

China Finance Bulletin

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Welcome to this month's issue of White & Case's China Finance Bulletin. The bulletin offers you regular updates on the PRC finance sector ensuring you stay up to date with the latest legal, regulatory and practice developments.

The State Council Issues Regulations on the Expropriation of Houses on State-owned Land

On January 21, 2011, the State Council issued the *Regulations regarding the Expropriation of Houses on State-owned Land and Compensation Thereof* (国有土地上房屋征收与补偿条例) ("Rule 590"), which came into effect on the issuance date. As compared to previous legislation, Rule 590 has imposed more restrictions, with respect to both purpose and procedures, on expropriating houses located on state-owned land. Furthermore, Rule 590 has raised the compensation standard for such expropriation, and for this reason, it is considered an important step towards protecting public property rights. Rule 590 does not apply to the expropriation of collectively-owned land or houses located on collectively-owned land.

The key provisions of Rule 590 are set out below:

- Government-involved expropriations may only be carried out for "public interests", which includes, among other things: (i) land used for national defense, energy and transportation infrastructure or public utilities; (ii) property developments that are for the purpose of developing homes for low-income individuals; or (iii) the renovation of old districts that are suffering from poor infrastructure.
- Compensation for expropriated homes cannot be lower than the market price of similar properties at the time of the expropriation. Compensation for expropriation should include: (i) compensation for the value of the houses to be expropriated; (ii) compensation for the costs of relocation and temporary housing in relation to the expropriation; and (iii) compensation for losses stemming from the closure of business operation caused by the expropriation of the houses.
- A real estate appraisal institution should be selected by the homeowners.

- If the government can not reach agreements about the expropriation or compensation with the homeowners, demolition can only be carried out after the court's review and approval.
- No violence or coercion can be employed to force the homeowners to leave nor are any illegal measures, such as cutting water and power supplies to be used to forcefully relocate the homeowners. Land and building developers are prohibited from participating in relocation activities.

For more information on Rule 590, please visit the following Chinese language link:

http://www.gov.cn/zwgk/2011-01/21/content_1790111.htm

The People's Bank of China Issued Administrative Measures on RMB Settlement for Outbound Direct Investment

On January 6, 2011, the People's Bank of China issued the *Administrative Measures on RMB Settlement for Outbound Direct Investment* (the "**Measures**"), which took effect on the same day. The Measures are a further effort to facilitate offshore direct investment by PRC enterprises and to internationalize RMB.

Subject to approvals by offshore direct investment authorities¹ ("**ODI authorities**") and also the registration at the local bureau of State Administration of Foreign Exchange ("**SAFE**"), the onshore non-financial institutions are allowed to make direct investments in RMB in offshore enterprises and projects.

The Measures are only applicable to onshore non-financial institutions incorporated in certain "permitted designated provinces for cross-border RMB settlement". Currently the designated provinces include Shanghai, Beijing, Guangdong, Tianjin, Inner-Mongolian, Liaoning, Jilin, Heilongjiang, Jiangsu, Zhejiang, Fujian, Shandong, Hubei, Guangxi, Hainan, Chongqing, Sichuan, Yunnan, Tibet and Xinjiang.

The onshore investors who are allowed to make outbound investment in RMB are also allowed to freely repatriate profits back in RMB by submitting relevant documents (e.g. board resolutions on dividend distribution) to the relevant bank, without obtaining a separate approval from the ODI authorities.

In addition, onshore banks may extend RMB loans to onshore investors which make direct investment in offshore enterprises or projects.

For more information on the Measures, please visit the following Chinese language link:

http://www.pbc.gov.cn:8080/image_public/UserFiles/goutongjiaoliu/upload/File/中国人民银行公告〔2011〕第1号.doc

¹ National Development and Reform Commission ("**NDRC**"), Ministry of Commerce ("**MOFCOM**"), their local counterparts and/or other relevant authorities.

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- Tier One in China Banking & Finance (Foreign Firms)—*Asia Pacific Legal 500, 2011*
- Tier One in China Banking & Finance (Foreign Firms)—*Chambers Asia, 2009*
- Tier One in Global Banking & Finance—*Chambers Global, 2008*
- Ranked Number One in Global Bank Finance 2007—*Mergermarket Tables*

Our noted areas of expertise include acquisition finance, bank advisory, credit transactions, derivatives, leasing and other asset-backed activity, and structured finance. In China and globally, our experienced team is intimately familiar with every aspect of deal structure, negotiation and documentation, and we aim to give precisely the right level and type of support at each stage of the deal—starting with strategic advice on alternative structures through negotiation and documentation, keeping your deal on track.

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We work with some of the world's most well-established and most respected companies—including two thirds of the *Global Fortune 100* and half of the *Fortune 500*—as well as start-up visionaries, governments and state-owned entities. Some of our independent accolades include:

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- Won Five Firm of the Year Awards—*Asian Counsel 2009*
- Top International Arbitration Firm—*Global Arbitration Review 2009*
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