REGULATIONS

Project Approval Regime

The State Council promulgated the Decision of the State Council on Reform of the Investment System ("Decision") (國務院關於投資體制改革的決定) in June 2004, pursuant to which, the systems of "Project Approval" and "Filing" will be used for those non-government funded projects.

(1) Project Approval from NDRC System (applicable to both domestically-invested and foreign-invested projects)

Under the overall "project approval" system, for those important and restricted investment projects relating to public or social interest as specified in the Catalog of Investment Projects Authorized by the Government (《政府核准的投資項目目錄》) which was first promulgated in June 2004 as an attachment to the Decision and further amended in December 2013. These projects must obtain a prior project approval ("NDRC Project Approval") from the State Council, the central NDRC, the local government or the competent local counterparts of NDRC, depending on the industry, the size of the proposed investment and funding resources of the projects. Besides, to the extent permitted by the PRC regulations, local governments or the local counterparts of NDRC at the provincial level may grant their project approval authority and powers to local counterparts of NDRC at the lower levels by means of local regulations and rules.

The NDRC Project Approvals for the projects in the restricted industries are generally required to be approved by the project approval authorities of higher levels than those for the projects under the encouraged or permitted industries with the same investment volume.

According to the Decision, "large theme parks" fall into the scope of projects requiring NDRC Project Approval from the State Council. In addition, pursuant to the Catalog of Fixed Asset Investment Projects to be Verified by National Development and Reform Commission and Reported to the State Council for Verification or Examination and Approval (Trial Implementation) (《國家發展改革委核報國務院核准或審批的固定資產投資項目目錄(試行)》) promulgated by the NDRC in September 2004, projects of "large theme parks" shall be verified by the NDRC and reported to the State Council for verification or examination and approval.

In terms of domestically-invested projects, whether the project approval authority for a specific project is the State Council, central NDRC or local counterparts of NDRC depends on whether the Decision and the Catalog of Investment Projects Authorized by the Government expressly require a project to obtain NDRC Project Approval from the State Council or central NDRC, while other projects shall be approved by local counterparts (as opposed to central) of NDRC according to the Decision and the relevant local regulations.

In terms of foreign-invested projects, the NDRC Project Approval system is also based on the Catalog of Guidance on Industries for Foreign Investment (《外商投資產業指導目錄》, the "Catalog") which was jointly promulgated by the Ministry of Commerce and the NDRC in November 2004, and amended and restated in October 2007 and December 2011, respectively, and the Interim Provisions on Approving Foreign Investment Projects (《外商投資項目核准暫行管理辦法》).

The Catalog is the principal guide to foreign investors' investment activities in the PRC. The Catalog classifies all foreign-invested projects into four categories: "encouraged industries," "permitted industries," "restricted industries" and "prohibited industries." The "encouraged industries," "restricted industries" and "prohibited industries" are expressly listed by category in the Catalog. Except for banning foreign investments in prohibited industries, one primary legal implication of classifying foreign investment industries into four categories is to determinate the level of government authority required for the approval of an investment.

Summarized below is a general introduction regarding the applicable NDRC Project Approval issuance authorities for various types of foreign-invested projects subject to "NDRC Project Approval" system with different total investment amounts:

The State Council

(i) projects in restricted industries with a total investment amount of US$100 million or more, or

(ii) projects in encouraged or permitted industries with a total investment amount of US$500 million or more.

NDRC

(i) projects in restricted industries (excluding real property projects) with a total investment amount of US$50 million or more, or

(ii) projects in encouraged or permitted industries with a total investment amount of US$300 million or more, provided that the projects are required to be controlled (including relatively controlled) by a Chinese party according to the Catalog.

Local counterparts of NDRC (as opposed to the central NDRC)

(i) real estate property projects in restricted industries and other projects in restricted industries with a total investment amount less than US$50 million are subject to the approval of provincial counterparts of NDRC, or

(ii) projects in encouraged or permitted industries with a total investment amount less than US$300 million are subject to the approval of local counterparts of NDRC at provincial or lower levels, provided that the projects are required to be controlled (including relatively controlled) by a Chinese party according to the Catalog.

Under the Catalog, only the development and construction of large theme parks fall into the restricted industries, whilst development and construction of a non-large theme park is subject to approval requirements applicable to permitted industries under the Catalog, which shall be approved by the local counterparts of NDRC if its total investment amount is less than US$300 million.

(2) Project Approval from MOFCOM System (only applicable to foreign-invested projects)

According to the Decision and Catalog, for foreign-invested projects, in addition to the NDRC Project Approvals, they are also subject to approval by MOFCOM or the relevant local counterparts of MOFCOM ("MOFCOM Approval").

Summarized below is a general introduction regarding the applicable MOFCOM Approval issuance authorities for various types of foreign-invested projects with different total investment amounts:

MOFCOM

(i) projects in restricted industries with a total investment amount of US$50 million or more, or

(ii) projects in encouraged or permitted industries with a total investment amount of US$300 million or more.

Local counterparts of MOFCOM

(i) projects in restricted industries with a total investment amount less than US$50 million, or

(ii) projects in encouraged or permitted industries with a total investment less than US$300 million.

Under the Catalog, only the development and construction of "large theme parks" falls into the restricted industries while non-large theme park projects fall into the categories of permitted industries and therefore any non-large foreign-invested theme park with an investment less than US$300 million only require MOFCOM Approval from local counterparts of MOFCOM.

(3) NDRC Project Approval Requirements Applicable to Theme Parks

In addition to the general requirements under the project approval regime as introduced above, in certain industries, like theme parks, the relevant authorities may have further specific regulations in respect of the NDRC Project Approval requirements.

Under the Decision and the Catalog, only large theme parks fall into the restricted industries category. Therefore, a foreign invested large theme park will be subject to approval requirements applicable to restricted industries under the Catalog, pursuant to which it shall be approved by the applicable provincial counterpart of NDRC (in case its total investment amount is less than US$50 million), NDRC (in case its total investment amount is between US$50 million and US$100 million), or State Council (in case its total investment is US$100 million or more). However, a foreign-invested non-large theme park falls into permitted industries and is subject to approval requirements applicable to permitted industries under the Catalog, which shall be approved by the applicable local counterpart of NDRC if its total investment amount is less than US$300 million.

However, NDRC promulgated the Notice on Suspending New Theme Park Construction Projects (《關於暫停新開工建設主題公園項目的通知》) in August 2011, stipulating that beginning from the date of promulgation, relevant local government authorities shall not approve any new theme park construction project until detailed policies on standardizing the development of theme parks are promulgated. Any project already approved but not yet started shall not be started. Relevant local planning and land resources authorities shall suspend all procedures of planning and land resources for theme park construction projects. This notice also sets forth a two-pronged description of the theme park construction projects which shall be restricted and reported to relevant departments under the State Council: (i) artificial landscapes or amusement facilities constructed in the modern times attracting tourists for the purpose of profit-making through admission fees; and (ii) with the planning (or actual) total area of no less than 300 mu, or with the planning (or actual) total investment of no less than RMB500,000,000. However, such description is not a definition of "large theme park," even though it might provide some clues for reference.

In March 2013, the NDRC and certain other relevant authorities jointly promulgated the Certain Opinions on Regulating the Development of Theme Park (《關於規範主題公園發展的若干意見》) (the "Theme Park Opinions"), theme parks are for the first time defined as "parks constructed for the purpose of profit-making, the land area and investment amount of which reach a certain scale and which are operated in an enclosed manner with one or more specific cultural and tourist themes and provide visitors with paid leisure experience and culture and entertainment products or services."

