



# China Regulatory Updates

April 2010

## Connotation of "Han Yi"

- › *Standardization*
- › *Unique player in the PRC legal service market*
- › *Simplicity, but always with a focus on key points and attention to details*

## Our Values

- › *Professionalism*
- › *Cost Efficiency and Effectiveness*
- › *Constant Self-Improvement Towards Perfection*



## ■ *Financial Services*

**Specific Rules of Investments in Financing Guarantee Companies Released**

**Trial Rules for Administration of Insurance Group Companies Released**

**Innovation Capability and Growth Potential of GEM Candidate Companies Emphasized**

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**Tax Administration of Rep Offices of Foreign Enterprises Further Strengthened**

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## Financial Services

### Specific Rules of Investments in Financing Guarantee Companies Released

On March 8, 2010, the China Banking Regulatory Commission, together with other six ministries and commissions under the PRC State Council, jointly released the *Interim Measures on the Administration of Financing Guarantee Companies* (the “FGC Measures”), which took effect on the same day. The FGC Measures cover various issues with respect to the establishment and operation of financing guarantee companies (“FGCs”).

According to the FGC Measures, in addition to financing assurance business, FGCs may also provide re-assurance for other FGCs, assurance for bond issuance, property preservations under lawsuits, performance of contract and related financial consulting. A FGC may also make investment with its proprietary funds. However, a FGC can not raise money from third party and extend loans to others.

The establishment of an FGC is subject to the approval by the competent local authority as designated by provincial government (e.g., in Shanghai, the approval authority would be

Shanghai Financial Service Office). The minimum registered capital of a FGC is RMB5 million (or RMB100 million if the FGC is engaged in re-assurance business), all of which should be contributed in cash. The local approval authority may however enhance the requirement for the registered capital according to the local situations.

The FGC Measures do not include any provisions with respect to foreign investment in FGCs. It is worth noting that prior to the FGC Measures, the PRC Ministry of Commerce has once released a guideline on foreign investment in FGCs. According to this guideline, foreign investment in FGCs is subject to approval by provincial MOFCOM offices and no restriction is imposed on foreign investors’ ownership in the FGCs. However, the requirements for the registered capital contribution and foreign investors are much higher than those set forth in the FGC Measures. For foreign investments in FGCs, we expect to see more clarifications from the competent authorities especially with respect to the potential conflicts of application of these two rules.

### Trial Rules for Administration of Insurance Group Companies Released

The China Insurance Regulatory Commission has recently promulgated the *Trial Measures on Administration of Insurance Group Companies* (the “Insurance Group Rules”), which set out detailed provisions on the entry requirements, corporate governance, capital management, information disclosure as well as administration and supervision of insurance group companies, among others.

The Insurance Group Rules set forth stringent requirements on the establishment of insurance group companies, including continuous operation for no less than 6 years, net asset value not less than RMB1 billion, total asset value not less than RMB10 billion, satisfaction of solvency requirements issued by supervision authorities, and etc.

The Insurance Group Rules also emphasize on the importance of safeguarding against comprehensive

operation risks and encourage the insurance companies to focus on the development of insurance business. The Insurance Group Rules further set limit to the maximum investment amount by the insurance group company in the non-insurance financial enterprises and non-financial enterprises.

The Insurance Group Rules have strengthened the duties of insurance group companies with respect to the management of their subsidiaries.

Moreover, with respect to corporate governance, the Insurance Group Rules provide that the number of tiers between a group company and the subsidiaries indirectly controlled by it should not exceed three and no cross-shareholding is allowed among the members of an insurance group. Insurance group companies are also required to effectively manage the related-party transactions

within their members.

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## Innovation Capability and Growth Potential of GEM Candidate Companies Emphasized

China Securities Regulatory Commission (“CSRC”) issued a guideline on March 19, 2010, emphasizing the innovation capability and growth potential of the enterprises intending to initiate their IPOs on the GEM board. CSRC requires IPO underwriters to give priority to enterprises that are engaged in industries in line with national strategic plan for emerging industries (such as new energy, new materials, IT, bio-tech and new pharmaceutical) and

enterprises with high growth potential in other areas.

CSRC further requires IPO underwriters to be very careful with enterprises engaging in the industries that already have surplus production capability or redundant construction projects when recommending candidates to the GEM board.

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## Real Property

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### PRC Government Tightens Up Land Supply

In order to strengthen the supervision over land supply for real estate development sector, PRC Ministry of Land and Resources issued the *Notice on Strengthening the Land Supply and Supervision of Real Estate Development* (the “Land Notice”) on March 8, 2010.

The Land Notice emphasizes that the land supply for government-subsidized housing should be ensured and the land qualified for such housing should be supplied through allocation. The Land Notice further requires that, no less than 70% of the total area of supplied land for residential construction should be used for construction of houses for public welfare and middle or small sized

commercial residential buildings for self-use. Moreover, the land supply for construction of big housing should be under strict control and there should be no more land for villas.

To restrict the phenomenon of land hoarding and land flipping, the Land Notice provides that the parties should execute a land grant contract within 10 working days after they have reached a deal and half of the land grant premiums should be paid within one month after the execution of such land grant contract. The balance should be paid up in time according to the land grant contract but no later than one year.

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## Tax

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### Tax Administration of Rep Offices of Foreign Enterprises Further Strengthened

PRC State Administration of Taxation (“SAT”) has recently issued the Interim Measures on Taxation Administration of Representative Offices of Foreign Enterprises (the “Tax Rules”), which took effect retrospectively from January 1, 2010.

The Tax Rules require all representative offices of foreign enterprises (“Rep Offices”) to effectuate their tax registration within 30 days after the

relevant business license or approval is obtained. Rep Offices should establish their accounting books in accordance with PRC law and should report and pay income tax, business tax and value added tax (if any) to the competent SAT office on quarterly basis. If a Rep Office fails to have complete accounting books and can not calculate their revenue and costs accurately or pay taxes that are accrued, the local SAT office may appraise taxable

income and collect the enterprise income tax accordingly. Note that the standard profit rate for appraisal purpose is raised from 10% to 15%.

In addition, the income tax exemption treatment that qualified Rep Offices used to enjoy is canceled by the Taxation Measures and no longer applicable to any Rep. Office.

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