it should not be regarded as a substitute for detailed advice in individual cases.

Transmission of this information is not intended to create and receipt does not constitute a lawyer-client relationship between Charltons and the user or browser.

Charltons is not responsible for any third party content which can be accessed through the website.

If you do not wish to receive this newsletter please let us know by emailing us at [unsubscribe@charltonslaw.com](mailto:unsubscribe@charltonslaw.com?subject=unsubscribe%20-China%20News%20Alerts-)

**Charltons - China News Alerts Newsletter - Issue 280 - 02 March 2009**