Charltons - China News Alerts Newsletter - 23 October 2009

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# China News Alert Issue 310

## Capital Markets

### Administrative provisions on cross-border securities investment published

The State Administration of Foreign Exchange (SAFE) has recently released ‘Qualified Foreign Institutional Investors in Securities and Foreign Exchange Investment Regulations' (the Regulations) and the ‘Notification for Fund Management Companies and Securities Companies Investing in Overseas Securities Exchanges' (the Notice).

These are aimed at improving cross-border securities investment in foreign exchange, and encouraging the implementation of the qualified institutional investor system to promote the opening up of China's capital market and the two-way flow of finance.

The Regulations and the notice are conclusions based on previous supervisory experience and are for qualified institutional investors in the current foreign exchange management system. The Regulations were revised and specify the following relevant regulatory requirements:

1. In order to facilitate account opening and fund transfers, investment application procedures and application materials have been simplified.
2. The Regulations adjust the single investment quota limit for qualified foreign institutional investors from US$800 million to US$1 billion, and the lock-up period for pension funds, insurance funds and open-end China funds has been shortened to 3 months. This is to encourage foreign institutional investors into the domestic market to carry out long-term portfolio investment.
3. To ensure that qualified institutional investors shall not transfer or resell investment quotas.
4. Statistical monitoring, post-monitoring requirements and the trustee's records requirements have been strengthened in order to prevent cross-border securities investment risks and to facilitate orderly capital market standards

[Source: China Portfolio](http://china-portfolio.com/Economy/safe-regulate-cross-border-securities-investment-in-foreign-exchange-management-system.html) ([see archive](SAFE_regulate_cross-border_securities_investment_in_foreign_exchange_management_system.pdf))

### CSRC to revise administrative provisions for charges on open-end securities investment funds

On 13th October the China Securities Regulatory Commission (CSRC) released proposed regulations on the sales fee charged for open-end securities investment funds, aiming to encourage a back-end charge model, guide long-term investment by investors, introduce a redemption charge for short-term transactions to restrict their usage, regulate trailing commission and establish a win-win mechanism for fund managers and sales agencies.

The regulations will not increase costs for investors.

According to the regulations, the purchasing (subscribing) fee may not exceed five per cent of the total investment amount. A front-end charge model, in which fees are charged when funds are purchased, or a back-end charge model, in which fees are deducted from the redemption amount, may be adopted.

Although the highest fee charged in the front-end model is usually lower than the highest fee charged in the back-end model, handling fees will fall along with the duration that the funds are held for. No handling fees will be charged when funds are held for over three years, which may reduce transaction costs for long-term fund investors.

The regulations introduce a redemption charge for short-term transactions to restrict their usage. Excessive transactions usually dilute the existing earnings of long-term investors and may also disturb the normal management of fund managers and their investment portfolios, undermining the interests of long-term investors.

The regulations allow fund managers to voluntarily choose standards for higher redemption fee rates for fund managers who redeem funds within one week or one month.

The redemption fee shall not be lower than 1.5 or 0.75 per cent of the redemption amount and will be charged to the fund in full property.

[Source: People's Daily](http://english.people.com.cn/90001/90778/90859/6783556.html) ([see archive](CSRC_to_regulate_securities_investment_funds_sales.pdf))

## Corporate & Commercial

### MOC conditionally approves Pfizer to purchase Wyeth

The Ministry of Commerce (MOC) published an announcement on 29th September approving, with restrictions, the application of Pfizer Company (U.S) to purchase Wyeth Company (U.S).

The MOC requires Pfizer to fulfill seven obligations, including separating the business of swine flu mycoplasmal pneumonia vaccines under its brands of Respisure and RespisureOne within the territory of China (excluding Hong Kong, Macao and Taiwan).

Pfizer must find a purchaser for the separated business within 6 months through an agent and enter into a purchase agreement.

The buyout deal still needs regulatory approval in the U.S., Canada, and Australia. The companies expect the deal to close early in the fourth quarter.

[Source: Google News](http://www.google.com/hostednews/ap/article/ALeqM5iGMw4RaUZDKzm-PX6UPOixKc0pMwD9B1489G0) (Link no longer active)

### China to input 468.9 billion yuan for the development of western regions in 2009

China plans to invest 468.9 billion yuan (US$68.65 billion) in projects to boost the development of the country's western region in 2009, said the National Development and Reform Commission (NDRC).

