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# China News Alert Issue 221

## Capital Markets

### China to allow foreign companies to issue securities

China has agreed to let qualified foreign-invested companies float their shares on the mainland. This is according to a joint statement issued after the third China-US Strategic Economic Dialogue concluded in Beijing recently.

"China agrees to allow, in accordance with relevant prudential regulations, qualified foreign-invested companies, including banks, to issue yuan-denominated stocks; qualified overseas-listed companies to issue yuan-denominated corporate bonds; and qualified incorporated foreign banks to issue yuan-denominated financial bonds," said the statement.

The joint statement also said that China's Securities Regulatory Commission will conduct a thorough assessment of foreign participation in China's securities firms and will make a recommendation about adjusting its policies on foreign equity participation.

The China Banking Regulatory Commission is set to complete a scientific study of foreign participation in China's banking sector on 31 December, 2008, the statement said.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2007-12/14/content_6322846.htm) ([see archive](China_to_allow_foreign_companies_to_issue_securities.pdf))

### Shenzhen Stock Exchange establishes a committee for disciplinary action

Shenzhen Stock Exchange (SZSE) has established a committee for disciplinary action. The SZSE has also released ‘Provisions on Procedures of Disciplinary Action' to take effect from 1 January, 2008.

The committee is made up of 20 members from senior management, supervision, legal and other departments within the SZSE. The committee has one director and one to three deputy directors.

Two working groups have been set up under the committee to accept cases for disciplinary action, prepare committee meetings and contact relevant parties. Seven members will be chosen randomly to attend the committee meeting.

The committee works independently and must not be influenced by any organisations or individuals. Decisions are made by secret ballot and can only be passed by five or more votes.

The SZSE had already established a review committee consisting of 11 members from the China Securities Regulatory Commission (CSRC), the Shenzhen Stock Exchange, the Shanghai Stock Exchange, listed companies, fund management companies, accounting firms and law firms.

[Source: Shenzhen Stock Exchange](http://www.szse.cn/main/aboutus/bsyw/2007121211744.shtml) ([see archive](Committee_for_disciplinary_action.pdf))

## Corporate & Commercial

### China sees a 13.6% rise in foreign investment

China has utilised US$61.674 billion worth of foreign capital from January to November 2007, 13.66 per cent higher than the same period in 2006, the Ministry of Commerce (MOC) said recently. During this period, China has newly approved 34,419 foreign-funded companies, down 7.02 per cent year-on-year.

In November, utilised foreign investment in China surged 35.07 per cent to US$7.679 billion. The number of newly approved foreign-invested firms fell 9.06 per cent to 3,593.

In these 11 months, the utilised foreign capital from the United States of America and the 15 member states of the European Union declined by 8.25 per cent and 29.8 per cent respectively, with the number of newly approved enterprises declining 15.52 per cent and 7.93 per cent respectively, the MOC said.

The average size of foreign investment is expanding as the nation seeks to boost foreign capital. The fast growth in foreign investment shows China's booming economy and investment environment remain attractive to overseas investors, said experts.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/6321325.html) ([see archive](China_sees_rise_in_foreign_investment_in_first_11_months_-_Peoples_Daily_Online.pdf))

### Retail sales surge to new high in November

November saw China's retail sales hit their highest level in nearly 11 years, rising 18.8 per cent above the same period last year, the National Bureau of Statistics (NBS) reported recently.

The record was set in January 1997 when retail sales increased 19.8 per cent over the same period a year earlier.

The November 2007 figure was also higher than the 18.1 per cent recorded for October, a time which included the "golden week" holiday when people tend to make more retail purchases.

The announcement came a day after the NBS said the country's consumer price index, a major inflation indicator, had surged to an 11-year high of 6.9 per cent.

Analysts said that recent price increases and continued negative real interest rates were the cause of the accelerated retail sales growth.

Retail sales in the first 11 months of 2007 rose 16.4 per cent to 8.02 trillion yuan (US$1.08 trillion), according to the NBS.

In 2006, China's retail sales expanded 13.7 per cent year on year.

The NBS also revealed that retail sales in urban areas had risen by 19.2 per cent, while rural areas registered an increase of 18 per cent.

Sales of grain and cooking oil increased 48 per cent, higher than the 45.1 per cent increase in October, while meat and egg sales went up by 45.3 per cent, almost level with the previous month.

