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# China News Alert Issue 223

## Capital Markets

### Crackdown on illegal share issues

Four government departments have jointly issued a new rule to enforce the crackdown on illegal securities, which are growing in the wake of a bullish stock market.

Issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the China Securities Regulatory Commission (CSRC), the rule details the nature of the illegal securities business and proposes new steps to guide the four bodies in fighting it.

The rule, based on the Securities Law enacted in 2006, makes it clear that any company or original stakeholder of a company that issues or sells shares publicly without approval will face consequences.

"The fact that illegal dealers sell so-called 'original' shares to public investors via agencies by promising that the company will be listed overseas or has gained approval from the securities regulator to issue shares, violates the Securities Law," the CSRC said in a statement posted on its official website.

Companies which are involved in illegal share issues are often from the western areas of China, and the shares are usually sold to investors in the eastern regions, said Wei Xuechun, a CSRC official in charge of the supervision of unlisted companies.

Wei noted in a November interview on the government's website that many such companies sell shares to investors by claiming that they will be listed overseas and often present fake financial information to cheat investors.

The CSRC said yesterday that it had received 1,400 claims of illegal securities activities in 2007; 366 of them had been passed to security agencies.

Duan Aiqun, a lawyer with Shanghai-based law firm Hailyare & Partners, told China Daily: "The current liquidity increases illegal securities deals. Investors seeking short-term returns have helped the expansion of illegal share trading."

Duan said that the development of new securities products such as futures and derivatives has made it harder for individual investors to discern illegal trading.

The lawyer added that the government should also issue new rules based on China's Trust Law to help prevent illegal share trading.

The new rule grants investors suffering losses through illegal deals the right to claim compensation through civil action.

It is also expected to bring illegal dealers under judicial purview.

The CSRC estimates that 90 per cent of illegal securities deals have broken criminal law, but only a few were prosecuted due to the ambiguousness of current rules and regulations.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-01/07/content_6374308.htm) ([see archive](Crackdown_on_illegal_share_issues.pdf))

### Requirements set for disclosure of 2007 annual reports

The Shanghai Stock Exchange and the Shenzhen Stock Exchange have both recently issued a notice regulating the disclosure of 2007 annual reports by listed companies.

According to the notices, all companies listed on the two markets before 31 December 2007 should compile, submit and disclose 2007 annual reports before 30 April 2008. Companies newly listing between 1 January and 30 April 2008 should also disclose their 2007 annual reports before 30 April 2008, if they haven't disclosed an audited 2007 annual performance in their listing announcements.

In order to avoid a concentrated disclosure of annual reports, the Shanghai Stock Exchange will only allow a daily maximum of 45 listed companies to disclose their annual reports and the Shenzhen Stock Exchange will allow a daily maximum of 25 companies.

Directors, supervisors, senior managers and other parties should abide by confidentiality obligations during the compilation of annual reports, and they should not divulge the contents in any way before their official disclosure.

Where information is divulged before the official disclosure of an annual report or there is abnormal fluctuation because of rumors, listed companies should immediately publish unaudited 2007 financial data, including business income, business profit, total profit, net profit, total assets, net assets, earnings per share, earnings per share excluding extraordinary profit and loss, and net assets per share.

[Source: China.com](http://www.china.com.cn/economic/txt/2008-01/03/content_9471944.htm) ([see archive](Requirements_2007_annual_reports.pdf))

### NDRC simplifies application procedures for corporate bond issuance

The National Development and Reform Commission ("NDRC") recently issued a notice aimed at simplifying application procedures for corporate bond issuance. This notice merges the application process into one phrase.

According to the notice, enterprises registered in China and with independent legal status must submit an application for the public issuance of corporate bonds to the NDRC. Enterprises under direct management of the central government can apply to the NDRC directly, enterprises under various industry/sector management departments of the State Council must submit their application to those departments first for pre-examination, while local enterprises must submit their application to the development and reform commissions of the provinces, autonomous regions or municipalities where they are located for pre-examination. The NDRC, after registering the application, shall examine the materials submitted and decide whether or not to approve the application within 3 months of submission, providing explanations to those not approved.

To issue corporate bonds, companies limited by shares must have a net asset of no less than 30 million yuan, while limited liability companies and other types of enterprises must have a net asset of no less than 60 million yuan.

Previously, there were two steps for corporate bond issuance: quota examination and qualification examination. The NDRC and the People's Bank of China allocated quotas to various localities according to an annual issuance plan. The procedural simplification is aimed at improving the development of the corporate bond market and expanding issuance numbers.

