



九州豐澤律師事務所
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■ Bankruptcy Law

The new **Enterprise Bankruptcy Law of the PRC** took effect on June 1, 2007, replacing the Enterprise Bankruptcy Law (trial implementation) passed in 1986



SECURITIES & CAPITAL MARKET

■ Measures for the Administration of Foreign Stock Exchanges' Representative Offices in China

《境外证券交易所驻华代表机构管理办法》

Issuing Authority: China Securities Regulatory Commission

Date of Issuance: May 20, 2007

Effective date: July 1, 2007

Measures for the Administration of Foreign Stock Exchanges' Representative Offices in China ("the Measures") was adopted by the 203rd chairman office meeting of China Securities Regulatory Commission ("CSRC"), in accordance with the Securities Law of the People's Republic of China ("Securities Law"), for the purpose of regulating the establishment and activities of foreign stock exchanges' representative offices.

The foreign stock exchange quoted by the Measures refers to the stock exchanges, the automated quotation or electronic dealer system or market for the stocks, which are all established overseas. The representative office of the foreign stock exchange ("the Rep Office") refers to the representative institutions established upon approval within the territory of the P.R.C engaging in the non-operation activities such as liaison, promotion and research. The person who is in charge of such Rep Office in the P.R.C is referred to as the chief representative in the Measures.

The required qualification for one Rep Office to be established in the P.R.C and necessary materials required to be submitted for approval from the CSRC are all stipulated in the Measures. Furthermore, the Measures also provided that the qualification of the Chief Representative shall be subject to the CSRC's recognition and the detailed requirements for the Chief Representative are also stipulated in the Measures.

The Measures set forth the code of ethics and liabilities of the Rep Offices and clarifies that the Rep Office has the statutory obligation to report to the CSRC.

■ Interim Measures on Domestic Financial Institutions Issuing RMB Bonds in Hong Kong

《境内金融机构赴香港特别行政区发行人民币债券管理暂行办法》

Issuing Authority: The People's Banks of China, the National Development and Reform Commission

Date of Issuance: 8 June 2007

Effective Date: 8 June 2007



Following the announcement of The People's Bank of China ("PBOC") in January 2007 regarding PRC financial institutions issuing RMB denominated bonds in Hong Kong, the PBOC and the National Development and Reform Commission ("NDRC") published the "Interim Measures on Domestic Financial Institutions Issuing RMB Bonds in Hong Kong" on 8 June 2007.

According to the Measures, domestic financial institutions should apply to the PBOC to submit relevant materials with duplicates thereof to be submitted to the NDRC. At this stage only policy banks and commercial banks incorporated in China are allowed to issue RMB Bonds in Hong Kong. RMB Bonds should have a tenor of more than one year with principal and interest payments. Issuers should satisfy a number of requirements (including a minimum capital adequacy ratio of 4% and having made profits for the preceding three years).

PARTNERSHIP LAW

■ Partnership Enterprise Law of the People's Republic of China

《中华人民共和国合伙企业法》

Issuing Authority: Standing Committee of the National People's Congress

Date of Issuance: August 27, 2006

Effective Date: June 1, 2007

This law amends and supersedes the PRC Partnership Enterprise Law promulgated by the Standing Committee of the National People's Congress in 1997. The new Partnership Law significantly changes the Chinese legal system for partnerships. In summary, the legislative body of the P.R.C has made the following major amendments in the new law:

☆The concept of limited liability partnership is recognized under the new law. The new law provides that a limited liability partnership enterprise must have no less than two partners but no more than 50 partners, at least one of which must be a general partner.

☆A partnership enterprise is not subject to income tax imposed on corporate -- all income taxes of a partnership enterprise are passed through to its partners.

☆Professional service providers may form a special partnership under the new law. If the special partnership enterprise is held liable as a result of intentional misconduct or gross negligence of one or several of its partners, such partner or partners assume unlimited personal liability, while the other partners are only liable to the extent of their interests in the partnership.



☆A partnership may go bankrupt under the new law. If a partnership is declared bankrupt by a court, its general partners are still subject to unlimited personal liability.

☆Foreign enterprises or individuals may set up partnership enterprises in China under the new law. The State Council is authorized to issue separate regulations that govern foreign-invested partnership enterprises.

BANKRUPTCY LAW

■ The Enterprise Bankruptcy Law of the People's Republic of China

《中华人民共和国企业破产法》

Issuing Authority: The Standing Committee of the National People's Congress

Date of Issuance: August 27, 2006

Effective Date: June 1, 2007

The new bankruptcy law will apply to all types of enterprises in China and to partnerships (the 1986 law only apply to state-owned enterprises). Major changes in the new Bankruptcy Law include the following:

☆Institution of bankruptcy administrator regime. The court will appoint the bankruptcy administrator, which may be a liquidation committee, professional services provider (e.g., a law firm or an accounting firm), or a qualified professional. The administrator's main role is to take over and manage the debtor's assets and formulate a plan for the disposition of the debtor's assets.

☆A debtor or creditor can apply to the court for restructuring prior to the filing of any bankruptcy petition. After a petition has been filed, a debtor, creditor or shareholders holding not less than 10% of the debtor's equity may apply to the court to request restructuring. The restructuring plan must contain the debtor's business operation plan, categories of creditors' rights, proposed adjustments to creditors' rights and a debt repayment plan. The restructuring plan must be approved by creditors representing at least 50% of creditors and two-thirds of the total amount of outstanding debt in each category of creditor.

☆Directors, supervisors and senior officers of the bankrupt enterprise will bear civil liability if the bankruptcy is a result of the breach of their fiduciary duties and will continue to have fiduciary duties to the debtor during bankruptcy or restructuring proceedings.



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☆Relevant governmental agencies in the financial sector (such as the China Banking Regulatory Commission and China Insurance Regulatory Commission) will be able to initiate a financial institution's bankruptcy or reorganization application by making a filing before a competent court.

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