Charltons - China News Alerts Newsletter - 12 December 2007

[online version](http://www.charltonslaw.com/china-news-alert-issue-220/)

# China News Alert Issue 220

## Capital Markets

### China considers regulations on informal lending

China is considering formulating legislation on informal lending to improve regulation of the country's financial market, said Jiang Dingzhi, vice chairman of the China Banking Regulatory Commission (CBRC).

To provide relevant regulations, in conjunction with other relevant ministries, is conducive to the country's financial stability, especially in rural areas where financial services could be improved, said Jiang at the 2007 China Rural Finance Forum.

Informal lending is defined as lending between individuals, between enterprises, and between individuals and enterprises, as opposed to lending by financial institutions, explained Luo Yuzheng, an official in charge of loans business from eastern China's Ningbo branch of Bank of China.

"For example, a rural enterprise may need to pay an interest rate of 7.29 per cent on a loan from a bank, in addition to a mortgage. If the enterprise doesn't have a good credit history, the interest rate may be higher", added Luo.

As China shifts its monetary policy from "prudent" to "tight", it may become more difficult for enterprises with low credit ratings to receive loans from a bank, he said.

Opportunities for Chinese farmers and rural enterprises to raise funds for their businesses are limited. Some farmers and enterprises turn to informal lending because of more favourable interest rates or to avoid long and complicated procedures necessary to receive a loan from a bank.

Official figures show that Chinese farmers rarely obtain loans of more than 5,000 yuan (US$675) from banks, suggesting the existence of underground banks, especially in rural areas.

Figures from the State Administration of Foreign Exchange show that more than 70 underground banks and illegal foreign exchange centers were uncovered in 2006.

"In rural areas, people's awareness of the risks associated with informal lending is less than that of urban dwellers. People in rural areas are less likely to move around for new jobs compared with people in cities, so informal lending outside banks is more common," said Ou Minggang, the Deputy Chief Editor of the Chinese Banker magazine.

This move by the industry watchdog is aimed at strengthening financial regulation over informal lending, especially in rural areas, and to regulate alternative financing channels, added Ou.

"The existence of informal lending is necessary, as it can reduce the cost for both lenders and borrowers and is efficient. However, this practice needs to be regulated and carried out in a legitimate way," commented Ou.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/10/content_6308692.htm) ([see archive](China_considers_regulations_on_informal_lending.pdf))

### Bank reserve ratio raised by 1%

China will raise the reserve requirement ratio by one percentage point for commercial banks in an effort to cool the booming economy, the central bank announced on 8 December.

The move, which will take effect on 25 December, will push the ratio to a new high of 14.5 per cent, after it reached a 10-year high of 13.5 per cent on 26 November.

This is the country's tenth rise in the reserve requirement ratio this year. It is aimed at "strengthening liquidity management in the banking system and checking excessive credit growth", the People's Bank of China said in a statement posted on its website.

This will be the first time China has raised the reserve requirement ratio by as much as one percentage point since September, 2003. The other nine rises this year were half a percentage point each.

Concerns about investment, the prime driver of China's economic growth, have been growing this year, as urban fixed asset investment picked up pace by rising 26.9 per cent year-on-year in the first 10 months.

As the coming CPI for the first 11 months is expected to reach a new high, the move is also a reflection of the government's decision to prevent inflation, which has so far been confined to food, from spilling over into other sectors, said Peng Xingyun, a researcher with the Research Institute of Finance under the Chinese Academy of Social Sciences.

Against a background of rising trade surplus and foreign exchange reserves, the rise is a further move to hedge excess liquidity in the country, said Peng.

It is estimated that a one percentage point rise of the reserve requirement ratio could reduce 400 billion yuan liquidity in the market.

The central bank has raised interest rates five times this year.

"China's future monetary policies will depend on the country's economic situation," said Peng, adding "It does not necessarily mean more rises in interest rates or the reserve requirement ratio."

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071210_1258242.html) ([see archive](Bank_reserve_ratio_raised_by_1.pdf))

### MPS dispatches liaisons to banking watchdog

China's Ministry of Public Security (MPS) has dispatched two liaisons to the banking watchdog to curb potential crimes in the sector.

