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# China News Alert Issue 305

## Capital Markets

### Financial leasing company permitted to issue financial bonds

The Chinese central bank and the China Banking Regulatory Commission (CBRC) have given their permission for qualifying financial leasing companies and auto finance companies to sell financial bonds.

As of July 2008 there were 12 financial leasing companies in China, with total assets of CNY 108 billion; and 10 auto finance companies, with assets totaling CNY 37.8 billion.

The criteria for qualification state that financial leasing companies must have a registered capital of not less than CNY 500 million and auto finance companies must have a registered capital of not less than CNY 800 million. Companies must have made a profit for the previous three years.

Well-performing financial leasing companies with a history less than three years can also issue financial bonds with necessary guarantees.

The People's Bank of China and the CBRC said in an announcement that the move aims to diversify the variety of issuers on the bond market, enlarge the issuance of bonds, provide support for the development of smaller enterprises, and support the growth of auto consumption loans.

Once commercial banks can provide a guarantee for financial leasing companies, the rating of financial bonds could be raised, and in turn the issuance cost of such bonds could be lowered, experts in the financial leasing industry point out.

Earlier, China's banking industry watchdog was reported to have selected Beijing, Shanghai, Tianjin and Chengdu to pilot consumption finance companies.

A consumption finance company could offer personal consumption loans for durable consumer goods and general personal consumption loans. At the initial stage of the trial operation, a consumption finance company could not provide high-risk loans such as individual housing loans and automotive loans. The CBRC requires that a consumption finance company should be a non-banking financial institution that can not take in deposits.

The minimum registered capital of a consumption finance company is CNY 300 million. The main sponsor of a consumption finance company must be a domestic or a foreign financial institution or other sponsor as approved by the CBRC. The contribution of a major sponsor must not be less than 50 per cent of the registered capital of the consumption finance company.

Anyone with a stable income could be a target customer for consumption finance companies. Compared with bank loans, a loan by a consumption finance company has a low credit line, fast approval procedures, no guarantee or pledge requirement, flexible service and is short term.

[Source: Individual.com](http://www.individual.com/story.php?story=106248824) (Link no longer active)

## Corporate & Commercial

### Regulation of legal advice provided by SAFE

In order to standardise legal advice provided by the State Administration of Foreign Exchange (SAFE), and facilitate the understanding of Chinese foreign exchange laws and regulations by domestic and foreign institutions and individuals, SAFE released the ‘Administrative Provisions for Legal Advice by SAFE' (the Provisions) on 25th August 2009.

The Provisions state that queries raised by related parties or their agents may be answered before litigation and arbitration cases involving the foreign exchange administration are brought to court or arbitration. After entering litigation or arbitration procedures, enquiries raised by relevant judicial or arbitration bodies may be answered.

Advice should generally be in written form. Consultations on legal problems may be conducted through meetings in person or by letter or a combination of the two.

Telephone enquiries are generally not answered. If the parties require a telephone enquiry to be answered, the officer should clearly tell the party that the reply only represents his/her own opinion and does not represent SAFE.

When parties request foreign exchange legal consultation under the government information disclosure program, the parties should be told to follow the Provisions.

[Source: Xinhua](http://news.xinhuanet.com/fortune/2009-09/01/content_11978826.htm) ([see archive](Regulation_of_legal_advice_provided_by_SAFE.pdf))

### China's new insurance law to become effective

China's new Insurance Law will become effective on 1st October. The number of provisions in the new law has been increased from 157 to 186.

The newly added provisions mainly focus on protecting the rights of policy holders and insurance beneficiaries.

One of the new rules states that policy holder's failure to release crucial information is a serious "fault", instead of an "offence" as defined by the old version.

Another big change is that the insurer is now required to fully explain detailed insurance terms and conditions before the client signs the contract. However, experts also warn that clients should ask insurance sales representatives to explain terms and conditions clearly until they fully understand their rights.

[Source: People's Daily](http://english.people.com.cn/90001/90778/90857/90860/6744251.html) ([see archive](Chinas_new_insurance_law_to_become_effective.pdf))

### Government pledges support for innovation-based SMEs

Science and Technology Minister, Wan Gang, said recently that China's government would provide strong support for small-and medium-sized enterprises (SMEs) to help them survive the current economic downturn.

