Charltons - China News Alerts Newsletter - 12 August 2009

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# China News Alert Issue 301

## Capital Markets

### China to tighten control of derivatives

China is to tighten rules on domestic banks' derivatives operations after financial institutions suffered losses during the global downturn, the country's banking regulator said recently.

The move would discourage lenders from trading complicated overseas derivative products and help institutions avoid financial risks, the China Banking Regulatory Commission (CBRC) said. Banks will not now be allowed to take part in complex derivatives transactions between domestic companies and overseas financial institutions, in a bid to avoid risks from overseas entering the domestic market, it said.

The country's banks have been asked to explain or introduce the use of derivatives products to their clients in an "understandable and clear" way, so that they would fully appreciate potential risks.

Banks should also make thorough assessments of derivative products and the institutions before introducing the products, so these financial tools meet exactly the demands of their clients.

Banks should be responsible for providing institutions and companies with timely information about products, and re-assess their value for clients.

Chinese companies and financial institutions suffered large losses during the global financial crisis last year; much of this loss resulted from derivatives trading activity.

In March, China's State-owned Assets Supervision and Administration Commission urged centrally-administrated state-owned enterprises to strengthen control over derivatives transactions.

The CBRC said it would keep a close watch on lenders' activities and strictly monitor derivative product transactions.

[Source: People's Daily](http://english.people.com.cn/90001/90776/90884/6719852.html) ([see archive](China_to_tighten_controls_on_banks_derivatives_business.pdf))

### New regulations outline Shanghai's development of global financial center

Shanghai's "Regulations on Promoting the Construction of the International Financial Center," which will be implemented from 1st August 2009, marked the first local regulation promoting the construction of the international financial center and optimising the financial environment.

Its implementation indicates that construction of the international financial center has moved from the policy phase into the legal phase. Meanwhile, supplementary plans have been published.

The regulations outlined the spatial distribution of the future Shanghai as a global financial center, which will contain specialised financial areas such as the Lujiazui Financial Center, the Bund Financial Zone, a number of industrial districts for financial information services and the Yangshan Free Trade Port Area (YSFTPA), as well as some other financial areas scattered around the city, such as the financial area along Nanjing West Road.

In addition, the regulations clearly stipulate that the Shanghai municipal government is to arrange special funding including the "Shanghai Financial Development Funds," to provide a financial guarantee for the construction of the international financial center.

The main responsibilities of the Shanghai Financial Office were also expanded. The Shanghai municipal government will hold a joint conference every quarter to carry out financial supervision.

Shanghai will also offer permanent residence status to urgently needed talent, and provide a one-off fund to assist foreign-invested financial institution branches to transform into foreign-invested corporate entities registering or relocating to Shanghai. In addition, Shanghai will establish special financial innovation awards to encourage outstanding financial innovation projects.

[Source: People's Daily](http://english.people.com.cn/90001/90778/90857/90862/6717400.html) ([see archive](New_regulations_outline_Shanghais_steps_to_develop_global_financial_center.pdf))

### China to increase supervision of working capital loans

A proposed banking regulation that allows China's lenders to channel working capital loans directly to recipients, avoiding the borrower, was opened for public comment recently.

Members of the public have until 26th August to submit opinions on the proposed regulation to the China Banking Regulatory Commission (CBRC), said a statement on the commission's website.

Working capital loans refer to the loans banks and financial institutions grant to enterprises and other organisations for routine business operations. They can be yuan-denominated or in foreign currency.

The regulation would "regulate and enhance the management of loan-extending activities by financial institutions and promote a sound working capital loans management mechanism," said the statement.

The regulation requires lenders to ensure the borrower's credit and business operations are sound before agreeing to the loan, and to monitor the use of loans to ensure they are spent according to the agreement.

If a single payment from the lender amounts to more than 30 per cent of the contracted value and is above 1 million yuan (US$416,000), or if a single payment value exceeds 10 million yuan, the lender can directly channel the loan to the end-recipients. Previously, the money would be given to the borrowers, who would decide its use.