The China Banking Regulatory Commission (CBRC) announced earlier this year that fraud and crime in banking had dropped by 62 per cent in the first half of 2007. The commission said the number of cases involving more than one million yuan (US$135,354) each dropped by 76 in the first six months. This prevented 1.36 billion yuan in loss, down 60 per cent over the same period last year.

During that time, there was an increase in the number of major crimes with individuals taking advantage of loopholes in the banking management system, rather than violent robberies on the street.

A Public Security Ministry official said the dispatch of the liaison personnel would "facilitate a crackdown on financial crimes and deter criminals".

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071206_1256706.html) ([see archive](MPS_dispatches_liaisons_to_banking_watchdog.pdf))

### CSRC to promote the development of growth enterprise market

The head of China's securities regulator said recently that the regulator will vigorously develop capital markets in order to expand direct financing and encourage the development of a growth enterprise market. GEM should provide a system that is more convenient for the investment and financing of growth enterprises.

Shang Fulin, chairman of the China Securities Regulatory Commission(CSRC), said that the rapid development of new industries provides a great opportunity for small enterprises. Meanwhile, the SME board sets a good example for GEM regarding supervision, operation and information disclosure.

He stressed that by establishing a GEM board, the need for financing and risk management of growth enterprises can be better met.

Shang also said following tasks will be completed:

1. preparation of relevant regulations;
2. improvement in the quality of companies listed;
3. preparation of the fundamental technology and operation system.

[Source: China View](http://news.xinhuanet.com/english/2007-12/06/content_7212879.htm) ([see archive](CSRC_chairman_underscores_direct_finance_expansion_English_Xinhua.pdf))

## Corporate & Commercial

### NDRC to raise water prices next year

Ma Kai, chairman of the National Development and Reform Commission, recently detailed the targets of economic, investment mode, resource price and social reform for next year. The price of urban water supplies will be adjusted appropriately.

The prices of resources and environmental protection fees will be adjusted gradually. Regulation over the cost of electricity transmission will be strengthened and policies relating to electricity prices will be completed. Resource tax on minerals will be levied differently and the price of urban water supplies will be raised. China will further improve the collection methods for sewage fees and garbage disposal fees.

According to an official from the NDRC, the adjustment of urban water prices means that the price of water for non-agricultural use will be raised as soon as possible to allow water supply organisations to make reasonable profits. Urban water supply is at the end of the water supply chain and an overall consideration of various factors must be considered, in order to appropriately adjust the price.

[Source: China.com](http://www.china.com.cn/economic/txt/2007-12/10/content_9363400.htm) ([see archive](Water_prices.pdf))

### Draft energy law released for public comment

Senior law expert Ye Rongsi said on 3 December that 2009 would be the earliest possible date for China's Energy Law to take effect.

On 3 December, the National Energy Leading Group (NELG) officially published a draft of the law on its website for public comment. The draft will also be carried by selected newspapers. The public will be able to submit opinions or suggestions by mail, fax or e-mail to the NELG.

The draft stipulates that the government will establish a partially market-based energy pricing system, which will reflect supply and demand, as well as environmental costs.

The draft does not, however, mention the establishment of a ministry of energy, which has been suggested by many energy experts.

The public-comment period will end on 1 February, 2008.

China has drawn up four versions of the energy law since the start of 2006. A draft was prepared for discussion in September by the National Committee of the Chinese People's Political Consultative Conference, National People's Congress, local governments, companies and industry associations.

The draft energy law has 15 chapters and 140 articles that define energy management, strategy, development, supply, storage and conservation.

The law will also cover energy technology, international cooperation, fiscal and tax policies, and other issues

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071205_1255856.html) ([see archive](Draft_energy_law_released_for_public_comment.pdf))

### Subsidies for Bio-fuel makers

The Ministry of Finance has drawn up a policy to promote the use of non-food products to make bio-fuel, a senior ministry official has said.

The government will offer subsidies and other forms of financial support to people involved in the production of such fuel in order to reduce their risk of loss, said Zeng Xiao'an, deputy director of the ministry's department of economic development.