[Source: Jinghua](http://epaper.jinghua.cn/html/2008-01/05/content_198446.htm) ([see archive](NDRC_simplifies_application_procedures.pdf))

### Gold futures to be launched

The Shanghai Futures Exchange will start trading gold futures on 9 January after an initial trial period from 2 to 8 January.

An official from the Shanghai Futures Exchange stated that enterprises producing, processing and trading gold, financial institutions and investors all need a legal and effective way to avoid market risks. Although investors are keen to preserve and increase their assets by purchasing gold due to the growth in gold prices, ordinary investors rank below enterprises and financial institutions as target clients. Queues have formed at futures companies as opening an account can take approximately half an hour.

Gold has been traded on a trial basis from 2 to 8 January. An official from the Shanghai Futures Exchange said that the performance during the trial period does not accurately represent the future of the gold trading market.

[Source: China.com](http://www.china.com.cn/economic/txt/2008-01/05/content_9483785.htm) ([see archive](Gold_futures_to_be_launched.pdf))

## Corporate & Commercial

### Mobile phone charges to be queried

China will launch a long-awaited price hearing conference this month to discuss ending the high roaming fees on mobile phones, the country's top telecommunications regulator said recently.

Representatives of consumers, experts, mobile carriers and the China Consumers' Association will be involved in the conference in Beijing, the Ministry of Information said.

Chinese mobile carriers often charge users 0.60 yuan (8 US cents) a minute as a cross-province roaming fee, which most travellers and experts say is too expensive.

An upper limit for roaming will be set after the conference, the information ministry said on its website, without providing further details. Industry insiders said the cap will probably be between 0.20 yuan and 0.40 yuan per minute.

"Roaming fees should be abolished as roaming involves hardly any cost to the carriers except for the fee calculation process for the carriers' provincial branches," said Sandy Shen, a telecommunications analyst at Gartner Inc., an IT research firm. China is the only country in the world to charge users roaming fees within one network across different provinces, said Shen.

It is unjustifiable that users are charged these high rates as the actual cost for roaming is similar to e-mail, said Kan Kaili, a professor of Post and Telecommunications at Beijing University.

Operators spend about 0.02 yuan per minute providing roaming services, making it the most profitable sector for them, industry insiders said.

According to Shanghai Mobile and Shanghai Unicom's common fee policy, they charge users 1.30 yuan a minute. The fee is broken down to 0.60 yuan for roaming and 0.70 yuan for a long distance calls--both outgoing and incoming--when users are outside Shanghai. Local calls cost about 0.13 yuan per minute.

The ministry conducted an online survey last May asking people about their views on roaming charges. Respondents said the roaming fee should be 0.05 yuan to 0.20 yuan higher per minute than a local call.

[Source: Chinataiwan.org](http://www.chinataiwan.org/english/News/dn/200801/t20080103_564966.htm) ([see archive](Mobile_phone_charges_to_be_queried.pdf))

### China bans online sale of lottery tickets

Organisations will no longer be allowed to sell lottery tickets via the Internet in China, according to a circular jointly issued by the Ministry of Finance, the Ministry of Civil Affairs and the General Administration of Sports.

Those already selling lottery tickets online prior to the issuance of the circular must stop the activity immediately as of the document issue date.

Those failing to stop online sales on time will by penalised by telecommunication regulators, according to related laws and rules.

Perpetrators of illegal online lottery sales, or those who receive money from online lottery sales or gambling, will be prosecuted.

According to Wang Xuehong, head of the lottery research institute at Beijing University, there are honesty and security problems with online lottery sales. It is difficult for buyers to tell legal websites from illegal ones.

"It's hard to say whether a website will buy lottery tickets for the buyers after it receives money from them," Wang said, adding that it was difficult to supervise websites behavior.

[Source: China-embassy.org](http://www.china-embassy.org/eng/xw/t395645.htm) ([see archive](China_bans_online_lotteries.pdf))

## Real Estate

### State Administration for Industry and Commerce estimates foreign investment in real estate market

Administration departments within industry and commerce at various levels are cooperating with the State Administration for Industry and Commerce (SAIC) to estimate foreign investment in the real estate market. Experts have taken this as a sign that the government is preparing to launch further policies to restrict foreign investment in the property market.

The SAIC's Foreign Investment Bureau posted a notice on its website in late December 2007 stating that "administration departments within industry and commerce of various provinces, autonomous regions and municipalities, should download theUrgent Notice on Estimating Foreign Investment in Real Estate Market".

Insiders attach great significance to this survey. An official from the SAIC said that surveys of this kind are generally led by one authority and involve other relevant departments, and coincide with the government's practice of carrying out surveys whilst planning new policies.