The lenders must undertake a thorough risk assessment, verifying a borrower's loan application documents. "If a lender finds the borrower's credit standard is worsening, or the loans have been misused, the lender can suspend the loan extension," said the statement.

The regulation is scheduled to come into effect three months from 30th July.

[Source: Xinhua](http://news.xinhuanet.com/english/2009-07/30/content_11800819.htm) ([see archive](China_to_strengthen_supervision_on_working_capital_loans.pdf))

### New futures trading accounts to run on real-name basis

The China Securities Regulatory Commission (CSRC) has released draft rules requiring all traders on all futures markets in China to be registered with their real names in order to reduce fraud and improve its regulation of the markets, the Shenzhen-based Securities Times reported.

The CSRC will solicit public opinions on the rules from 31st July until 13th August.

While current registered traders are not required to immediately change their registration, the draft requires all new traders to be registered with their real names.

All futures companies will have to apply to the China Futures Margin Monitoring Center for trading codes when opening accounts for new clients, according to the Securities Times' report.

The center will double-check clients' registration materials to ensure they are valid before issuing each new client with their own account code. This will enable the center to better track each client's trades.

"Clients with qualifying documentation won't be subject to any delay, while those without qualifying documentation will certainly have to take some more time (opening new accounts)" an unnamed official with the CSRC said. The checks, the official explained, would be automatic and made online.

The new system has been thoroughly tested by the futures exchange, the monitoring center and eight pilot futures companies, and the outcome is satisfactory, the Securities Times said.

China has 780,000 clients currently on the futures market with approximately 300,000 of them actively trading, according to the official.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2009-07/31/content_8500912.htm) ([see archive](New_futures_trading_accounts_to_run_on_real-name_basis.pdf))

## Corporate & Commercial

### China offers preferential tax policies to comic and animation industry

China's Ministry of Finance and the State Administration of Taxation have jointly issued a circular to detail the preferential taxation policies supporting development in the comic and animation industry.

The move was taken to promote the healthy development and independent innovation of the comic and animation industry.

China will apply the 17 per cent VAT rate to ordinary tax payers in the industry that sell self-developed and self-produced comic and animation software, but the part of the actual tax burden which exceeds three per cent will be refunded upon collection before 31st December 2010.

Self-developed and self-produced comic and animation products will also be entitled to apply for the preferential income tax.

Businesses in the comic and animation production chain, such as script writing, imaging, background, animation and story board designing, producing, shooting, drawing, colouring, picture synthesising, dubbing, sound effect synthesising, subtitling, compressing and code transforming, will enjoy the three per cent sales tax rate before 31st December 2010.

[Source: Scottrade](http://research.scottrade.com/public/markets/news/news.asp?docKey=100-217u4023-1&section=headlines) (Link no longer active)

## Taxation

### SAT clarifies corporate income tax on dividend earnings by non-resident enterprises

The State Administration of Taxation recently clarified that Chinese resident enterprises issuing and listing public shares (A-shares, B-shares and overseas shares) in China and overseas shall withhold the corporate income tax at the standardised rate of 10 per cent when paying annual dividends after 2008 to non-resident enterprise shareholders.

Non-resident enterprise shareholders who are entitled to the tax treaty benefits may proceed in accordance with the relevant rules for the implementation of tax treaties.

As early as 2008, the SAT had made a similar explanation for H shareholders on this issue.

[Source: Cet.com](http://www.cet.com.cn/20090804/a5.htm) (Link no longer active)

### SAT defines special taxpayers

The State Administration of Taxation (SAT) recently clarified issues relating to the assessed levy of corporate income tax (CIT) based on the ‘Measures for Assessed Levy of Corporate Income Tax (Trail)' released last year.