Addressing a synthetic fuel forum in Beijing on 6 December, Zeng said: "We have worked out a policy to support the production of bio-fuel from non-food products (such as cellulose, sweet sorghum and cassava) because they are clean sources of energy and have limited negative impact on the environment."

Loss-making bio-fuel producers will be granted flexible subsidies when crude oil prices fall, he said, and firms will be encouraged to reserve funds to offset such a risk.

Farmers will get a 3,000-yuan (US$405) subsidy for each hectare of forest products for bio-fuel, such as ethanol and bio-diesel, and 2,700 yuan (US$365) for every hectare of crops, Zeng said.

The ministry will also subsidise demonstration projects making ethanol from cellulose, sweet sorghum and cassava, or bio-diesel from forest products, to make it easier for enterprises to qualify for bank loans, he said.

Projects that are up to industrial standards will be rewarded with 20 to 40 per cent of their total investment cost, he said.

"Government subsidies are a small proportion of the total investment in bio-diesel projects. But we are confident of the long-term prospects of bio-diesel production," said Liu Jianbo, who runs Hunan Rivers Bioengineering.

The company has set up a plant that can produce 20,000 tons of bio-diesel a year. Though no reliable figure is available on the country's total bio-diesel output, it's believed there are about 10 such plants, all small-scale.

Officials say the country's bio-diesel output will increase to 200,000 tons by 2010 and 2 million tons by 2020.

Last year, China's four ethanol plants produced about 1.3 million tons of fuel, which was blended with gasoline in some provinces, including Shandong.

All four plants mainly produce corn-based ethanol, and will now have to change to use other raw materials because China banned the use of grains to make bio-fuel earlier this year to ensure food security.

China has set an annual production target for ethanol at 2 million tons by 2010 and 10 million tons by 2020. Also, it seeks to use its abundant coal reserves to produce synthetic fuel and reduce its reliance on imported petroleum.

Support policies for such projects, however, are still being debated because of concerns over coal-based synthetic fuel's impact on the environment, Zeng said.

The production of coal-based fuel such as methanol and dimethyl ether usually means a high carbon dioxide emission. "We are still conducting research and will publish specific support policies for such projects as soon as possible," he said.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071210_1258277.html) ([see archive](Bio-fuel_makers_to_get_subsidy.pdf))

### Tightened economic policy to continue

The government will continue to tighten economic regulation to prevent the economy from overheating. This was recently announced at the conclusion of the annual economic conference.

A steady and tight monetary policy will be implemented next year to control new projects and raise the capital fund ratio of investment projects. Energy and advanced technology importing will be encouraged and the export of products with high energy consumption and high pollution will be restricted.

A rapid increase in overall price levels should be curbed and the production, supply and control of important agricultural products should be strengthened.

China will establish a back-end charging system for investment projects and promote environmental protection fee reform as well as the reform of electricity, railway, postal and telecommunications services. High-tech industries should be developed and mergers and reorganizations within iron, steel and cement sectors be encouraged. The government will also strengthen supervision over the real estate market and further support the construction of low-rent housing.

The high-profile Central Economic Work Conference is an annual event attended by China's top leaders to map out policies for the next year. It was decided at the meeting that China will implement a tight monetary policy next year and continue to maintain the stable fiscal policy.

[Source: Reuters](http://cn.reuters.com/article/chinaNews/idCNChina-283420071207) ([see archive](Tightened_economic_policy.pdf))

## Real Estate

### China to intensify land reserve control

The Chinese Ministry of Land and Resources (MLR) is seeking to improve the land reserve system amid intense concerns over a 9.5 per cent year-on-year housing price rise in 70 major Chinese cities this October.

Experts hold that robust demand, tight supply and higher land development costs drove up housing prices and the government's new move is a bid to regulate the real estate market and curb housing price rises.

Local land and resources regulatory agencies will conduct the control of land development, storage and supply, according to a circular issued jointly by the MLR, the Ministry of Finance and the People's Bank of China, China's central bank, towards the end of last month.

Experts hold that this is one move taken by the government to prevent property developers from hoarding land and to guarantee land use for basic infrastructure and residential construction for the poor.

Earlier last month the Chinese government urged local governments to reserve at least 70 per cent of the land designated for residential construction for low-rent units or smaller, cheaper homes.