Price rises in food such as pork, grain and cooking oil were the major contributors to the nation's accelerating inflation last month.

Oil product sales rose 22.1 per cent, up from an increase of 17.8 per cent in October. China raised the price of gasoline, diesel and aviation kerosene by nearly 10 per cent from 1 November in order to encourage supply amid the shortfall.

China continued to record robust sales growth for cars and jewellery; their annual growth rates in November stood at 35 per cent and 39.2 per cent respectively.

[Source: China.com](http://english.china.com/zh_cn/business/economy/11021617/20071212/14544704.html) ([see archive](Chinas_retail_sales_surge_to_near_high_in_November.pdf))

### China opens the largest free-trade harbour area in Tianjin

China's largest free-trade harbour area with the most preferential tax treatment policies began operation in the northern port city of Tianjin on 11 December, a further move in the country's opening-up strategy.

Dongjiang Bonded Harbour Area, located in the Bohai-rim region close to Beijing, "is designated as a pilot project to adopt reforms and renovations in order to promote opening-up," Li Kenong, deputy chief of China Customs, said at the inauguration ceremony.

The area has the most favorable policies in taxation and foreign exchange and offers comprehensive services in international shipping, purchase, trade, processing and logistics, according to Li. The first phase of the harbour area, which currently covers 42 km and includes warehouses, container terminals, processing and logistics zones, involved 6.6 billion yuan (nearly US$900 million) in corporate investment.

The second phase, covering an area of 62 km, which is still under construction, is scheduled to become operational by 2010, and is expected to handle 4 million containers per year.

[Source: Ministry of Commerce](http://english.mofcom.gov.cn/article/newsrelease/counselorsoffice/westernasiaandafricareport/200712/20071205278831.shtml) ([see archive](China_opens_largest_free-trade_harbor_area_in_Tianjin.pdf))

## Real Estate

### Central bank defines a "second home"

China's commercial banks should define a "second home" in relation to the property owned by the family of the mortgage applicant rather than the applicant alone, according to new instructions issued by the central bank and the banking regulator.

A notice jointly released by the People's Bank of China and the China Banking Regulatory Commission (CBRC) said that a family includes the applicant, his or her spouse and their dependant children.

The notice is supplementary to the rule released by the central bank and the CBRC in September, which raised mortgage deposits for homebuyers who intend to buy a second apartment, a move to curb speculation on property transactions. "Second" mortgage holders are required to pay a deposit of at least 40 per cent and pay a 10 per cent premium on their interest rate.

The new rule has led to a debate over whether it regards a borrower and his family members as a single entity or whether a borrower's family is immune from the new rule.

The notice says an applicant can qualify for a lower deposit and preferential interest rates on the first apartment only when the per capita acreage of the family's first apartment is lower than local average level.

At a conference on Monday, Liu Shiyu, Vice Governor of the central bank, said that risk in China's commercial banks has been growing with increasing mortgage loans and illegal lending.

Liu said lessons should be learned from the current U.S. crisis as well as bubbles in the real estate markets of Hong Kong and Japan.

Jiang Dingzhi, vice chairman of the CBRC, also stated at the conference that banks should strengthen the regulation of housing mortgage loans and tackle cheating.

China has raised the benchmark one-year lending rate five times this year amid efforts to curb investment growth and cool the overheating economy.

[Source: CRIENGLISH.com](http://english.cri.cn/2946/2007/12/11/198@303671.htm) ([see archive](Central_Bank_Defines_Second_House_by_Family.pdf))

## Taxation

### Regulations for corporate income tax announced by the State Council

China's State Council has announced regulations aimed at helping to enforce the country's new corporate income tax law, on 11 December.

The regulations further clarify the range and implementation of preferential tax treatment, with seven main aspects:

1. Enterprises engaged in planting vegetables and grain, breeding new varieties of crops, cultivating and planting trees, and raising livestock and poultry are exempt from corporate income tax; for enterprises engaging in planting flowers, tea, other beverages crops and spices crops, or sea farming and inland aquaculture, corporate income tax is reduced by half.
2. Enterprises engaged in the operation of ports, airports, railways, highways and urban public transport, electricity and water conservation projects will have their corporate income tax exempt in the first three years after obtaining their first income from production and operation, and will have it reduced by half over the next three years ("three years' exemption and three years' deduction").
3. Enterprises engaged in public sewage treatment, public garbage treatment, utilisation of methane, transformation of energy-saving technologies and sea water desalination projects can also enjoy the three years' exemption and three years' deduction policy after obtaining their first income from production and operation. Details will be provided by the Ministry of Commerce and the State Administration of Taxation and will be reported to the State Council.
4. For enterprises engaged in the utilisation of raw materials included in the Catalogue of Corporate Income Tax Preferential Treatment for Effective Utilisation of Resources, the corporate income tax is reduced by 10%.
5. The regulations provide details of preferential tax treatment for high-tech enterprises.
6. The regulations also define "non-profit organisations" that are entitled to preferential tax treatments.
7. For non-resident enterprises with no premises in China, corporate income tax on income generated in China is reduced by 90%.

Premier Wen Jiabao has signed a State Council order to approve the announcement of the regulations.

[Source: Jiangsu Development and Reform Commission](http://www.jsdpc.gov.cn/pub/jsdpccs/nsjg/czjrc/0000/200712/t20071211_57651.htm) ([see archive](Regulations_for_corporate_income_tax.pdf))

## Other

### Calls for improvements in anti-monopoly law enforcement

A unified and independent agency is needed to ensure the successful implementation of the Anti-Monopoly Law, which is scheduled to come into effect next August, experts have said.

The law, adopted by the Standing Committee of the National People's Congress on 30 August, after 13 years of revisions, proposes that a special Anti-Monopoly Commission be set up under the State Council to organise, coordinate and guide anti-monopoly work.

The law will include targeting the abuse of market-dominant positions and administrative powers that excludes or restricts competition.

The law states that the central government will be able to authorise certain agencies in anti-monopoly enforcement, but does not specify which agencies they are.

Speaking at the International Symposium on Anti-Monopoly Enforcement in Beijing, Wang Jiafu, an expert in law at the Chinese Academy of Social Sciences, said: "The situation (with several ministries participating in the law enforcement) will be loose. There should be a unified, effective and authoritative agency to ensure maximum effect."

He said the ministry responsible for anti-monopoly law enforcement should be a "neutral" one that has no interests or involvement with businesses.

"It should also have experience in handling unfair competition and anti-monopoly practices," he said.

Currently, at least three ministries, including the National Development and Reform Commission, the State Administration of Industry and Commerce and the Ministry of Commerce, are involved in handling monopoly disputes.

Wang Xiaoye, a law expert who was involved in drafting the Anti-Monopoly Law, said: "A strong, unified agency is needed to enforce the law against powerful government bodies that might abuse their administrative power to ensure State enterprises have a monopoly in the communications and power sectors."

Foreign countries have adopted various models for law enforcement, with either parallel anti-monopoly ministries or a single unified one, he said.

A unified agency will be more swift and effective in enforcement, but models involving more than one agency might cover a wider range of the market, he added.

However, experts have also said that China has accumulated experience in anti-monopoly law enforcement with the Anti-Unfair Competition Law, which has been in effect since 1993.

Figures show that industry and commerce authorities at all levels have investigated about 7,000 cases of possible monopolies, involving companies in the water, electricity, gas, postal service, banking and tobacco sectors.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071214_1261245.html) ([see archive](Calls_for_single_anti-monopoly_agency.pdf))

### SFDA releases provisions for drug recall

The State Food and Drug Administration (SFDA) recently announced a new provision that obliges all manufacturers of imported drugs to provide Chinese authorities with full details of product recalls in a bid to avoid potential health hazards.

The Provisions for Drug Recall, the country's first nationwide regulation on the issue, states that drug manufacturers at home and abroad should be held accountable for the safety and quality of the drugs they sell, SFDA spokeswoman Yan Jiangying said at its regular monthly press briefing.

The provision states that drugs found to be potentially hazardous should be recalled voluntarily by producers, while those that are found to be fake or of substandard quality will be dealt with under the terms of the Drug Administration Law.

The provision stipulates that recalls are divided into three categories based on different risk levels. These range from 24 hours for drugs that may cause serious damage to human health, to 72 hours for those deemed non-life-threatening.

Once the hazardous product has been recalled, producers must immediately inform distributors and medical institutions to stop using or selling the drug.

The manufacturers involved will also have to report the recalls to the drug administration.

"We hope governments and companies can cooperate to enhance and refine the establishment of the recall system to safeguard drug safety and public health," Yan said.