China has released a number of policies aimed at restricting foreign investment in property in 2007. Following the No. 171 Order, the Ministry of Commerce and the State Administration of Foreign Exchange published a series of policies includingGuidance on Absorbing Foreign Investment in 2007 and A Circular Regarding Further Regulating, Approval and Supervision of Foreign Direct Investment in Real Estate to restrict foreign investment. According to new data from the National Statistics Bureau, during January to November 2007 real estate developers contributed 3,204.3 billion yuan to the market, among which foreign investment accounted for 53.9 billion yuan with a rapid growth rate of 71.9%, year-on-year.

"There are some problems regarding the enforcement of policies to restrict foreign investment, which is the cause of this special survey. The government will probably continue to release new restricting policies this year," one insider said. "When I attended a forum held by the Ministry of Construction recently, an official said the government would utilise different measures to control foreign investment in property under WTO norms. This indicates tighter control on foreign investment."

[Source: jrj.com](http://finance.jrj.com.cn/news/2008-01-07/000003140088.html) (Link no longer active)

### China's consumption to hit record low despite higher income growth than GDP

China's consumer spending has made only a small contribution to the world's fastest-growing economy compared with investment and trade. Consumer spending will hit its lowest level in more than two decades, despite an anticipated higher growth in urban income than of the aggregate economy, experts forecast.

The inflation-adjusted disposable income of Chinese urban residents has increased by about 13 per cent year-on-year in 2007, a report by the Chinese Academy of Social Sciences (CASS) said.

It is the first time that the growth of urban income had surpassed economic growth over the past five years, according to the report. China's economy was forecast to expand by about 11.5 per cent in 2007.

The country's income growth also outpaced economic growth in 1979, 1986, 1990, 2001 and 2002.

The report said the income of Chinese farmers will be at an 11-year high of eight per cent growth for 2007.

Despite a positive income growth, consumption by Chinese residents remained low. It contributed about 36 per cent of the country's gross domestic product (GDP) in the first three quarters, according to the report.

The 2007 figure will hit a record low compared with around 60 per cent in the period from the country's opening up initiative in 1978 to 2002. The figure fell thereafter to reach a previous low of 50 per cent in 2006.

The small consumption contribution to the country's economy, compared with an average 70 per cent across the world, has long been labelled a 'lame duck' in powering the country's economic growth.

The report said 2007 consumer spending was mainly dragged down by surging housing prices. Many people have chosen not to purchase other commodities in response to increasing housing prices. Chinese people traditionally consider housing to be their most important purchase.

From January to November, housing prices in 70 major Chinese cities increased by 7.3 per cent year-on-year. Housing prices increased at an annual rate of 10.5 per cent in November alone.

The November rate was the largest monthly gain since July 2005, when China started to cover more cities in its monthly housing price survey.

The country's top leaders have repeatedly called for a bigger role to be played by consumption in the economic growth to relieve its reliance on investment and export. The point was stressed again at the National Congress of the Communist Party of China in October last year.

[Source: English.china.com](http://english.china.com/zh_cn/business/economy/11021617/20080105/14595726.html) ([see archive](China_consumption_record_low.pdf))

## Taxation

### China plans to impose environmental tax this year

According to Caijing Magazine, imposing environmental taxes may become one of the key tasks for tax authorities in 2008. The Ministry of Finance, the State Administration of Taxation and the State Environmental Protection Bureau will jointly issue and revise policies on environmental tax.

In November 2007, Su Gang and Xu Wenbo, researchers from the Ministry of Finance suggested three schemes for imposing environmental tax.

1. General environmental tax: The tax will be levied generally for the purpose of collecting income. The tax base may conform to that of some current taxes (e.g. city maintenance and construction tax or corporate income tax).
2. Tax on pollution: The tax will be levied on polluters with a tax base directly linked to the amount of pollution caused. The tax can be subdivided based on the type of pollution, for example, sulfur tax, nitrogen oxides tax, carbon tax, sewage tax and solid waste tax.
3. Tax on products: The tax will be levied on products that are potential causes of pollution. These products may include energy fuels, ozone depletion substances, fertilizers, pesticides, phosphorus-containing detergent and mercury cadmium batteries, etc

The Ministry of Finance believes it is more practical to improve the current tax system by reforming current taxes to meet the needs of environmental protection, e.g. raising the rates of resources tax, consumption tax and modify levying measures.

[Source: China.com](http://www.china.com.cn/economic/txt/2008-01/06/content_9485614.htm) ([see archive](China_environmental_tax.pdf))

## Other

### New energy rules planned for government buildings

Government office buildings and large public structures will face energy quotas, higher utility rates for overuse and the public release of their efficiency ratings this year, officials within the Construction Ministry said recently.

