Charltons - China News Alerts Newsletter - 30 April 2010

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# China News Alert Issue 336

## Capital Markets

### Joint step to halt property asset bubble

China's securities regulator has joined forces with the land ministry to review fund-raising plans by real estate developers as part of increased efforts to prevent an asset bubble.

The China Securities Regulatory Commission (CSRC) has already sent requests for financing from 41 companies to the Ministry of Land and Resources which will review their land-use compliance, Xinhua news agency reported, citing a CSRC official.

Companies planning to invest in real estate through equity financing are subject to reviews by the ministry while those with a real estate business which are planning to pay back bank loans or boost operating capital are also required to submit equity financing plans to the ministry, according to the CSRC.

The ministry will send its findings on the companies' financing plans to the CSRC after it has studied carefully whether land plots have been legally acquired and if these have been left idle. The ministry will also look at whether there have been delayed payments for the land and whether illegal changes were made to land use after the acquisition.

So far, initial reviews on 25 out of the 41 companies have already been done, the CSRC official said.

The joint cooperation by the CSRC and the land ministry will make it more difficult for real estate firms to get financing, Su Xuejing, chief real estate analyst at Changjiang Securities, told Securities Daily earlier. Su also believed that the review mechanism will be a regular, rather than a temporary, practice.

As of 25th April, 41 real estate developers listed on the country's two bourses have submitted their fund-raising applications to the CSRC to seek a total of 110 billion yuan (US$16.1 billion), compared to 44.2 billion yuan raised during the whole of 2009, according to Wind Info, one of China's major financial data and financial software providers.

Industry analysts predicted that most of these firms will likely receive approval for reduced fund-raising plans while some might fail to get the green light.

[Source: Shanghai Daily](http://www.shanghaidaily.com/article/print.asp?id=435386) ([see archive](Joint_step_to_halt_property_asset_bubble.pdf))

### No plan to suspend realty firms' share issues

The Chinese Securities Regulatory Commission (CSRC) said that it does not plan to suspend approval of real estate companies' fund-raising proposals.

The regulator said it is currently reviewing the fund-raising plans of 59 real estate companies and has submitted 41 financing requests to the Ministry of Land and Resources (MLR) for reviews of land-use compliance.

The joint screening process by the CSRC and MLR will give officials a chance to investigate the legality of land purchases and property use by developers but it does not mean that the CSRC has stopped approving financing requests from real estate companies, the regulator said.

The MLR has finished reviewing capital-raising proposals of 25 developers and the CSRC said it is waiting for the feedback from the MLR to continue the approval process.

[Source: China Daily](http://www.chinadaily.com.cn/business/2010-04/28/content_9786599.htm) ([see archive](No_plan_to_suspend_realty_firms_share_issues_CSRC.pdf))

### CSRC issues futures guidelines for brokerages and funds

The China Securities Regulatory Commission (CSRC) issued guidelines for securities firms and equity funds to trade stock index futures in a move to regulate their investments and manage potential trading risks.

Securities firms should trade index futures for hedging purposes in their principal investment business and they are not allowed to engage in speculative trading until relevant rules are issued, the regulator said.

The guidelines also required that in aggregate asset management business, securities firm must not have long holdings of index futures contracts that exceed 10 percent of the net value of their assets nor should they hold short positions that exceed 20 percent of the total value of their stock holdings.

The regulator also limited the trading volume of securities firms by requiring that the total value of securities holdings and derivative products including index-futures contracts should not exceed 100 percent of their net assets.

Meanwhile, the CSRC said it will soon unveil the regulations for qualified foreign institutional investors (QFII) to trade index futures. The rules will be more relaxed as QFII investors usually have higher risk tolerance than domestic investors.

According to the guidelines, domestic equity funds, similar to securities firms, should trade index futures for hedging rather than speculative purposes.

The total value of index futures contracts held by an equity fund by the end of a trading day cannot exceed 10 percent of the fund's net book value.

The regulator also sought to control investment leverage by requiring that the total value of index futures contracts and securities held by open-end funds should not exceed 95 percent of their net assets. For exchange-traded funds and close-end funds, the value cannot exceed 100 percent of their net assets.

To prevent frequent single-day trading, the regulator limited the daily turnover of the index futures trading of a fund companies to less 20 percent of their net assets in the previous trading day.

"We believe that the current regulations meet the demands of fund companies and we will make adjustments gradually after a period of smooth running of index futures trading," said a CSRC official.

[Source: China Daily](http://www.chinadaily.com.cn/business/2010-04/24/content_9770430.htm) ([see archive](CSRC_issues_futures_guidelines_for_brokerages_funds.pdf))

## Corporate

### Better guidelines for financial reporting

The Implementation Guidelines for Enterprise Internal Control, issued by five agencies of the Chinese government, will contribute to raising the quality of financial reporting among companies and cutting the risk of fraud, industry watchers said.

The new guidelines were built on the principles in the Basic Standard for Enterprise Internal Control, jointly released by the Ministry of Finance, the China Securities Regulatory Commission, National Audit Office, the China Banking Regulatory Commission and the China Insurance Regulatory Commission in 2008.

"Internal risk control is related to all business departments, not only the finance department," PricewaterhouseCoopers said.

[Source: Shanghai Daily](http://www.shanghaidaily.com/article/print.asp?id=435593) ([see archive](Better_guidelines.pdf))

## Other

### Criminal law may include drink driving

The country's leading police chief suggested that the top legislature add a new charge to the Criminal Law to stem drink driving and illegal car racing, which have killed dozens of people in recent years.