While the Theme Park Opinions do not specify what constitutes "operation in an enclosed manner," after consultation with our PRC legal advisor, we are of the view that a park operated in an enclosed manner means a park surrounded with walls or barriers with a limited number of entrances for admission into the entire park area upon presentation of tickets by visitors. Theme Parks Under 2013 Opinions as described in the Theme Park Opinions are different from theme parks as defined in the section entitled "Glossary of Technical Terms" and used throughout this prospectus. Our six theme parks, the Additional Theme Parks and our new projects in Shanghai and Sanya are theme parks from the perspectives of their business operations and the existing or expected public perception of them as amusement or entertainment parks offering a variety of entertainment attractions, rides, shows and other events. However, our Sanya project is not deemed as a Theme Park Under 2013 Opinions based on our interviews with the local government authorities in Sanya and the advice of our PRC legal advisor, as it is planned to be operated in an open manner as themed entertainment park area, as opposed to an enclosed park with a specific theme. See "Business – Theme Parks To Be Developed – Sanya Haitang Bay Dream World." The opinions classify Theme Parks Under 2013 Opinions into three categories according to the area and investment scale of the parks:

Theme park	Area and investment scale	Approval authority
Extra Large	the planning (or actual) area ≥ 2,000 mu; or the planning (or actual) investment ≥ RMB5 billion	the State Council

Theme park	Area and investment scale	Approval authority
Large	600 mu ≤ the planning (or actual) area < 2,000 mu; or RMB1.5 billion ≤ the planning (or actual) investment < RMB5 billion	NDRC
Small and Medium Size	200 mu ≤ the planning (or actual) area < 600 mu; or RMB0.2 billion ≤ the planning (or actual) investment < RMB1.5 billion	Provincial counterparts of NDRC

The State Council promulgated the amended Catalog of Investment Projects Authorized by the Government (2013 version) in December 2013. The provisions with respect to the NDRC Project Approvals for the theme parks are consistent with those stipulated in the Theme Park Opinions.

Environmental Impact Assessment

The MEP promulgated the Catalog of Construction Projects with their EIA Documents Subject to the Direct Examination and Approval by the MEP (《環境保護部直接審批環境影響評價文件的建設項目目錄》) in March 2009, pursuant to which, construction projects of large theme parks are still subject to the direct examination and approval by the MEP.

Wild Animals Protection

Import and Export of Wild Animals

According to the Law of People's Republic of China on the Protection of Wild Animals (《中華人民共和國野生動物保護法》, the "PRC Wild Animals Protection Law") promulgated by the SCNPC in November 1988 and taking effect in March 1989, as amended in August 2004 and in August 2009, (i) the export of wild animals under special state protection or the relevant animal products, and (ii) the import or export of wild animals or the relevant animal products whose import or export is restricted by international conventions to which China is a party, are subject to the approval of the department of wildlife administration under the State Council or by the State Council itself, and an import or export permit must be obtained from the state administrative authority in charge of the import and export of the endangered species. The customs shall grant the customs clearance after examining the import or export permit.

Pursuant to the Regulation on the Administration of the Import and Export of Endangered Wild Fauna and Flora (《瀕危野生動植物進出口管理條例》) promulgated by the State Council in April 2006 and taking effect in September 2006, (i) the import or export of endangered species of wild fauna and flora as well as the products thereof whose import and export is restricted by the Convention on the International Trade of Endangered Species of Wild Fauna and Flora (《瀕危野生動植物國際貿易公約》), and (ii) the export of endangered species of wild fauna and flora as well as the products thereof that has been restricted by the State Council or the competent department under the State Council, shall be subject to the approval of the administrative department of endangered species of wild fauna and flora under the State Council.

Pursuant to the Regulation for the Implementation of the People's Republic of China on the Protection of Aquatic Wild Animals (《水生野生動物保護實施條例》) promulgated by the Ministry of Agriculture (農業部) and taking effect in October 1993, as amended in January 2011, for the export of aquatic wild animals under special protection of the State or the products thereof, and the import or export of aquatic wild animals or the relevant animal products which are restricted by international conventions to which China is a party, (i) an application shall be submitted to the administration in charge of fisheries at the provincial level; (ii) such application shall be approved by the competent department under the State Council in charge of fisheries; and (iii) an import or export permit shall be obtained from the State administrative authority in charge of the import and export of endangered species. The import or export of the wild animals described in this paragraph by any zoo for the purpose of exchange of animals shall be examined and approved by the competent department under the State Council in charge of construction before the application thereof is submitted for approval by the competent department under the State Council in charge of fisheries.

According to the Special Permission Measures for Utilization of Aquatic Wild Animals (《水生野生動物利用特許辦法》) promulgated by the Ministry of Agriculture in June 1999 and taking effect in September 1999, as amended in July 2004 and in November 2010, the export of aquatic wild animals or the relevant animal products involving domestic transportation, carrying or mailing is subject to, in addition to the abovementioned approval for export, the transportation license issued by the administration in charge of fisheries at the provincial level of the place of departure of such export or its authorized agencies. Similarly, the import of aquatic wild animals or the relevant animal products involving domestic transportation, carrying or mailing is subject to, in addition to the abovementioned approval for import, the transportation license issued by the administration in charge of fisheries at the provincial level of the place of the port of entry or its authorized agencies.

Entry and Exit Quarantine Inspection of Wild Animals

According to the Law of the People's Republic of China on the Entry and Exit Quarantine of Animals and Plants (《中華人民共和國進出境動植物檢疫法》) promulgated by the SCNPC in October 1991 and taking effect in April 1992, as amended in August 2009, and the Regulations for the Implementation of the Law of the People's Republic of China on the Entry and Exit Quarantine of Animals and Plants (《中華人民共和國進出境動植物檢疫法實施條例》) promulgated by the State Council in December 1996 and taking effect in January 1997, animals or relevant animal products entering into or exiting from or transiting the PRC territory are subject to quarantine inspections.

Pursuant to the Measures on the Administration of Examination, Quarantine and Approval of the Entry of Animals and Plants (《進境動植物檢疫審批管理辦法》) promulgated by the SAQSIQ in August 2002 and taking effect in September 2002, the examination, quarantine and approval of the entry of animals are under the supervision of the SAQSIQ. Local branches of SAQSIQ are responsible for the preliminary review of the application for the examination, quarantine and approval of the entry of animals within the area under their respective jurisdiction. If the entering animals or the relevant animal products are under the Catalog of Entry Animals, Plants, and Their Products Which Need to Be Under Quarantine, Examination and Approval (《需要檢疫審批的進境動植物及其產品名錄》), applications to the SAQSIQ for the quarantine permits shall be made prior to the conclusion of the relevant trade contracts or agreements.

Domestication and Breeding of Wild Animals

According to the PRC Wild Animals Protection Law, anyone who intends to domesticate and breed wild animals under special protection of the State shall obtain a license in advance.

Under the Regulation for the Implementation of the People's Republic of China on the Protection of Terrestrial Wild Animals (《陸生野生動物保護實施條例》) promulgated by the Ministry of Forestry and taking effect in March 1992, a domestication and breeding license is required for the domestication and breeding of wild animals under special protection of the State. The precious and endangered species of wild animals imported from abroad may, after the examination and identification by the competent department under the State Council in charge of forestry, be deemed as the species of wild animals under special protection of the State.

Pursuant to the Regulation for the Implementation of the People's Republic of China on the Protection of Aquatic Wild Animals (《水生野生動物保護實施條例》) promulgated by the Ministry of Agriculture and taking effect in October 1993, as amended in January 2011, for the domestication and breeding of aquatic wild animals under the first degree special protection of the State, a domestication and breeding license issued by the competent department under the State Council in charge of fisheries is required. For the domestication and breeding of aquatic wild animals under the second degree special protection of the State, a domestication and breeding license issued by the administration in charge of fisheries at the provincial level is required.

Commercial Operation and Utilization of Wild Animals

According to the PRC Wild Animals Protection Law, anyone engaged in the utilization of wild animals or the products thereof shall pay a fee for the protection and administration of wild animal resources.

Under the Regulation for the Implementation of the People's Republic of China on the Protection of Terrestrial Wild Animals (《陸生野生動物保護實施條例》) promulgated by the Ministry of Forestry and taking effect in March 1992, anyone engaged in the commercial operation or utilization of terrestrial wild animals which are not under special protection of the State or the relevant animal products thereof shall apply to the SAIC for recordation and registration. Legal entities or individuals approved and registered to be engaged in the commercial operation or utilization of wild animals which are not under special protection of the State or the products thereof shall engage in the commercial operation or utilization thereof within the limitation of the annual quota approved by the competent department of forestry administration under the people's government of the relevant province, autonomous region or municipality directly under the State or by a department authorized thereby.