The government has been trying to curb soaring real estate prices and provide adequate housing for low-income families. Regulators have raised interest rates, ordered developers to build more small, low-cost housing and imposed restrictions on the purchase of second homes and foreign investment in real estate.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071206_1256695.html) ([see archive](China_to_intensify_land_reserve_control.pdf))

### China quintuples arable land use tax

China is set to quintuple tax on the use of arable land for non-farming purposes and charge foreign-invested companies as much as their domestic peers in a bid to protect farmland and control land supply, according to an ordinance released by the State Council.

Sources within the State Administration of Taxation said the instrument took effect as of 1 December and replaced the 1987 edition, which had allowed foreign-invested companies to be exempt from land use tax.

Apparently, the revised ordinance raises tax levels and quintuples the maximum and minimum standards.

Under the ordinance, in places where per capita arable land is below one mu (0.067 hectare), investors have to pay a land-use tax of 10 to 50 yuan per square meter (US$1.30 to US$6.70) compared with the previous two to ten yuan (27 cents to US$1.35).

To protect prime farmland, the new ordinance states that investors using prime farmland shall pay another 50% of the above tax amount.

The toughened requirements will give taxation a bigger leverage in protecting the country's land for cultivation,

In recent years, China's farmland has decreased from 4.6 million mu at the end of last year to 1.827 billion mu at present, only slightly higher than the danger mark of 1.8 billion mu (120 million hectares) set by the government to feed its people.

In the early days of China's economic reforms, local governments wanted to attract foreign investment with cheap or even free land. Factories and high-rises have sprung up while cities and townships have sprawled, and some farmers were not properly compensated for their farmland. The new ordinance has abolished the preferential treatment for foreign-invested and foreign companies.

Experts say foreign-invested companies care more about the stable political environment and the sound economic growth of China, and that the abolishment of preferential tax treatment will not stop foreign funds entering China.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/06/content_6304747.htm) ([see archive](China_quintuples_arable_land_use_tax.pdf))

## Other

### Union discovers three activities violating or circumventing Labour Contract Law

The national workers' union has recently pledged to work closely with authorities to issue detailed regulations on the Labour Contract Law as soon as possible, in order to assist its application starting 1 January. Three activities are highlighted which violate or circumvent the new Labour Contract Law.

Liu Jichen, head of the legal affairs department of the All China Federation of Trade Unions, said that according to investigations, some enterprises understand the new law correctly while some are violating or circumventing the new law.

1. To dismiss employees or force them to resign. Recently, some enterprises have dismissed employees with long service records or have forced them to resign, and then have later signed another labour contract with them. This is to circumvent the stipulation of the new law that an employee who has worked for a company for more than 10 years is entitled to sign an open-ended labour contract. For example, the country's leading telecom equipment-maker Huawei Technologies in October encouraged approximately 7,000 veteran employees to resign and the rehired them immediately. This tactic is not valid as although the contracts end, employment relations still exist.
2. To dismiss employees and rehire them as dispatch workers. The enterprise dismisses most or all of the employees who then enter into a labour contract with a dispatching organisation. This organisation then dispatches these employees back to the original enterprise. This is also invalid as the Labour Contract Law stipulates that dispatched employees are only suitable for temporary and ancillary positions.
3. To dismiss relatively large amounts of employees at one time or in batches. For example, United States retailing giant Wal-Mart dismissed approximately 100 employees at its sourcing center in China last October, claiming the layoff was part of its global restructuring.

"A small number of enterprises are trying to evade responsibility to optimise profits," Liu said. "We've begun intervening to stop such activities."

[Source: Sohu.com](http://business.sohu.com/20071205/n253814251.shtml) ([see archive](Labour_Contract_Law.pdf))

### China issues first ever regulation on karaoke programming

China's first ever regulation on karaoke programming, which sets technical standards for all songs used in the karaoke industry, has come into effect.

The regulation, issued by the Ministry of Culture, says all karaoke programmes should be audio and video products that have already been published on the Chinese mainland or have been previously aired by TV stations on the Chinese mainland. If not, they should be examined by related administrative authorities beforehand.