The provision also states that penalties or liabilities for companies that voluntarily recall hazardous drugs will be eased or excused.

Conversely, manufacturers that fail, for whatever reason, to recall hazardous drugs will be subject to compulsory recalls by the authorities if it is deemed necessary. Such firms will also be fined three times the value of the recalled drugs.

To realise and facilitate adequate drug recalls, producers should put in place surveillance systems to monitor and look out for potentially harmful products, the SFDA said.

"Drug manufacturers cannot merely rely on government information. They should, out of a sense of social responsibility, make efforts to monitor potential adverse reactions to their products," Yan said.

Distributors and medical institutions must also inform the authorities and producers of any safety risks associated with a particular drug, the provision says.

"The involvement of the general public, especially drug distributors and users, is extremely important given the fact that a pilot scheme of drug recalls in Wuhan, capital of Hubei Province, showed that the recalls were imposed in most cases," Yan said.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071213_1260462.html) ([see archive](Manufacturers_subject_to_latest_drug_recall_rules.pdf))

### Government aims for energy efficiency

Energy-efficient products are now compulsory for all future government purchases in nine categories under a revised list released by the finance ministry on 12 December.

Government agencies can only buy products that appear on the list for the nine categories―including air conditioners, computers and printers. The list may be expanded to other product categories in the future.

The list includes a total of 33 categories with 10,239 products from 525 companies, which are to be favoured for government purchase due to their high-energy efficiency. Previously, only 4,770 products from 18 categories were included on the list.

"The move is expected to promote the use of energy-efficient equipment in government agencies," Zhang Tong, assistant minister of finance, said. "By doing so, we expect to make our own contribution to the nation's energy-saving drive."

According to Zhang, the per capita energy consumption of China's government employees is higher than that of average citizens, as is the energy consumption of government workplaces.

Government agencies across the nation are required to refer to the list for future purchasing, and the effect will be reviewed as a factor in judging officials' work performance.

The nation passed its first Government Procurement Law in 2003, which helped improve and standardise government procurement procedure. It's estimated that the government has spent 10 per cent less on procurement since the adoption of the law.

The government has set a goal of cutting its energy intensity, or the amount of energy used to generate one unit of gross domestic product, by 20 per cent by 2010. The target is part of efforts to address the nation's growing energy demand and worsening environment.

[Source: China Securities News](http://www.cs.com.cn/english/ei/200712/t20071213_1260460.html) ([see archive](Govt_aims_for_energy_efficiency.pdf))

### China creates three public holidays

The Chinese government, on 16 December, officially announced the scrapping of one of the country's three "golden week" holidays and introduced three new one-day public holidays.

The new national public holiday plan adds three traditional festivals―Tomb-Sweeping Day, Dragon-boat Festival and Mid Autumn Festival―to the list of public holidays.

The plan, which comes into effect on 1 January, increases the total number of national holidays from 10 to 11 days.

Each of the three traditional festivals will be a one-day holiday, according to the plan unveiled by the State Council.

The Spring Festival remains a three-day public holiday, but it will start one day earlier from the eve of the Lunar New Year, China's most important traditional festival.

The May Day holiday is shortened from three days to one day, while the three-day National Day holiday and one-day New Year holiday remain unchanged.

The government will continue to move the weekend days adjacent to a national holiday to form a longer holiday period so that people will have three days or seven days off in a row.

The New Year Day, Tomb-Sweeping Day, Dragon-Boat Festival, May Day, and Mid-Autumn Day then become holidays of three days each. The Spring Festival holiday and National Day holiday remain seven-day holidays.

Also on 16 December, the State Council announced regulations on paid holidays, saying all employees of government agencies, enterprises and public-service institutions are entitled to take paid holidays after serving the same employer for one year.

Employees who have worked less than ten years will have five paid days off a year, those who have worked for ten to 19 years will have ten days and those who have worked for 20 years and above will have 15 days.

National holidays and weekends will not be counted as paid holidays.

The regulations also stipulate that employees should have their full daily salary guaranteed during paid holidays and that those who keep working should be paid three times their daily salary.

[Source: China.com](http://english.china.com/zh_cn/news/china/11020307/20071216/14552661.html) ([see archive](China_makes_three_traditional_festivals_holidays_scraps_one_golden_week.pdf))

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