Pursuant to the Regulation for the Implementation of the People's Republic of China on the Protection of Aquatic Wild Animals (《水生野生動物保護實施條例》) promulgated by the Ministry of Agriculture and taking effect in October 1993, as amended in January 2011, for the sale, purchase and use of aquatic wild animals under first degree special protection of the State, a commercial operation and utilization license issued by the department under the State Council in charge of fisheries is required. For the sale, purchase and use of aquatic wild animals under second degree special protection of the State, a commercial operation and utilization license issued by the administration in charge of fisheries at the provincial level is required.

Transportation of Wild Animals

According to the PRC Wild Animals Protection Law, the transportation or carrying of wild animals under special state protection or the relevant animal products out of any county must be approved by the department of wild animals administration of the people's government of the relevant province, autonomous region or municipality directly under the State, or by agencies authorized by the same department.

Under the Regulation for the Implementation of the People's Republic of China on the Protection of Terrestrial Wild Animals (《陸生野生動物保護實施條例》) promulgated by the Ministry of Forestry and taking effect in March 1992, for the transportation or carrying of terrestrial wild animals under special protection of the State or the relevant animal products to be made out of a county, an application on top of the obtained special hunting and catching license and domestication and breeding license shall be made to the competent authority in charge of terrestrial wild animals administration at the county level. The application shall be submitted to and approved by the competent authority in charge of forestry administration of the people's government of the relevant province, autonomous region or municipality directly under the State or by a department authorized thereby. If the transportation of terrestrial wild animals under special protection of the State is necessary for the reproduction of terrestrial wild animals among different zoos, the application for the transportation shall be approved by the competent department of construction administration of the people's government of the relevant province, autonomous region or municipality directly under the State authorized by the competent authority in charge of forestry administration at the same level.

Pursuant to the Regulation for the Implementation of the People's Republic of China on the Protection of Aquatic Wild Animals (《水生野生動物保護實施條例》) promulgated by the Ministry of Agriculture and taking effect in October 1993, as amended in January 2011, for the transportation or carrying of aquatic wild animals under special protection of the State or the relevant animal products to be made out of a county, an application attached with the special hunting and catching license and the domestication and breeding license shall be made to the competent authority in charge of aquatic wild animals administration of the people's government at the county level. The application shall be submitted to and approved by the competent authority in charge of fisheries administration of the people's government of the relevant province, autonomous region or municipality directly under the State or by a department authorized thereby. If the transportation of aquatic wild animals under special protection of the State is necessary for the reproduction of wild animals among different zoos, the application for the transportation shall be approved by the competent authority in charge of construction administration of the people's government of the relevant province, autonomous region or municipality directly under the State authorized by the competent authority in charge of fisheries administration at the same level.

According to the Special Permission Measures for Utilization of Aquatic Wild Animals (《水生野生動物利用特許辦法》) promulgated by the Ministry of Agriculture in June 1999 and taking effect in September 1999, as amended in July 2004 and in November 2010, with respect to the transportation of aquatic animals or the relevant animal products between different provinces for purpose of exhibition or performance, a departure transportation license shall be obtained from the administration in charge of fisheries at the provincial level of the place of departure, on top of the exhibition or performance acceptance certificate obtained from the administration in charge of fisheries at the provincial level where the exhibition or performance is organized. After the exhibition or performance, a return transportation license shall be obtained from the administration in charge of fisheries at the provincial level where the exhibition or performance is organized, on top of the obtained exhibition or performance acceptance certificate and departure transportation license.

Management of Aquariums

According to the Notification on Strengthening Management of Aquariums, Exhibition, Performance, Domestication and Breeding, and Scientific Study and Utilization of Aquatic Wild Animals (《關於加強水族館和展覽、表演、馴養繁殖、科研利用水生野生動物管理有關問題的通知》) promulgated by the Ministry of Agriculture and taking effect in January 1996, aquariums that utilize, exhibit or perform aquatic wild animals shall obtain domestication and breeding license from the department of fisheries administration at the provincial level where the exhibition or performance is organized, and submit reports on hunting, purchasing and utilization of aquatic animals, in addition to obtaining the domestication and breeding license. Aquariums without domestication and breeding license shall not be approved to hunt, purchase or utilize aquatic wild animals.

Pursuant to the Notification on Strengthening Management of Domestication and Performance of Aquatic Wild Animals in Sea-aquariums and Aquariums (《關於加強海洋館和水族館等場館水生野生動物馴養展演活動管理的通知》) promulgated by the Ministry of Agriculture and taking effect in September 2010, for the newly constructed aquariums which mainly serve the objectives of domestication, exhibition and performance, construction plans and relevant feasibility study reports shall be submitted to the department in charge of fisheries at the national or provincial level. Such aquariums shall not be allowed to engage in domestication, exhibition and performance of aquatic wild animals or other activities requiring special permission without passing the expert evaluation of endangered animals and plants science committee of the Ministry of Agriculture.

Sale and Purchase of Wild Animals

According to the PRC Wild Animals Protection Law, sales or purchases of wild animals under the special protection of the State or the relevant animal products shall be prohibited. Where the sale, purchase or utilization of wild animals under the first degree protection of the State or the relevant animal products is necessary for scientific research, domestication and breeding, exhibition or other special purposes, the entity involved shall apply for approval by the department of the State Council in charge of wild animal administration or by an entity authorized by such department. Where the sale, purchase or utilization of wild animals under the second degree special protection of the State or the relevant animal products is necessary, the entity involved shall apply for approval by the authority in charge of wild animal administration at the provincial level or by an entity authorized by such authority. Entities and individuals that domesticate and breed wild animals under special protection of the State may, by presenting their domestication and breeding licenses, sell wild animals under special protection of the State or the relevant animal products, in accordance with relevant regulations, to purchasing entities designated by the government.

Establishment of a Real Property Development Enterprise

General Requirements of Real Property Development Enterprises

A "real property developer" is defined as an enterprise that engages in the development and operation of real property for profit whose establishment is subject to a series of requirements set forth in the relevant PRC laws and regulations. Such PRC laws and regulations mainly include the PRC Law on Administration of Urban Real Estate (《中華人民共和國城市房地產管理法》, the "PRC Urban Real Estate Administration Law") promulgated by the SCNPC and taking effect in January 1995, as amended in August 2007, the Regulations on Administration of Development of Urban Real Estate (《城市房地產開發經營管理條例》) promulgated by the State Council in July 1998, and the Notice on Relevant Issues Concerning Carrying out the Circular on Standardizing the Admittance and Administration of Foreign Capital in the Real Estate Market (《關於貫徹落實<關於規範房地產市場外資准入和管理的意見>有關問題的通知》) promulgated by the Ministry of Commerce in August 2006.

Accordingly, a real property developer shall register with the SAIC and report to the relevant real property administration authority within 30 days upon its establishment with the minimum registered capital of RMB1 million, at least four full-time real property or construction professionals and at least two full-time accounting officers, each of whom must have the relevant professional qualification or certificate.

Specific Requirements of Foreign-invested Real Property Development Enterprises

In the case that a real property developer is foreign-invested, the establishment of such a FIREE is subject to additional regulatory requirements in terms of both procedure and substance.

In terms of the procedure, the initial establishment and any subsequent major changes (including the capital increase and change of business scope) of a FIREE shall comply with the PRC regulations on foreign investment in general and is subject to the prior approval of the Ministry of Commerce or its local counterparts and prior approval from or subsequent registration with other relevant authorities in charge of commercial, corporate and foreign exchange matters. Such PRC regulations on foreign investment in general include the Company Law (《公司法》), the Law of the People's Republic of China on Equity Joint Ventures Using Chinese and Foreign Investment (《中華人民共和國中外合資經營企業法) and its implementing regulations, and the Law of the PRC on Wholly Foreign-owned Enterprises (《中華人民共和國外資企業法》) and its implementing rules.