"The most effective way to withstand the impact of the global economic meltdown is to accelerate technological innovation, the new economic growth engine," Wan said in a signed article on the front page of the Study Times, produced by the Party School of the Central Committee of the Communist Party of China.

Wan attributed SMEs' development problems mainly to low-tech products and poor research and development capabilities.

China has more than 42 million SMEs which contribute more than 60 per cent of the nation's GDP, 50 per cent of tax revenue, 70 per cent of import and export trade and 80 per cent of urban employment.

But the number of innovation-based SMEs in China is only about 160,000, much less than in the United States where they make up about 10 per cent of the sector, and Israel where they comprise 17 per cent.

In China, SMEs are classed as enterprises where staff number less than 2,000, annual revenue is under 300 million yuan (US$44.1 million), or with total assets under 400 million yuan.

Wan said to sharpen these enterprises' innovative edge, the Ministry of Science and Technology plans to make research and development resources more accessible for them.

The ministry would help establish a technology platform involving universities, research institutes and enterprises. It would coordinate research and development, and enable innovation-based SMEs to share the results.

Wan, also vice chairman of the Chinese People's Political Consultative Conference National Committee, said the ministry would set up national State-funded laboratories and technology centers for SMEs.

To ease technological personnel shortages, the ministry, together with other central departments, would assign 100,000 researchers and technicians from universities and research institutes to SMEs, Wan said.

[Source: China.org](http://www.china.org.cn/government/central_government/2009-08/31/content_18439351.htm) ([see archive](Govt_pledges_support_for_innovation-based_SMEs.pdf))

### Adjustment and reorganisation of central state-owned enterprises to intensify

The adjustment and reorganisation of central state-owned enterprises (SOE) will continue to intensify, said Huang Danhua, vice director of the State-owned Assets Supervision and Administration Commission under the State Council (SASAC), on 31st August.

In recent years, the significant adjustment and reorganisation of central SOEs has accelerated, with the number of central enterprises decreasing from 196 in 2003 to 136 at present.

Huang said that following 30 years of reform, central enterprises have gradually become market entities open to competition. About 70 per cent of these enterprises and their subsidiaries have been reconstructed, and a large number of them have been listed on domestic and overseas stock markets. Many of these enterprises have become fully competitive market entities.

She said that as well as intensifying the adjustment and reorganisation, central enterprises are also accelerating the construction of a modern enterprise system. In particular, since a pilot scheme to establish a standard "board of directors" was carried out in 24 central enterprises, their corporate management structures has been further improved.

Along with the continuing expansion of economic globalisation and China's opening-up, the participation of central enterprises in the international arena has become significantly more extensive and intensive. Central enterprises are actively implementing a "going global" strategy.

According to statistics, as of the end of 2008, 104 central enterprises had set up 969 overseas branches, 4,141 subsidiaries and 828 organisations. A number of enterprises engaged in energy, construction, electricity, telecommunications, chemical engineering, commerce and trade are actively exploring international markets, and carrying out a series of strategic mergers and acquisitions.

Huang said that facing these new situations, how to achieve cultural integration and successfully carry out publicity work following mergers and acquisitions remain key issues that central enterprises must address.

[Source: People's Daily](http://english.people.com.cn/90001/90778/90857/90860/6745241.html) ([see archive](SASAC_adjustment_and_reorganization_of_central_state-owned_enterprises_to_intensify.pdf))

## Taxation

### Problems of individual income tax policies addressed

The State Administration of Taxation (SAT) recently released the ‘Circular on Several Implementing Issues Regarding Individual Income Tax' (the Circular), which clarifies the problems encountered during the implementation of individual income tax (IIT) policies.

When employees receive a double salary (e.g. at the end of the Chinese lunar year), salaries should be counted under the item “salary income” in the same month for the calculation of IIT. If the tax to be paid is lower, the extra one month's salary may be put together with a one-time bonus and counted under the item “one-time bonus” for the calculation of IIT.

