Charltons - China News Alerts Newsletter - 26 November 2009

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# China News Alert Issue 315

## Capital Markets

### China to launch trial for local firms to audit H-share companies

China plans to launch a trial program to allow local accounting firms to audit H-share companies, as part of efforts to lower costs for Chinese companies that are listed, or plan to list, overseas, the China Securities Regulatory Commission and Ministry of Finance have said.

Local accounting firms that plan to participate in the trial must meet requirements set by the CSRC and Ministry of Finance, and must submit their applications on or before 30th November.

Local accounting firms that want to participate in the trial must have had a revenue of at least CNY300 million in the last fiscal year, of which no less than CNY200 million was derived from auditing and no less than CNY50 million was derived from securities-related businesses. The CSRC and Ministry of Finance said in separate statements on their Websites.

The companies should also have at least 400 staff, and none of the companies' partners or shareholders should haves stakes of more than 25% each in the companies, the statements said.

The trial, which could lead to new regulations, will also level the playing field for local accounting firms, which cannot audit Chinese companies' foreign-listed units due to regulatory restrictions.

The CSRC and Ministry of Finance did not specify when the trial will begin.

[Source: Nasdaq](http://www.nasdaq.com/aspx/stock-market-news-story.aspx?storyid=200911162007dowjonesdjonline000439&title=china-to-launch-trial-for-local-firms-to-audit-h-share-firms) (Link no longer active)

## Corporate

### Microsoft loses IPR round to China firm

Microsoft Corporation has found itself in an unusual role in an intellectual property rights case in China― as the defendant.

The US-based software giant has been ordered by a Beijing court to stop selling eight versions of computer operating systems including Windows XP in China because of licensing violations involving fonts designed by a Chinese company, according to a court statement obtained by Shanghai Daily.

Microsoft, whose major income comes from Windows and Office products, denied the violation and said in a statement that it will appeal the ruling.

"We agree with the court that the key is actually the dispute over the license scope of the relevant agreements. But we disagree with the court's ruling on the coverage of the agreements," Microsoft said in the statement.

Microsoft respects intellectual property rights, and it uses third-party intellectual property only when it has a legitimate right to do so, the company's statement said.

The Beijing No. 1 Intermediate People's Court said Microsoft violated licensing agreements it had with Zhongyi Electronic, which designs Chinese character fonts.

Microsoft has been using the fonts in eight Chinese versions of Windows.

The software giant has to stop selling the family and professional versions of its Chinese Windows 98, 2000, Server 2003 and Windows XP programs, according to the court's ruling. There was no mention of when the decision would take effect, however.

Forty million personal computers are sold annually on China's mainland. More than 90 per cent of them use Windows systems, mainly Windows XP.

Microsoft has the right to use the disputed fonts only in Windows 95, but it continued to write them into subsequent versions of Chinese Windows operating systems without permission, says Zhongyi Electronic.

The fonts designed by Zhongyi are a combination of Chinese calligraphy and modern computer science, the company said.

Zhongyi hasn't determined whether Microsoft is using its fonts in its latest operating system, Windows 7, which was launched in China last month.

China has long been the target of foreign firms seeking to protect their intellectual property, but roles are fast reversing as Chinese companies mature and become more aggressive in protecting their own designs.

"By winning this case against an internationally well-known company like Microsoft, it shows that China, although still a developing country, is taking positive steps to protect intellectual property rights," Ling Xin Yu, the lawyer for Zhongyi Electronic, told Reuters.

[Source: Shanghai Daily](http://www.shanghaidaily.com/article/print.asp?id=419989) ([see archive](Microsoft_loses_IPR_round_to_China_firm.pdf))

### Company fined over foreigners' permits

Companies hiring overseas workers should apply for work permits for their foreign employees before work starts, even if they outsource their human resource management, authorities said.

An interior-design company has been penalised after most of the foreign employees in the newly opened firm were found not to have work permits. The employer argued that it had asked a human resource agency to take care of HR matters, and that the company itself was not responsible.

"The idea is totally wrong," said Sun Hande, director of the employment office for overseas workers in the Shanghai Human Resources and Social Security Bureau. "All companies that hire foreign workers must apply for the work permits themselves. No agencies or other companies can handle it for them."

Chinese law requires foreign workers, both full and part-time, to have a permit from the local human resources and social security bureau. Otherwise they can face penalties, including being fined, detained and even deported.

Each of the 40 employees involved was fined 500 yuan (US$73) and the company was fined 40,000 yuan.

Human-resource insiders said agencies can handle certain things for expats, but not everything. "HR agencies can provide outsourcing services like payment distribution and tax payment, but not signing contracts with foreign employees or helping to apply for work permits," said a consultant of the Shanghai International Enterprises Human Resources Consulting Company Limited, who asked for anonymity.

[Source: Shanghai Daily](http://www.shanghaidaily.com/article/print.asp?id=419982) ([see archive](Company_fined_over_foreigners_permits.pdf))

## Finance and Insurance

### Memorandum of understanding on cross-straits banking supervision cooperation signed

Mr. Liu Mingkang, representing the mainland China Banking Regulatory Commission (CBRC), and Mr. Chen Chong, representing Taiwan financial regulatory agency, formally signed a Memorandum of Understanding (MOU) on Cross-Straits Banking Supervision Cooperation.

The MOU is dedicated to facilitating regulatory cooperation across the Straits with regards to information sharing, market entry regulation, crisis management and resolution, personnel exchanges and other areas.

The MOU will contribute to the effective implementation of supervision and the regulation of banking financial institutions established across the Straits, thus safeguarding the soundness and safety of the banking sectors on both sides.