In terms of the substance, (i) when the total investment of a FIREE exceeds US$3 million, the registered capital of such FIREE shall be no less than 50% of its total investment amount; and when the total investment of a FIREE is less than or equal to US$3 million, the registered capital of such FIREE shall be no less than 70% of its total investment amount, provided that in either case, the registered capital of a FIREE shall be no less than RMB1 million; and (ii) a FIREE shall have at least four full-time real property or construction professionals and at least two full-time accounting officers, each of whom must have the relevant professional qualification or certificate.

On top of the above-mentioned laws and regulations setting up the regulatory framework, the relevant authorities also issued certain rules emphasizing, specifying or supplementing the above requirements of the FIREEs. According to the Opinion on Standardizing the Access and Administration of Foreign Investment in the Real Estate Market (《關於規範房地產外資準入和管理的意見》, the "Opinion 171") jointly promulgated by the Ministry of Construction (建設部), the Ministry of Commerce, NDRC, PBOC, SAIC and SAFE in July 2006 and the Notice in Respect of Foreign Exchange Issues in the Real Estate Market (《關於規範房地產市場外匯管理有關問題的通知》, the "Notice 47") promulgated by SAFE and the Ministry of Construction in September 2006, an overseas entity or individual investing in real property in China which are not for its own use shall apply for the establishment of a FIREE and may only conduct relevant business activities within the authorized business scope. The Opinion 171 intends to impose additional restrictions on the establishment and operation of a FIREE by requiring the amount of registered capital to reach certain percentage of the total investment, limiting the tenure of approval certificates and business licenses to one-year period, restricting the transfer of equity interests in a FIREE or its projects, and prohibiting the borrowing of money from domestic or foreign lenders where a FIREE's registered capital is not paid up or the land use right ownership certificate has not been duly obtained.

On May 23, 2007, the Ministry of Commerce and the SAFE issued the Notice on *Further Strengthening and Standardizing the Approval and Administration of Foreign Direct Investments in Real Estate Enterprise* (《商務部國家外匯管理局關於進一步加強規範外商直接投資房地產業審批與監管的通知》, the "Notice No. 50"). Some of the key developments in this area are as follows:

- the local governments/authorities that approve FIREE establishments are now required to file such approvals with the Ministry of Commerce;

- prior to establishing a FIREE, foreign investors are required to obtain land use rights or the ownership of a real estate project, or the investor should have entered into an indicative land grant contract or indicative project purchase agreement with the land administrative department, developer of the land or owner of the property;

- the practice of allowing foreign investors taking over local project companies by way of round trip investment is strictly controlled; and

- foreign invested enterprise that intends to engage in real estate development, or an existing FIREE which intends to undertake a new real estate development project, must first apply to the relevant authorities for such business scope and scale expansion in accordance with laws and regulations on foreign investments.

On July 10, 2007, the SAFE promulgated the *Notice on Publicity of the List of the 1st Group of Foreign Invested Real Estate Projects Filed with the Ministry of Commerce* (《國家外匯管理局綜合司關於下發第一批通過商務部備案的外商投資房地產項目名單的通知》, the "Notice No. 130"), which is a strict embodiment and application of Notice No. 50, under which some notices will have a significant impact on offshore financings of FIREEs. Some of the key developments in this area are as follows:

- an FIREE which has obtained an Foreign Invested Enterprise Approval Certificate ("FIEAC") (including new establishment and registered capital increase) and filed with the Ministry of Commerce after June 1, 2007 may not incur foreign debt or convert loans in foreign currency into RMB; and

- an FIREE which obtains an FIEAC after June 1, 2007 but fails to file with the Ministry of Commerce after June 1, 2007 may not conduct a foreign exchange registration nor a foreign exchange conversion of its registered capital.

Under the *Circular on Properly Conducting Filing for the Record for Foreign Investment in the Real Property Sector* (《商務部關於做好外商投資房地產業備案工作的通知》, the "Notice No. 23"), promulgated by the Ministry of Commerce on June 18, 2008 and effective as of July 1, 2008, the Ministry of Commerce delegated to its provincial branches the review of filing records in relation to FIREE's establishment, capital increase, equity transfer, merger and acquisition, etc. Under Notice No. 23, the local branches of the Ministry of Commerce submit all the application documents that were previously required to be filed with the Ministry of Commerce to the aforesaid provincial branches of the Ministry of Commerce for review. Within five days of receipt of the Ministry of Commerce's request, the provincial branches of the Ministry of Commerce that have reviewed such filings must submit all of the aforementioned materials to the Ministry of Commerce.

Notwithstanding the above, Notice No. 23 does not de-regulate the Chinese real estate market. The previous material requirements for granting approval under Opinion 171 and Notice No. 50 still apply.

Under the *Notice on Strengthening Administration of the Approval and Registration of Foreign Investment into Real Estate Industry* (《商務部辦公廳關於加強外商投資房地產業審批備案管理的通知》), promulgated by the Ministry of Commerce on November 22, 2010, among other things, if a real estate enterprise is established in China with overseas capital, the enterprise is prohibited from purchasing and/or selling real estate properties completed or under construction for arbitrage purposes. The local counterparts of the Ministry of Commerce are not permitted to approve investment companies to engage in the real estate development and management.

Qualifications of a Real Property Development Enterprise

According to the Provisions on Administration of Qualifications of Real Property Development Enterprises (《房地產開發企業資質管理規定》, the "Provisions on Administration of Qualifications"), a real property developer shall obtain the certificate of qualification for real property development. Under the Provisions on Administration of Qualifications, real property developers are categorized into four classes as follows:

Classification	Competent approval authority	Eligibility
Class I	(i) preliminary examination by the construction authorities at the provincial level and final approval of the Ministry of Construction	(i) undertaking projects of any scale and in any location in China
Class II, III, or IV	(i) construction authorities at the provincial level	(i) undertaking projects with a GFA less than 250,000 sq.m (ii) subject to confirmation by the construction authorities at the provincial level

When reviewing the applications for qualification certificates, the construction authorities will examine the qualifications of professionals employed by the applicant real property developer and its financial condition and operating outcome. A real property developer that passes the qualification examination will be issued with a qualification certificate of the corresponding class. A real property developer may only engage in real property development and sales business within the scope permitted for its class. The qualification of a developer is subject to annual inspection conducted by the construction authority, the failure of which may lead to degradation or revocation of the qualification of the developer.

For a newly established real property developer that has not yet been ready to apply for the classification of its qualification or the qualification certificate of the corresponding class, the construction authority will typically issue a provisional qualification certificate within 30 days upon the receipt of the developer's application for recordation of its establishment. The provisional qualification certificate will be effective for one year from its date of issuance and may be extended for no more than two additional years with the approval of the construction authority. A newly established real property enterprise holding a provisional qualification certificate shall apply to the construction authority for the classification of qualification within one month prior to the expiry of its provisional qualification certificate.

Development of a Real Property Project

According to the amended and restated Catalog jointly promulgated by the Ministry of Commerce and the NDRC in December 2011:

- the mass development of land lots (土地成片開發) falls within the scope of "restricted industries for foreign investment" (the "Restricted Category") and is accessible for foreign-invested enterprises in the form of Sino-foreign joint ventures only;
- the construction and operation of villas by foreign investors is prohibited;
- the construction and operation by foreign investors of high-end hotels, premium office buildings and international conference centers falls within the scope of the Restricted Category; and
- foreign investment is generally permitted in all other real property development.

To the extent permitted under the Catalog, a foreign real property developer may establish joint ventures or wholly foreign owned enterprises in accordance with PRC laws and administrative regulations governing foreign-invested enterprises.

According to the Interim Provisions on Approving Foreign Investment Projects (《外商投資項目項目核準暫行管理辦法》) promulgated by the NDRC in October 2004 and the Notice on Delegation of Power of Approval for Foreign Investment Projects (《關於做好外商投資項目下放核準許可權工作的通知》), NDRC approval is required for foreign investment projects as below:

Approval level	Foreign investment projects
NDRC	(i) Projects in Restricted Category with a total investment of at least US$50 million, or (ii) Projects in encouraged or permitted industries for foreign investment (the "Encouraged Category" or "Permitted Category") with a total investment of at least US$300 million.
The State Council	(i) Projects in Restricted Category with a total investment of at least US$100 million, or (ii) Projects in Encouraged Category or Permitted Category with a total investment of at least US$500 million.
NDRC local counterparts	(i) Projects in Restricted Category with a total investment less than US$50 million, or (ii) Projects in Encouraged Category or Permitted Category with a total investment less than US$300 million, except for those are subject to the approval of the relevant departments of the State Council as prescribed in the Catalog of Investment Projects Authorized by the Government (《政府核准的投資項目目錄》).