According to the SAT, special taxpayers of CIT include:

* enterprises enjoying one or more preferential tax policies under the Enterprise Income Tax Law and its implementation rules or prescriptions of the State Council;
* enterprises enjoying consolidated income tax return;
* listed companies;
* financial institutions such as banks, credit cooperatives, small loan companies, insurance companies;
* intermediaries such as accounting firms, asset appraisal firms, law firms, patent agents.

Tax authorities are prohibited from applying the assessed levy of CIT on enterprises beyond the above scope.

SAT further clarified that taxable income equals total income minus non-taxable income and tax-exempt income.

[Source: Sohu](http://business.sohu.com/20090731/n265622419.shtml) ([see archive](SAT_defines_special_taxpayers.pdf))

## Other

### SPC encourages mediation to resolve disputes

China's Supreme People's Court issued a new regulation recently to encourage parties involved in disputes to seek a resolution through mediation.

The regulation is in response to a rapid increase in lawsuits during the past two years.

The regulation clarifies transitional procedures for parties to cease action in the people's courts and turn instead to industrial or community mediation.

The move is an attempt to involve social organisations at the early stages of a dispute in order to ease public discontent and prevent resentment and tension. It is in accordance with the new objective of a harmonious society outlined by the Communist Party of China and the government.

According to the court's statistics, lawsuits for criminal, civil affairs and administrative issues submitted to courts in 2007 increased by 7 per cent from 2006 to 5,550,062 cases. The courts handled 6,288,831 lawsuits in 2008, up 13.31 per cent from 2007.

"Entering a transitional period of development, Chinese society is encountering an increasing number of new contradictions and problems it has never before experienced," said court spokesman, Sun Jungong.

"Mediation bodies need to be strengthened to make a bigger contribution to the resolution of disputes," he said.

The regulation means agreements achieved in arbitration or mediation by administrative bodies, mercantile organisations and industrial groups will have the same force in law as those judged by the people's courts.

"The courts at all levels should guide mediation and arbitration methods in a scientific, fair and rational way as well as act as supervisors and executors of agreements," said Jiang Huiling, vice director of the SPC's judicial reform office.

[Source: China.org](http://www.china.org.cn/government/central_government/2009-08/05/content_18265554.htm) ([see archive](SPC_encourages_mediation_to_resolve_disputes.pdf))

### China to improve access to affordable residential housing

The crucial issue currently facing the affordable residential housing system is how to strengthen access supervision and management, said Hou Ximin, head of the Department of Housing Security under the Ministry of Housing and Urban-Rural Development.

Recently, a number of issues have emerged in the examination, verification, distribution and usage of affordable residential houses, triggering extensive public attention on the affordable residential housing system.

Hou emphasised that all regions in China should continue to improve the access, examination and verification mechanisms for supply targets, establish fair, impartial and open examination and verification procedures, strengthen construction standards and provisions for the administration of market transactions as well as increase the punishment for violations. Meanwhile, they should investigate and punish behaviour such as pressuring customers to purchase affordable residential houses and colluding with administrators for personal gain.

Hou believes that affordable residential housing is an effective way to resolve housing problems for urban low-income households. Developing affordable residential housing is still of great importance in certain areas of China, particularly in large and medium-size cities with relatively high housing prices. Meanwhile, supporting citizens to purchase housing helps promote social harmony and stability.

With an investment of 46.8 billion yuan, the construction of 480,000 affordable residential houses, which will cover a total area of 33.88 million square meters across China, started in the first half of 2009. Affordable residential housing is an important part of the "housing support project" and plays a significant role in resolving housing problems for urban low and medium-income households.

Relevant government branches will improve access and exit systems to ensure that low-income households with housing problems are given priority access to affordable residential housing, and to guarantee fair, impartial and open distribution.

[Source: People's Daily](http://english.people.com.cn/90001/90778/90857/90860/6719495.html) ([see archive](China_to_strengthen_affordable_residential_housing_access_management.pdf))

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