The salaries and wages obtained by overseas Chinese that meet certain requirements are allowed an additional deduction of RMB 2800 yuan before the calculation of IIT. However, Chinese only going abroad for study and work (including dispatched workers) are not eligible for such a deduction.

In addition, the rules regarding the tax levy on director fees, as well as the tax levy on houses transferred due to divorce are also addressed.

[Source: Ifeng](http://finance.ifeng.com/stock/roll/20090904/1193827.shtml) ([see archive](Problems_of_individual_income_tax_policies_addressed.pdf))

### China drops 25 per cent tax on imported automobile parts

China will abolish the 25 per cent tax charged on some imported automotive parts in accordance with a World Trade Organisation (WTO) decision that found the country was in violation of international trade rules.

The current policy, implemented in April 2005, imposed a 25 per cent tax on imported parts if the number or value of imported parts used in an assembled vehicle exceeded a 60 per cent threshold.

If the amount of imported parts fell below 60 per cent, the tax was 10 per cent.

"The parts imported are those China is unable to produce," said Beijing-based independent auto analyst Shangguan Zhoudong.

"Most cars produced in China, except for a few luxury vehicles like Lexus of Nissan and Infinite of Toyota, have more than 60 per cent of their parts produced in China, which are cheaper than imported ones." Shangguan explained.

The WTO case dates back to 2006 when the US, the European Union and Canada asked the WTO to hear a complaint about the policy.

China became a member of the WTO in December 2001 and lost an initial ruling and the appeal in December 2008.

The policy change comes within the one-year implementation period set by WTO. The standard 10 per cent tax will remain on all imported parts.

The change in policy should be welcomed by Complete Knock Down (CKD) car producers, namely, vehicles assembled with 100 per cent imported parts, as it will reduce production costs.

CKD vehicles made up only 2 per cent of the vehicles produced in 2008, an industry analyst told the Global Times.

However, Shangguan was worried that China's auto parts manufacturers may be threatened by rivals from areas such as India and Southeast Asia where auto parts production may be even cheaper in the long run than in China.

China adopted the high tariff out of fear that foreign cars may flood the country once it joined the WTO, said Zhong Shi, also a Beijing-based auto analyst.

"The administration was overly worried," said Zhong. "The situation was much less serious than it could be. Vehicle producers would surely prefer to purchase cheaper components in China, as long as they are good enough. Car producers would only choose to import parts from Europe or the US with standards that Chinese parts producers cannot meet."

China imported US$13.4 billion in auto parts in 2008, up 5 per cent from 2007, but the growth rate was 11 per cent down from 2007.

[Source: People's Daily](http://english.people.com.cn/90001/90776/90884/6743830.html) ([see archive](China_drops_25_tax_on_imported_automobile_parts.pdf))

## Other

### MOJ revises two rules to fulfill the supplementary Agreement to the CEPA

In order to fulfill the Sixth Supplementary Agreement to the Closer Economic Partnership Agreement (CEPA) signed between the mainland and Hong Kong and Macao, the Ministry of Justice (MOJ) made revisions to the ‘Procedures for the Administration of the Engagement in Legal Practice in the Mainland by Residents of the Hong Kong and Macao Special Administrative Regions who have obtained the Mainland Legal Profession Certification' (the Engagement Procedures), and the ‘Procedures for the Administration of Joint Ventures Between Law Firms from the Hong Kong and Macao Special Administrative Regions and Mainland Law Firms' (the Joint Ventures Procedures), which are scheduled to take effect on 1st October 2009.

Under the above two procedures, the mainland has relaxed the internship requirements to apply for lawyer qualification status in the mainland for Hong Kong legal practitioners and Macao lawyers with over 5 years' practice experience and who have passed the mainland bar examination.

The procedures also relax the requirements to establish joint venture relationships between Hong Kong or Macao law firms and mainland law firms.

The implementation of the two procedures provides more convenience and scope for Hong Kong and Macao law firms to engage in legal services in the mainland, and is beneficial to the economic and trade activities between Hong Kong, Macao and the mainland.

[Source: China.com](http://news.china.com/zh_cn/domestic/945/20090903/15625703.html) ([see archive](MOJ_revises_two_rules_to_fulfill_the_supplementary_Agreement_to_the_CEPA.pdf))

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