According to the Measures for Control and Administration of Grant and Assignment of Right to Use Urban State-owned Land (《城市國有土地使用權出讓轉讓規劃管理辦法》) promulgated by the Ministry of Construction in December 1992, as amended in January 2011, the Notice on Strengthening the Planning Administration of Granting and Transferring Right to Use State-owned Land (《建設部關於加強國有土地使用權出讓規劃管理工作的通知》) promulgated by the Ministry of Construction in December 2002 and the Law of the PRC on Urban and Rural Planning (《中華人民共和國城鄉規劃法》, the "PRC Urban and Rural Planning Law") promulgated by the National People's Congress (全國人民代表大會, the "NPC") in October 2007 and taking effect in January 2008, after concluding a land use right grant contract, a real property developer must apply for a construction land planning permit and a construction works planning permit from the relevant municipal planning authority.

When the land has been properly prepared and the developer is ready to commence the construction, except for limited exceptions expressly stipulated by the law, a construction permit issued by the construction authorities at or above the county level shall be obtained, according to the Measures for Administration of Granting Permission for Commencement of Construction Works (《建築工程施工許可管理辦法》) promulgated by the Ministry of Construction in October 1999, as amended in July 2001. According to the Notice Regarding Strengthening and Regulating the Administration of Newly-commenced Projects (《國務院辦公廳關於加強和規範新開工項目管理的通知》) promulgated by the General Office of the State Council in November 2007, before commencement of construction, all projects must fulfill certain conditions, including, among others, compliance with national industrial policy, the relevant development plan, land supply policy and market access standards, completion of all approval or registration procedures, compliance with the relevant zoning plan, completion of proper land use procedures and obtaining proper environmental protection approvals and construction permits or commencement reports.

The development of a real property project must comply with various laws and legal requirements of construction quality, safety standards and technical guidance on architecture, design and construction work, as well as provisions of the relevant contracts. The Regulations on the Quality Management of Construction Projects (《建設工程質量管理條例》) promulgated and implemented by the State Council in January 2000 sets out respective quality responsibilities and liabilities for construction companies, reconnaissance companies, design companies, construction contractors, and construction supervision companies. According to the Regulations on Energy Efficiency for Civil Buildings (《民用建築節能條例》) promulgated by the State Council in August 2008, civil buildings shall seek to reduce the energy consumption of buildings and make energy utilization more efficient.

After a building is completed, a real property developer shall organize an examination of completion by the relevant government authorities and experts, according to the Interim Provisions on Inspection Upon Completion of Buildings and Municipal Infrastructure (《房屋建築工程和市政基礎設施工程竣工驗收備案管理暫行辦法》) promulgated by the Ministry of Construction in June 2000, as amended in October 2009. A developer shall file certain documents with the relevant local construction authority at or above the county level within 15 days after the construction is qualified for the acceptance examination. A real property development project may not be delivered until and unless it has satisfactorily passed the necessary acceptance examination. Where a real property project is developed in phases, an acceptance examination may be carried out upon completion of each phase.

Land for Real Property Development

According to the Circular on the Distribution of the Catalog for Restricted Land Use Projects (2012 Edition) and the Catalog for Prohibited Land Use Projects (2012 Edition) (《關於印發<限制用地項目目錄(2012年本)>和<禁止用地項目目錄(2012年本)>的通知》) promulgated by MLR in May 2012, the transferred area of the residential housing projects shall not exceed: seven hectares for small cities and towns, 14 hectares for medium-sized cities and 20 hectares for large cities, and the plot ratio which is not more than 1.0.

According to the Regulations on the Grant of State-owned Construction Land Use Right Through Public Tender, Auction and Listing-for-Sale (《招標拍賣掛牌出讓國有建設用地使用權規定》, the "Regulations on Grant of State-owned Land Use Right") promulgated by the MLR in May 2002, amended in September 2007 and taking effect in November 2007 and the Urgent Notice for Further Strengthening the Administration of the Land (《關於當前進一步從嚴土地管理的緊急通知》, the "Urgent Notice on Land Administration") promulgated by the MLR in May 2006, land use right for real property development must be granted through public tender, auction or listing-for-sale. According to these regulations, the relevant land administration authority at the city or county level, or the grantor, is responsible for preparing the public tender or auction documents and must make an announcement 20 days prior to the day of public tender or auction with respect to the particulars of the land and the time and venue of the public tender or auction. The grantor must also verify the qualification of the bidding and auction applicants, accept an open public auction to identify the winning tender or hold an auction to identify a winning bidder. The grantor and the winning tender or bidder will then enter into a land use right grant contract in the forms of the Model Template of the State-owned Land Use Right Granting Contract (《國有土地使用權出讓合同示範文本》) and the Model Template of the Supplementary Agreement to State-owned Land Use Right Granting Contract (for trial implementation) (《國有土地使用權出讓合同補充協議示範文本(試行)》) according to the Urgent Notice on Land Administration.

According to the PRC Property Rights Law (《中華人民共和國物權法》, the "Property Rights Law") promulgated by the NPC in March 2007 and taking effect in October 2007, when the term of the land use right for residential construction (but not other) purposes expires, it will be renewed automatically. Unless it is otherwise prescribed by any law, the owner of such land use right has the right to transfer, exchange, and use these rights as equity contributions or collateral for financing. If the State appropriates the premises owned by entities or individuals, it must compensate the properties owners and protect their rights and interests.

According to the Notice on Strengthening the Disposing of Idle Land (《關於加大閒置土地處置力度的通知》) promulgated by the MLR in September 2007 and the Rules on Land Registration (《土地登記辦法》) promulgated by the MLR in December 2007 and taking effect in February 2008, the land use right ownership certificate must not be issued before full payment of the land grant consideration.

According to the Notice on Further Enhancing the Revenue and Expenditure Control over Land Grant (《關於進一步加強土地出讓收支管理的通知》) jointly promulgated by the MOF, the MLR, the PBOC, the PRC Ministry of Supervision (監察部) and the PRC National Audit Office (審計署) in November 2009, the Notice on Issues Related to Strengthening Real Estate Supply and Supervision (《關於加強房地產用地供應和監管有關問題的通知》) promulgated by the MLR in March 2010 and the Urgent Notice on Further Tightening Management on Use of Land for Real Estate and Stabilizing the achievements of Macro-control on Real Estate Market (《關於進一步嚴格房地產用地管理鞏固房地產市場調控成果的緊急通知》) jointly promulgated by the MOHURD and the MLR in July 2012, the deposit for bidding land use right shall not be less than 20% of the base prices. The real

property developers are required to execute the land use right grant contract within 10 working days upon the successful bidding and make the first payment of at least 50% of the total land grant consideration within one month with the remaining balance to be paid within one year upon the execution of the land use right grant contract. Local government authorities are required to strictly enforce the penalties on real property developers that have delayed payment for land grant consideration or the construction due to their fault and breach of the restrictions on them from acquiring new land.

According to the Measures on Disposal of Idle Land (《閒置土地處置辦法》) promulgated by the MLR in April 1999, as amended in May 2012 and taking effect in July 2012, an idle land penalty may be imposed on the owner of land use right of the land that has not been developed within one year from the commencement date set out in the relevant land use right grant contract. Land use right may be forfeited without compensation, if the land has not been developed within two years from the commencement date set out in the relevant contract.