"Studies on stipulating a new charge of 'driving motor vehicles in a dangerous way' are underway," Minister of Public Security Meng Jianzhu said while making a report on road safety to the National People's Congress Standing Committee.

The new charge targets illegal traffic practices, including drink driving, the use of fake licenses, illegal car racing and overloading transport, which are believed to jeopardise road safety, Meng said.

Previously, it was only when severe consequences, such as death or injury, occurred as a result of these illegal practices that an offender was accused of a "traffic offense" or of "endangering public safety".

However, the suggested change to the law does not require severe consequences as a precondition for the charge, according to Zhou Guangquan, deputy dean of the law school at the Beijing-based Tsinghua University.

Meng also suggested raising the limit of punishment for traffic offenses from the current maximum jail term of seven years.

The suggestions have already received strong support from the public.

"Drink-drivers are no different than murderers. Only severe punishment could work to stop them," said Beijinger Zhang Jian.

The new charge, if added to the Criminal Law, will more effective at warning people not to drink and drive, said Hangzhou-based lawyer Wang Zhiguo.

Several recent tragedies have placed the dangers of drink driving at center stage. Sun Weiming, a 30-year-old sales executive, killed four people in Chengdu, capital of Sichuan province, in 2008 and became the first drink driver to receive a death sentence on charges of "endangering public safety". He later received a life sentence after he appealed to a higher court.

In response to the proposed change, both lawyer Wang Zhiguo and Zhou Guangquan, of Tsinghua University, said the two existing charges could cover drink driving that resulted in death or injury, making the new charge "unnecessary".

Zhou even warned that the new charge could ruin a drink driver's livelihood, if no casualties were incurred by the incident.

"In China, people tend to view crimes more seriously than some other countries, where stealing things worth less than 100 yuan (US$14.60) can be a crime that leads to a light punishment like a fine," he said. "Legislators should be cautious about setting up a new crime."

In China, nearly 200 million people hold driver's licenses and the number of privately-owned vehicles soared to 187 million by the end of 2009, according to figures from the Ministry of Public Security.

Despite the rising number of drivers and vehicles, traffic accidents have actually declined, from 667,000 in 2003 to 238,000 in 2009. From 2003 to 2009, the death toll from traffic accidents also dropped from 104,000 to 68,000.

Nevertheless, illegal traffic practices of both drivers and pedestrians still pose a severe problem.

Deaths caused by drivers who proceed before pedestrians have safely crossed the road increased 5 percent in recent years, the ministry said.

[Source: China Daily](http://www.chinadaily.com.cn/china/2010-04/29/content_9788430.htm) ([see archive](Criminal_law_may_include_drunk_driving.pdf))

### Smoking in indoor workplaces to be banned

Smoking in indoor workplaces and other public places is expected to become a thing of the past under a forthcoming tobacco-control regulation in the southern city of Guangzhou.

The standing committee of Guangzhou people's congress passed the draft regulation on 28th April after reviewing it three times.

The draft regulation will be submitted for final approval to the standing committee of Guangdong people's congress, the provincial legislative body.

Smoking in public places such as hospitals, schools, gymnasiums, restaurants, libraries, shopping malls, bookstores and public transport vehicles, is banned in the draft regulation.

The regulation is "a great improvement and is in accordance with the World Health Organisation's Framework Convention on Tobacco Control," Yao Rongbin, director of the Guangzhou Tobacco Control Association and former vice-mayor of the city, said.

The revision was made after many citizens and officials strongly suggested banning smoking at indoor workplaces, she said. "So, it will be in line with the interests of most people," Yao said.

The regulation has been drafted and revised since 2007. It is expected to be made public and take effect before November, when the 16th Asian Games will be held in Guangzhou, Yao said.

According to the draft, non-smoking indoor workplaces include offices, conference rooms, assembly halls, public corridors, elevators and dining rooms of government departments, enterprises and organisations, while smoking areas will be set up for smokers at indoor workplaces.

"I support the ban even though I'm a smoker, because smoking in the workplace pollutes the environment and affects the health of colleagues, especially female colleagues," said local resident Zhang Shaolin, 29.

"If someone smokes in my office, it will definitely affect my thinking process during software development," said Zhang Peiyang, a local computer engineer.

The draft stipulates that selling tobacco to anyone younger than 18 is illegal. The seller should ask the buyer to present his or her identity card if the buyer's age is not evident.

On World No Tobacco Day, which falls on 31st May every year, selling tobacco is banned in the city.

The smoking rate of Guangzhou citizens is 18.6 percent, much lower than many other big cities like Beijing and Shanghai, according to a survey of Guangzhou Tobacco Control Association last year.

"People's bad habits cannot die overnight. But I think with the restriction of the law and reminders from friends, banning smoking in public places is not very difficult to achieve," Yao said.

Some 350 million people on the Chinese mainland are smokers. The population of passive smokers is more than 540 million, according to the Ministry of Health. Governments at different levels have paid great attention to tobacco control in recent years. Beijing, Shanghai and Hangzhou have introduced tobacco-control regulations. China began participating in the World Health Organisation Framework Convention on Tobacco Control in 2006, promising full implementation by 2011.

[Source: China Daily](http://www.chinadaily.com.cn/china/2010-04/29/content_9788414.htm) ([see archive](Smoking_at_indoor_workplaces_to_be_banned.pdf))

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