The signing of the MOU is one of the steps to implement the Cross-Straits Financial Cooperation Agreement signed on 26th April 2009 between the Association for Relations Across the Taiwan Straits (ARATS) and the Straits Exchange Foundation (SEF).

The conclusion of the MOU, a milestone event in the course of cross-Straits financial cooperation, signifies the formal establishment of a regulatory cooperation mechanism between regulatory agencies across the Straits.

The MOU will play a significant role in promoting further cooperation and exchange between banking sectors on both sides of the Taiwan Straits and the provision of favourable financial services to facilitate cross-Straits economic and trade relations and personnel exchanges.

Currently the CBRC has signed MOUs or Bilateral Cooperation Agreements with banking or financial regulatory agencies from 36 countries and regions across the world.

[Source: CBRC official website](http://www.cbrc.gov.cn/english/home/jsp/docView.jsp?docID=20091116F6B78ACD105BB729FF53B31463770600)([see archive](The_Memorandum_of_Understanding_MOU_on_Cross-Straits_Banking_Supervision_Cooperation_was_Signed.pdf))

## Land

### China sets land use limits on housing and coal

China's land ministry said it is imposing limits on how much land can be used for residential development, government offices and some industrial projects to support economic policy and curb overcapacity.

Housing projects in small cities will be limited to no more than 7 hectares each, those in medium-sized cities to 14 hectares and large cities to 20 hectares, according to a statement posted on the Ministry of Land Resources Website. There were previously no size restrictions.

The ministry will not grant land-use permission for new coal mines with an annual output capacity of less than 1.2 million tons; the limit comes into effect after the government's current five-year economic plan ends next year. Restrictions apply to provinces including Shanxi, Inner Mongolia and Shaanxi, the report said.

New polysilicon projects will not be granted land-use permits unless they have capacity of more than 3,000 metric tons a year and use fewer than 6 hectares per thousand tons of output. Polysilicon is used in the manufacture of solar power modules.

Land-use restrictions will also be imposed on dairy processing, textiles and construction materials the report said, without providing more details.

[Source: The China Post](http://www.chinapost.com.tw/business/asia/b-china/2009/11/19/233394/China-sets.htm) ([see archive](China_sets_land_use_limits_on_housing_coal.pdf))

## Culture and Publishing

### China's Ministry of Culture strives to limit online game deaths

China's Ministry Of Culture has issued a notice asking Chinese online game operators to improve the content management of their online game products to make games less violent.

The notice requires online game operators to implement new rules to change the current gaming model, which mainly focuses on raising player levels by killing non-player-controlled enemies. In the online game world, a "player kill" is called a PK. It states that online game operators should set stricter limits on player killing and marriage systems to better protect children who are playing the games.

The notice also states that provincial cultural administrative departments should reinforce their supervision over online game products operated by local operators. The supervised content should include storylines, setting of place names, task designs, economic systems, trading systems, production systems, social systems, customer service systems, combat functions, role designs, sound effects, map tools, action renderings, and team systems. Any content that is against the "Interim Provisions on the Administration of Internet Culture" or other laws of China should be reported immediately.

The notice calls for the self-discipline of Chinese online game companies and urges the construction of national and local online game industry associations to establish a complete industry self-discipline system and to create a healthy and civilised Internet cultural environment.

[Source: China Tech News](http://www.chinatechnews.com/2009/11/20/11066-chinas-ministry-of-culture-strives-to-limit-online-game-deaths) ([see archive](Chinas_Ministry_Of_Culture_Strives_To_Limit_Online_Game_Deaths.pdf))

### China takes strides in copyright protection

Chinese television and radio stations will start paying royalties for their use of music and other copyrighted audio material from 1st January 2010, CRI reports.

China's State Council announced the implementation of the new legislation, titled ‘Interim Measures on TV and Radio Station Fees for Use of Copyrighted Audio Works', on its website.

The exact fees and payment methods for each case will be negotiated separately between television and radio stations and copyright authorities.

The new regulation is based on three separate payment classes, following international practice. Television and radio stations have the option of paying a flat annual fee, other fixed-term fees, or a fee based on a percentage of profits earned, CRI reports.

China has long been criticised for its lack of copyright protection laws. The new policy will help ensure that people in the music industry are remunerated for the use of their work.

[Source: Radio86](http://www.radio86.co.uk/china-insight/news-today/12581/china-takes-strides-in-copyright-protection) ([see archive](China_takes_strides_in_copyright_protection.pdf))

## Others

### China to crack down on bank card crimes

The People's Bank of China (PBOC) and the Ministry of Public Security (MPS) have planned a nationwide crackdown on bank card crimes in 2010, the central bank has announced.

The crackdown will last for 10 months, starting from January 2010, the central bank said on its website.

In the first eight months of 2009, public security departments placed on file 6,362 bank card fraud cases, doubling that of the same period last year, involving 440 million yuan (US$64.4 million), an annual rise of 138 per cent, the PBOC said.

Bank card crimes were commonly committed by making overdrafts from credit cards under fake names, and steeling and selling credit card information, according to an official with the MPS. The official also said the Internet had become a "hotbed" for credit card crimes.

With bank card crimes on a sharp rise, the central bank and the ministry established a special organisation to investigate and tackle bank card crimes in June 2009.

The organisation will step up efforts to start a mechanism for enhancing bank card risk management, set up an information-sharing forum of bank card cases, and raise card users' awareness about protecting their card information, an official with the PBOC said.

Two billion bankcards had been issued in China by the end of June 2009, according to the central bank.

[Source: Xinhua](http://news.xinhuanet.com/english/2009-11/18/content_12486027.htm) ([see archive](China_to_step_up_efforts_to_crack_down_on_bank_card_crimes.pdf))

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