According to the Notice on Further Strengthening Control and Regulation of Land and Construction of Property Development (《關於進一步加強房地產用地和建設管理調控的通知》) jointly promulgated by the MLR and the MOHURD in September 2010, the Notice on Strict Implementation of Policies Regarding Regulation and Control of Real Property Land and Promotion of the Healthy Development of Land Markets (《關於嚴格落實房地產用地調控政策促進土地市場健康發展有關問題的通知》) promulgated by the MLR in December 2010 and the Urgent Notice on Further Tightening Management on Use of Land for Real Estate and Stabilizing the Achievements of Macro-control on Real Estate Market (《關於進一步嚴格房地產用地管理鞏固房地產市場調控成果的緊急通知》): (i) lands sold through auction at prices exceeding 50% of the base prices or the total prices or unit prices hit the record high shall be promptly reported to the MLR and the provincial offices of the MLR with the Schedule of Abnormal Land Transactions (《房地產用地交易異常情況一覽表》) within two working days upon the signing of the written confirmation for deal or notice for successful bidding and (ii) if any land which has been designated for affordable housing, is used for property development against relevant policies, the illegal income will be confiscated and the relevant land use right will be forfeited. In addition, changing the plot ratio without approval is strictly prohibited.

According to the Notice on Further Strengthening Control and Regulation of Land and Construction of Property Development (《關於進一步加強房地產和建設管理調控的通知》) promulgated by the MLR and the MOHURD in September 2010, the real property developers and their controlling shareholders who hold idle land for more than one year due to their own fault are prohibited from participating in land bidding process until such fault have been rectified.

According to the Notice on Further Regulating the Real Estate Market (《國務院辦公廳關於進一步做好房地產市場調控工作有關問題的通知》) promulgated by the General Office of State Council in January 2011, if a real property developer fails to obtain the construction permits or commence the construction within two years from the date specified in the land use right grant contract, the relevant granted land use right will be forfeited and an idle land penalty will be imposed. Further, a real property developer is not allowed to transfer its land or real property development projects if its investment in the projects (excluding the land grant consideration) is less than 25% of the total investment amount.

According to the Notice on Strictly Implementing the Land Use Standards and Vigorously Promoting the Saving and Intensification of Use of Land (《關於嚴格執行土地使用標準大力促進節約集約用地的通知》) promulgated by the MLR in September 2012, developers are restricted from obtaining approvals for the use of the parcels of land that: (i) fall under the Catalog for Prohibited

Land Use Projects; (ii) do not comply with the conditions set out in the Catalog for Restricted Land Use Projects; (iii) do not meet the requirements with respect to the investment intensity, plot ratio, building coefficient, proportion of administrative, office and living service facilities and rate of green space set out in the Industrial Project Control Indicators; (iv) total area of the land or that of several function zones exceeds the land use indicators; and (v) the land area and plot ratio do not comply with the land supply conditions. For the land which exceeds the land use indicators but has passed the evaluation and obtained approvals from the local government, all relevant documents including land supply plans, allocation decisions, land use right grant contracts, expert assessment opinions as well as official governmental approvals shall be filed with the relevant land authorities at the provincial level through the land market dynamics monitoring system.

Pre-sale

According to the Measures for Administration of Pre-sale of Commodity Buildings in Urban Area (《城市商品房預售管理辦法》) promulgated by the Ministry of Construction in November 1994, as amended in August 2001 and July 2004, a commodity building may be sold before completion only if all of the following requirements are satisfied: (i) the land grant premium has been paid in full and a land use right ownership certificate has been obtained; (ii) both the Planning Permit for Construction Works (建設工程規劃許可證) and Permit for Commencement of Construction Works (建築工程施工許可證) have been obtained; (iii) funds invested in the development of the commodity buildings for pre-sale represent 25% or more of the total investment in the project and the construction progress as well as the completion and delivery dates have been ascertained; and (iv) the pre-sale permit has been obtained.

According to the Measures for Administration of Pre-sale of Commodity Buildings in Urban Area (《城市商品房預售管理辦法》) and the Notice on Further Enhancing the Supervision of the Real Estate Market and Perfecting the Pre-sale System of Commodity Houses (《關於進一步加強房地產市場監管完善商品房預售制度有關問題的通知》) promulgated by the MOHURD in April 2010, without the pre-sale approval, commodity properties are not permitted to be pre-sold, the real property developer is not allowed to charge the buyer any deposit, pre-payment or other payments, and the real property developer shall not participate in any exhibition or sales activities.

According to the Measures for Administration of Pre-sale of Commodity Buildings in Urban Area (《城市商品房預售管理辦法》), pre-sale incomes must only be used for the corresponding project.

Sale and Transfer

According to the Measures for Administration of Sale of Commodity Houses (《商品房銷售管理辦法》) promulgated by the Ministry of Construction in April 2001, the conditions for a post-completion sale are that: (i) the developer has obtained its own business license and the real estate development qualification certificate; (ii) the developer has obtained the land use right ownership certificate or other documents evidencing the legal grant of land use right; (iii) the developer has obtained the construction works planning permit and construction permit; (iv) the commodity properties have passed the final examination and acceptance of completion; (v) the relocation of the original residents (if any) has been completed; (vi) the ancillary infrastructure facilities for supplying water, electricity, heating, gas, communication, etc. and other public facilities have been arranged and are ready for use and hand over; and (vii) the property management proposal has been concluded.

According to the Regulation on Clear Pricing of Commercial Property (《商品房銷售明碼標價規定》) promulgated by the NDRC in March 2011 and taking effect in May 2011, real property developers shall clearly mark the sales prices of houses.

According to the PRC laws and the Provisions on Administration of Transfer of Urban Real Estate (《城市房地產轉讓管理規定》) promulgated by the Ministry of Construction in August 1995, as amended in August 2001, a real estate owner may sell, gift or otherwise legally transfer the property to another individual or legal entity. When transferring a building, the ownership of the building and the underlying land use right are transferred together. The parties to a transfer must enter into a written real property transfer contract and register the transfer with the relevant real estate authority within 90 days upon the execution.

When the land use right is obtained through land granting, the real property may only be transferred on the condition that: (i) the land grant consideration has been paid in full and a land use right ownership certificate has been properly obtained; and (ii) in the case of a project under development, development representing more than 25% of the total investment has been completed; or (iii) in case of a whole land lot development project, construction works have been carried out as planned, the civil infrastructure and public facilities have been made available, and the land has been leveled and is ready for industrial or other construction purposes.

Lease

According to the Measures for the Administration of Commodity House Leasing (《商品房屋租賃管理辦法》) promulgated by MOHURD in December 2010 and taking effect in February 2011, the parties to a leasehold arrangement of a property must enter into a written lease contract. When a lease contract is signed, amended or terminated, the parties must register the details with the construction (real estate) administrative department of the people's government of the municipality directly under the State, city or county at the place where the leased house is located within 30 days after the execution for the purpose of protecting the tenant's interest, failing which the parties will be ordered to rectify and be subject to fines.

Mortgage

According to the Procedures for Property Registration (《房屋登記辦法》) promulgated by the Ministry of Construction in February 2008 and taking effect in July 2008, a registered owner of housing property rights must also own the underlying land use right.

According to the PRC Property Rights Law, the PRC Urban Real Estate Administration Law, the PRC Security Law (《中華人民共和國擔保法》) promulgated by the NPC in June 1995, and the Measures for Administration of Mortgages of Urban Real Estate (《城市房地產抵押管理辦法》) promulgated by the Ministry of Construction in May 1997, as amended in August 2001, when a mortgage is created over a building, it must be simultaneously created over the underlying land use right. The mortgage contract must be in writing. After the contract has been signed, the parties must register the mortgage with the relevant real estate authority. A mortgage contract becomes effective on its date of registration.

Project Financing

On August 12, 2003, the State Council published the Notice by the State Council on Facilitating Sustained and Healthy Development of the Real Estate Market (《國務院關於促進房地產市場持續健康發展的通知》), which provides a series of measures to control the real estate market, including but not limited to strengthening the supervision of real estate loans, improving the system on the registration of real estate mortgage. The purpose of the notice is to create a positive influence on the long-term development of the real estate market in China.

On August 30, 2004, the CBRC issued a Guideline for Commercial Banks on Risks of Real Estate Loans (《商業銀行房地產貸款風險管理指引》). According to the guideline, no loans shall be granted in relation to projects which have not obtained requisite land use right certificates,

construction land planning permits, construction works planning permits and construction work commencement permits. The guideline also stipulates that not less than 35% of the investment in a property development project must be funded by the real property developer's own capital for the project in order for banks to extend loans to the real property developer. In addition, the guideline notes that commercial banks should set up strict approval systems on granting loans.