The measures are just a few of the new energy-saving initiatives under development.

Data suggests that government offices and large public buildings use 22 per cent of the total electricity consumed in China's cities every year.

In Beijing, State buildings use 85.4 kWh of electricity per square meter of space each year. That is 10 to 20 times the amount that residential buildings use, according to a release by the Beijing Municipal Committee of Construction and the Beijing Development and Reform Committee.

The statistics are based on audits carried out on the offices of 20 State bodies and several large public buildings, including student dormitories, hospitals, hotels, shopping centres, sports venues and commercial office buildings.

Vice-Premier Zeng Peiyan called on State bodies to take the lead in reducing their energy use during a national work conference on Party- and State-level energy-saving initiatives.

Zeng said that this year the central government will cap the construction of State office buildings and employ more energy-saving technologies.

The central government will also introduce a contract system for energy-use and push for reform of fees charged for air conditioning.

In October, the Ministry of Construction and the Ministry of Finance jointly released a notice calling for the establishment of an appraisal system to reward or punish State office buildings and other large structures according to how efficiently they use energy.

In 2006, the State electricity bill fell 12 per cent from its 2005 level. The water bill fell 19 per cent and fees for overall energy consumption, on a per capita basis, fell 6 per cent.

Kang Xiaoguang, a public management professor at Renmin University of China, said State bodies should set an example when it comes to saving energy.

"As energy pressures grow, the government should demonstrate its willingness to restrict use so other sectors, especially industry, which is hungry for energy, follow suit," he said.

New measures, especially economic tools such as pricing, will help fix the situation, he said.

[Source: sepa.gov.cn](http://english.sepa.gov.cn/News_service/media_news/200801/t20080104_115942.htm) ([see archive](New_energy_rules.pdf))

### Overtime payments increased slightly

New Year's Day of 2008 is the first vacation after the implementation of the new holiday regime in China. Labour authorities reminded employers and employees that calculation of overtime payment this year differs slightly to that of past years.

Experts from Shanghai Labour and Social Security Bureau said that the number of working days per month is adjusted from the previous 20.92 days to 20.83 days due to the Amendment to Measures Regarding the Implementation of National Holidays and Vacations, which adds one more holiday to each year.

This adjustment changes the calculation of overtime payment meaning that employees are entitled to a slightly higher payment.

Experts also said that, in practice, various localities have different schedules for adjustment. Currently, some provinces and municipalities, including Shandong and Shanghai, have not yet released any policies and the previous number of working days per month remains.

In addition, labour authorities reminded employers that they must pay three times' the rate of pay for overtime on national holidays and two times' the rate of pay for overtime on public holidays.

[source: China.com](http://www.china.com.cn/economic/txt/2008-01/02/content_9464543.htm) ([see archive](Overtime_payments_increased_slightly.pdf))

### Half of all provinces pay karaoke copyright royalties

Nearly half of all Chinese provinces have introduced initiatives to collect karaoke copyright royalties by the end of 2007 in an effort to protect intellectual property rights (IPR) in the audio and video sectors.

China Audio and Video Association (CAVA) and the China Copyright Society of Works of Music (CCSWM) said 15 provinces and municipalities, including Beijing, Guangdong and Jiangsu, had so far agreed to pay copyright royalties, and the practice should be spread nationwide.

Karaoke operators are required to pay a daily charge of 12 yuan (US$1.6) for each karaoke room--less in underdeveloped regions--or the use of music and video products, as stated in a National Copyright Administration notice released in November 2006.

Liu Chuntian, an IPR expert, said the charges represent the fact that China's IPR protection has shifted from theory to practice.

An official with the country's IPR protection group echoed Liu, saying that the move marked new progress in property protection.

However, some Karaoke operators are still trying to avoid or delay paying the fees, and are using song databases illegally.

Lu Wenju, spokesman with CAVA and CCSWM, said the associations would accelerate IPR protection campaigns, and resort to court proceedings against the illegal use of songs.

Yunnan Province had recently reported a case of the illegal copying of a 20,000-song-database. Two suspects have been taken into custody.

The remaining 16 Chinese provinces have plans to implement IPR for karaoke performances, but no timetable has been provided as to when this will be carried out.

[Source: mofcom.gov.cn](http://english.mofcom.gov.cn/article/newsrelease/counselorsoffice/westernasiaandafricareport/200801/20080105316926.shtml) ([see archive](Half_of_provinces_pay_karaoke_copyright_royalties_in_China.pdf))

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