The investment will go to 18 projects, including railways, expressways, hydropower stations, shipping hubs, water control projects and airports.

These projects play a vital role in implementing China's West Development Strategy, by promoting economic and social development and improving people's livelihood within the region, said an official with the NDRC.

China has launched 102 projects for boosting development of the western region from 2000 to 2008, involving 1.74 trillion yuan of investment, according to the NDRC.

The West Development Strategy is a policy adopted by the Chinese government to help the underdeveloped western region catch up with the prosperous eastern region

[Source: China Finance](http://news.zgjrw.com/News/20091013/ChinaFinaceNet/331364369300.shtml) (Link no longer active)

## Other

### Same-name trademarks creates problems

Airbus Deutschland GMBH, the German branch of Airbus, the world's leading airplane maker, recently failed in the first round of a legal dispute that accuses a Chinese food maker of trademark infringement regarding its Airbus trademark.

According to the airplane giant, formerly named DaimlerChrysler Aerospace Airbus, Airbus Group in September 1986 applied for trademark protection and received approval to use the Airbus name on its airplanes and related components.

In 1998 Airbus Deutschland GMBH discovered that a similar trademark was used for food and chocolate-based products in China.

Shenyang Yongfeng Food Incorporated, based in northeastern China's Liaoning Province, was a candy, chocolate and cocoa-related food maker.

[Source: China Development Gateway](http://en.chinagate.cn/economics/top/2009-10/13/content_18692685.htm) ([see archive](Same-name_Trademarks_Spark_Strife.pdf))

### Negative Credit Records to Be Kept for 7 Years

Credit agencies will not be able to reveal or use personal negative credit records of over five years old or personal crime records of over seven years old once the criminal punishment is finished, according to a draft regulation prepared by the State Council, www.cnr.cn reported.

There has been no definite provision on the negative information record retention period in China before this draft regulation, but personal credit records will be kept for seven years under international practice.

All residents and enterprises that have bank transactions began to have a credit report in the database of People's Bank of China in 2006.

Banking professionals said the seven-year retention of negative information is practical for China, and it will fail to serve as a caution for dishonest transactions if the retention period is too short.

[Source: China Development Gateway](http://en.chinagate.cn/economics/top/2009-10/15/content_18709851.htm) ([see archive](Negative_Credit_Records_to_Be_Kept_for_7_Years.pdf))

### Officials punished for violating disciplines

China reported 135 officials who violated Party discipline in the country's economic stimulus projects as of 15th August, said the Party discipline watchdog.

Among these, six broke the law and were handed over to prosecutors, said a statement issued by the Communist Party of China (CPC) Central Commission for Discipline Inspection (CCDI).

The others received administrative or discipline punishment, it said.

One of the most serious cases the statement listed involved Lan Shaowei, deputy head of Hanyuan county in southwestern Sichuan province, who was found taking 585,000 yuan (US$85,700) from bidders for a reservoir project. He was expelled from the CPC and sentenced to 12 years in prison.

The CCDI expected officials to learn lessons from these cases and implement the central government's economic stimulus policy correctly, the statement said.

[Source: Sina](http://english.sina.com/china/2009/1014/277539.html) ([see archive](China_punishes_officials_for_violating_disciplines_in_economic_stimulus_projects.pdf))

### New Strength in China's Trade Performance

China reported stronger-than-expected trade figures for September, providing fresh evidence that the global economy may be emerging from recession.

Economists said they expect the momentum to continue for the rest of the year, citing continued strength in the domestic economy and increasing signs of recovery in external demand. They warned, however, that the September figures may not be as good as they look due to the timing of a holiday.

September exports fell 15.2 per cent year on year to US$115.9 billion, the smallest drop this year, according to data released yesterday by the General Administration of Customs. The figure beat the consensus forecast for a 21 per cent fall and improved from August's decline of 23.4 per cent.

Shipments of labour-intensive goods, such as clothing and furniture, outperformed mechanical and electrical products.

Meanwhile, imports declined 3.5 per cent to US$103 billion, after falling 17 per cent in August.

[Source: Xinhua](http://news.xinhuanet.com/english/2009-10/15/content_12238667.htm) ([see archive](New_strength_in_China_trade_performance.pdf))

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