On April 27, 2006, the PBOC promulgated a Notice on Adjusted the RMB Loan Interest Rates of Financial Institutions (《關於調整金融機構人民幣貸款利率的通知》). The notice provides that, from April 28, 2006, the benchmark loan interest rates of financial institutions will be increased. The benchmark one year bank lending rate was increased from 5.58% to 5.85%.

On May 25, 2009, the State Council issued the Notice on Adjusting the Proportion of Capital in Fixed Asset Investment Projects (《國務院關於調整固定資產投資項目資本金比例的通知》). The notice provides that the minimum capital requirement for affordable housing and ordinary commodity apartments is 20%, and the minimum capital requirement for other real estate development projects is 30%. These regulations apply to both domestic and foreign investment projects.

On September 27, 2007, the PBOC and the CBRC jointly promulgated the Circular on Strengthening the Management of Commercial Real-estate Credit Loans (《關於加強商業性房地產信貸管理的通知》). Under this circular, the PRC authorities have tightened control over commercial banks' loans to property developers in order to prevent these banks from excessive credit granting. The circular emphasizes that commercial banks must not offer loans to property developers who have been found by State land and resource and construction authorities as hoarding land and buildings. Commercial banks are also prohibited from accepting commercial properties that have been vacant for more than three years as guaranties for loans.

On July 29, 2008, the PBOC and the CBRC issued the Notice on Financially Promoting the Saving and Intensification of Use of Land (《關於金融促進節約集約用地的通知》), which among other things:

- restrict PRC commercial banks from granting loans to property developers for the purpose of paying land premiums;
- regulate the secured loans for land reserve in various respects including to obtain land use certificate, to secure up to 70% value of security's appraised valuation, and to limit the length of maturity in no more than two years;
- prudently grant or extend loans to the property developer who (i) delay the commencement of development date specified in the land transfer agreement more than one year, (ii) has not finished one-third of the intended project, or (iii) has not invested the quarter of the intended total project investment;
- restrict granting loans to the property developer, the land of which is idle for two years; and
- restrict taking idle land as a security for loans.

On January 7, 2010, the General Office of the State Council issued the Circular on Facilitating the Stable and Healthy Development of Property Market (《關於促進房地產市場平穩健康發展的通知》). The circular, among other things, provides that banks are restricted from offering loans to a property development project or property developer which is not in compliance with credit loan regulations or policies.

In accordance with a series of updating notices of PBOC on adjusting the deposit reserve ratio, adjustments of the deposit reserve ratio from January 2010 to the present are extracted as follows:

		Large-scale Financial Institutions			Small-scale Financial Institutions		
Date of Issue	Date of Effectiveness	Before Adjustment	After Adjustment	Range of Adjustment	Before Adjustment	After Adjustment	Range of Adjustment
May 12,2012	May 18, 2012	20.50%	20.00%	-0.50%	17.00%	16.50%	-0.50%
Feb 18, 2012	Feb 24, 2012	21.00%	20.50%	-0.50%	17.50%	17.00%	-0.50%
Nov 30, 2011	Oct 5, 2011	21.50%	21.00%	-0.50%	18.00%	17.50%	-0.50%
Jun 14, 2011	Jun 20, 2011	21.00%	21.50%	0.50%	17.50%	18.00%	0.50%
May 12, 2011	May 18, 2011	20.50%	21.00%	0.50%	17.00%	17.50%	0.50%
Apr 17, 2011	Apr 21, 2011	20.00%	20.50%	0.50%	16.50%	17.00%	0.50%
Mar 18, 2011	Mar 25, 2011	19.50%	20.00%	0.50%	16.00%	16.50%	0.50%
Feb 18, 2011	Feb 24, 2011	19.00%	19.50%	0.50%	15.50%	16.00%	0.50%
Jan 14, 2011	Jan 20, 2011	18.50%	19.00%	0.50%	15.00%	15.50%	0.50%
Oct 10, 2010	Oct 20, 2010	18.00%	18.50%	0.50%	14.50%	15.00%	0.50%
Nov 19, 2010	Nov 29, 2010	17.50%	18.00%	0.50%	14.00%	14.50%	0.50%
Nov 9, 2010	Nov 16, 2010	17.00%	17.50%	0.50%	13.50%	14.00%	0.50%
May 2, 2010	May 10, 2010	16.50%	17.00%	0.50%	13.50%	13.50%	0.00%
Feb 12, 2010	Feb 25, 2010	16.00%	16.50%	0.50%	13.50%	13.50%	0.00%
Jan 12, 2010	Jan 18, 2010	15.50%	16.00%	0.50%	13.50%	13.50%	0.00%

The adjustment of the deposit reserve ratio is intended to slow the growth of money supply, which may adversely affect demand for property in China.

Pursuant to the Adjustment List of RMB Benchmark Interest Rates for Loans of Financial Institutions published by the PBOC on July 6, 2012, from 2010 to the present, RMB benchmark interest rates for loans of financial institutions are adjusted as follows:

	Benchmark Interest Rates for Loans at Different Levels				
Adjustment Date	≤ 6 Months	6 Months to 1 Year	1 Year to 3 Years	3 Years to 5 Years	5 Years
October 20, 2010	5.10	5.56	5.60	5.96	6.14
December 26, 2010	5.35	5.81	5.85	6.22	6.40
February 9, 2011	5.60	6.06	6.10	6.45	6.60
April 6, 2011.	5.85	6.31	6.40	6.65	6.80
July 7, 2011	6.10	6.56	6.65	6.90	7.05
June 8, 2012.	5.85	6.31	6.40	6.65	6.80
July 6, 2012	5.60	6.00	6.15	6.40	6.55

On July 19, 2013, the PBOC issued the Notice of the People's Bank of China on Further Promoting the Market-Oriented Interest Rate Reform (《中國人民銀行關於進一步推進利率市場化改革的通知》), which removes the lower limit on lending rate for financial institutions (equal to 70% of the benchmark lending rate).

On September 29, 2010, the PBOC and the CBRC jointly issued the Notice on Relevant Issues Regarding the Improvement of Differential Mortgage Loan Policies (《關於完善差別化住房信貸政策有關問題的通知》), which restricts the grant of new project bank loans or extension of credit facilities to all property companies with non-compliance records regarding, among other things, holding idle land, changing the land use to that outside the scope of the designated purpose, postponing construction commencement or completion, or hoarding properties.

Property Management

According to the Regulation on Property Management (《物業管理條例》) promulgated by the State Council in June 2003 and taking effect in September 2003, and as amended in August 2007, the government implements a qualification scheme system in monitoring the property service providers.

According to the Measures for the Administration of Qualifications of Property Management Enterprises (《物業管理企業資質管理辦法》) promulgated by the Ministry of Construction in March 2004, as amended in November 2007, a property service provider must apply for an assessment of its qualification by the relevant qualification approval authority. A service provider that passes such a qualification assessment will typically be issued a qualification certificate. No enterprise may engage in the provision of property management services without completing a qualification assessment conducted by the relevant authority.

According to the Catalog, foreign investors are allowed to incorporate property management enterprises in the nature of equity joint ventures, contractual joint ventures or wholly foreign owned enterprises. Before the registration with the relevant SAIC, the foreign-invested property management enterprises must obtain the certificate of approval issued by relevant branches of the Ministry of Commerce.

Special Equipment

The production, business operation, use, inspection and testing of special equipment, as well as the supervision and administration over the safety of special equipment are subject to the Law of the People's Republic of China on the Safety of Special Equipment (《中華人民共和國特種設備安全法》, the "Special Equipment Safety Law") promulgated by the SCNPC on June 29, 2013 and will be effective from January 1, 2014. According to the Special Equipment Safety Law, any entity using special equipment shall, 30 days before or after a piece of special equipment is put into use, go through use registration with the relevant department in charge of the safety supervision and administration of special equipment, and obtain the use registration certificate. An entity using special equipment shall, in accordance with safety technical specifications, apply for regular inspection to the relevant special equipment inspection agency one month prior to the expiry of the inspection validity period of the special equipment.