"It is the country's first regulation on karaoke programming standards," said Liu Shifa, spokesman with the Cultural Market Development Center under the Ministry of Culture. "It will promote the program quality of the country's karaoke industry."

The regulation also requires each karaoke programme to be labeled "for use on the Chinese mainland only".

A charging system of karaoke programme royalties was put into use earlier this year in eight pilot provinces including Sichuan, He'nan, Yunnan, Hu'nan, Heilongjiang, Jilin, Liaoning and Xinjiang Uygur Autonomous Region. The system, designed to monitor and charge for the karaoke programmes, is expected to be launched across the country in 2008.

The country's current charging standard is 12 yuan (US$1.60) per room per day, according to a regulation set by China's National Copyright Administration (NCA) late last year.

The NCA said the fee, 0.17 yuan per song on average, accounted for only one per cent of karaoke bar turnover according to their investigations in two cities, and was relatively low compared with that in many other countries.

Karaoke operators in China have enjoyed free access to songs and music videos without paying royalties for more than 20 years.

It is estimated that China's 100,000 karaoke establishments―each with an average of ten karaoke rooms―generate almost one billion yuan of turnover every year.

The country is also working on specific regulations for collecting royalties from television and radio stations for using music works that are currently used for free, though it has not yet been decided when the regulations will be published.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/05/content_6302134.htm) ([see archive](China_issues_1st_ever_regulation_on_karaoke_programming.pdf))

### Tighter controls urged over illegal wildlife trade

The Ministry of Public Security has urged local police to tighten controls on the hunting, smuggling and sale of wild animals to curb the growing illegal trade in wildlife.

"With the attraction of high profits, crimes involving the destruction of wildlife resources have been on the rise in recent years," vice-minister of Public Security Bai Jingfu said at a meeting recently.

Ministry figures show that from January to October this year, police handled 172,471 cases involving the destruction of wildlife and forest resources, an increase of 2.7 per cent year-on-year.

Of these, 10,818 were criminal cases―a sharp increase of 11.5 per cent over the same period last year. About 1.5 million wild animals had been rescued from poachers.

Among five major cases exposed by the ministry, the largest occurred in May in Yangxi County, in Guangdong Province, where police seized more than 13,000 kilograms of smuggled wild animals and animal parts.

These included 5,371 monitor lizards, which are under first-class national protection; 30 pangolins, which are under second-class national protection; 3,283 rare tortoises; and 21 bears' paws.

It was the biggest wild animal smuggling case in at least a decade in Guangdong, local customs officials said. At least nine suspects have been detained.

Another four major cases occurred in Guangdong, Yunnan and Hunan provinces, and the Guangxi Zhuang Autonomous Region, involving the killing and smuggling of about 200 pangolins and 6,000 wild birds.

Bai said much of the smuggling was done by organised groups, or gangs, but he did not elaborate.

To protect the country's wildlife, Bai urged local police to work with other agencies, such as customs, to deal with the illegal wildlife trade and maintain regular control and monitoring mechanisms.

The vice-minister also called for more public participation in protecting animals.

"One of the major reasons for the illegal hunting and trade of animals is that the public have not yet realised the importance of ecosystem protection. There's still a big market for illegal wildlife," Bai said.

Experts have said that the Chinese appetite for exotic dishes makes it an ideal market for wild animal smugglers.

However, the law stipulates that those caught illegally hunting or trading wild animals under national protection can be sentenced to more than 10 years' in prison.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071205_1255862.html) ([see archive](Tighter_controls_urged_for_illegal_wildlife_trade.pdf))

**This newsletter is for information purposes only.**

Its contents do not constitute legal advice and it should not be regarded as a substitute for detailed advice in individual cases.

Transmission of this information is not intended to create and receipt does not constitute a lawyer-client relationship between Charltons and the user or browser.

Charltons is not responsible for any third party content which can be accessed through the website.

If you do not wish to receive this newsletter please let us know by emailing us at [unsubscribe@charltonslaw.com](mailto:unsubscribe@charltonslaw.com?subject=unsubscribe%20-China%20News%20Alerts-)

**Charltons - China News Alerts Newsletter - Issue 220 - 12 December 2007**