Pursuant to the Special Equipment Safety Law, entities engaging in the business operation and use of elevators, passenger cableways, large-scale amusement facilities and other special equipment that serves the public shall be responsible for the safe use of the special equipment, and set up special equipment safety management departments or appoint full-time special equipment safety management personnel. Before passenger cableways and large-scale amusement facilities are put into daily use, the entities engaging in the business operation and use thereof shall carry out trial run and routine safety inspection, and check safety accessories and safety protection devices for confirmation, and put the safe use instructions, safety precautions and warning signs of the elevators, passenger cableways and large-scale amusement facilities in eye-catching places easy to draw the attention of passengers.

Insurance

There is no mandatory provision under the PRC laws, regulations and government rules which require a real property developer to take out insurance policies for its real property developments. According to the common practice of the real property industry in China, construction companies

are usually required to submit insurance proposals in the course of tendering and bidding for construction projects. Construction companies must pay for the insurance premium at their own costs and take out insurance to cover the risk of their liabilities, such as the third-party liability risk, employer's liability risk, risk of non-performance of contract in the course of construction and other risks associated with the construction and installation work throughout the construction period. The insurance coverage for all these risks typically ceases immediately after the completion and acceptance upon inspection of construction.

Environmental Protection

The laws and regulations governing environmental protection with respect to real property development in China include the PRC Environmental Protection Law (《中華人民共和國環境保護法》), the PRC Prevention and Control of Noise Pollution Law (《中華人民共和國環境噪聲污染防治法》), the PRC Environmental Impact Assessment Law (《中華人民共和國環境影響評價法》) and the PRC Administrative Regulations on Environmental Protection for Development Projects (《中華人民共和國建設項目環境保護管理條例》). According to these laws and regulations, depending on the impact on the environment made by the project, an environmental impact report, an environmental impact analysis table or an environmental impact registration form must be submitted by the developer before the relevant authorities grant approval for the commencement of construction. In addition, upon completion of the real property development, the relevant environmental authorities will inspect the properties to ensure the compliance with the applicable environmental protection standards and regulations before the properties can be delivered to the purchasers.

Regulations Relating to Internet Information Services and Content of Internet Information

On September 25, 2000, the State Council issued the Administrative Measures on Internet Information Services (《互聯網信息服務管理辦法》) (the "Internet Measures"), to regulate the provision of information services to internet users. According to the Internet Measures, internet information services are divided into two categories: services of an operative nature and services of a non-operative nature. Companies providing services of an operative nature (such as online sales) are required to obtain an internet content provider ("ICP") license, while those providing services of a non-operative nature (such as introduction, display and promotion) are only required to complete an ICP filing.

The Internet Measures further specify that the internet information services regarding, among others, news, publication, education, medical and health care, pharmacy and medical appliances are required to be examined, approved and regulated by the relevant authorities. ICPs are prohibited from providing services beyond scope of their business licenses or other required licenses or permits. Furthermore, the Internet Measures clearly specify a list of prohibited content. ICPs must monitor and control the information posted on their websites. If any prohibited content is found, they must remove the offending content immediately, keep a record and report to the relevant authorities.

PRC Taxation

Because we are not incorporated in the PRC, your investment in our shares is largely exempt from PRC tax laws. However, because we carry out our PRC business operations through operating subsidiaries and joint ventures organized under the PRC law, our PRC operations and our operating subsidiaries and joint ventures in mainland China are subject to PRC tax laws and regulations, which indirectly affect your investment in our shares.

Dividends from Our PRC Operations

According to the PRC tax laws effective prior to January 1, 2008, dividends paid by our PRC subsidiaries or joint ventures to us were exempted from PRC income tax. However, according to the EIT Law and its implementation rules that became effective on January 1, 2008, dividends payable by foreign invested enterprises, such as subsidiaries and joint ventures in the PRC, to their foreign investors are subject to a withholding tax at a rate of 10% unless any lower treaty rate is applicable.

According to the EIT Law and its implementation rules that became effective on January 1, 2008, enterprises established under the laws of foreign jurisdictions with "de facto management body" located in the PRC are treated as "resident enterprises" for PRC tax purposes, and are subject to PRC income tax on their worldwide income. For such PRC tax purposes, dividends from PRC subsidiaries to their foreign shareholders are excluded from such taxable worldwide income. According to the implementation rules of the new EIT Law, "de facto management bodies" is defined as the bodies that have material and overall management control over the business, personnel, accounts and properties of an enterprise. As this EIT Law is new and its implementation rules are newly promulgated, there is uncertainty as to how this new law and its implementation rules will be interpreted or implemented by relevant tax bureaus.

Our Operations in the PRC

Our subsidiaries through which we conduct our business operations in the PRC are subject to PRC tax laws and regulations.

Deed Tax

According to the PRC Interim Regulation on Deed Tax (《中華人民共和國契稅暫行條例》), a deed tax is chargeable to transferees of land use right and/or ownership in real property within the PRC. These taxable transfers include: (i) grant of land use right; (ii) sale, gift and exchange of land use right, other than transfer of right to manage "rural collective land" (i.e. the land located in rural area and collectively owned by farmers); and (iii) sale, gift and exchange of real property.

The deed tax rate is between 3% and 5% and is subject to determination by local governments at the provincial level in light of local conditions.

Corporate Income Tax

According to the EIT Law implemented in January 2008, a unified enterprise income tax rate is set at 25% for both domestic enterprises and foreign-invested enterprises.

In addition, according to the EIT Law, enterprises established under the laws of jurisdictions outside China with their "de facto management bodies" located within mainland China may be considered as PRC resident enterprises and therefore subject to PRC enterprises income tax at the rate of 25% on their worldwide income. The EIT Law and its implementation rules provide that "de facto management body" of an enterprise is the organization that exercises substantial and overall management and control over the production, employees, and books of accounts and properties of the enterprise.

According to the Notice of the SAT on the Prepayment of Enterprise Income Tax of the Real Estate Development Enterprises (《關於房地產開發企業所得稅預繳問題的通知》) promulgated by the SAT in April 2008 and taking effect on January 1, 2008, where a real property development

enterprise prepays the corporate income tax by quarter (or month) according to the current actual profit, for the incomes generated from the advance sale prior to the completion of such development projects as the dwelling houses, commercial houses and other buildings, fixtures, supporting establishments etc., which are developed and built by the real property development enterprise, the tax prepayment thereof shall be estimated profit and shall be adjusted according to the actual profit after the development projects are completed and the tax costs are settled.

The Notice on the Measure Dealing with Income Tax of Enterprise Engaged in Real Estate Development (《房地產開發經營業務企業所得稅處理辦法》) promulgated by the SAT promulgated in March 2009 and retroactively taking effect in January 2008 specifically stipulates the rules regarding tax treatment of income, cost deduction, verification of tax cost and certain item with respect to the real property development enterprise according to the EIT Law and its implementation rules.

According to the Notice Regarding the Publishing of the Administrative Measures for Non-residents to Enjoy the Treatment Under Taxation Treaties (Trial) (《關於印發非居民享受稅收協定待遇管理辦法(試行)的通知》) promulgated by the SAT in August 2009 and taking effect in October 2009, and its supplemental regulation promulgated and taking effect in June 2010, prior approvals from the relevant tax authorities are required before a non-resident taxpayer may enjoy benefits under the relevant taxation treaties.

According to the Notice on the Confirmation of Completion Conditions for Development of Products by Property Development Enterprises (《關於房地產開發企業開發產品完工條件確認問題的通知》) promulgated by SAT in May 2010, a property will be deemed as completed where its delivery procedure (including move-in procedures) have commenced or when the property is in fact put into use. Property developers must conduct the settlement of cost in time and calculate the amount of corporate income tax for the current year.

Business Tax

According to the PRC Interim Regulation on Business Tax (《中華人民共和國營業稅暫行條例》) of 1994, as amended in November 2008 and implemented on January 1, 2009 and the Detailed Rules for the Implementation of the Interim Regulation of the People's Republic of China on Business Tax (《中華人民共和國營業稅暫行條例實施細則》) promulgated by the MOF and SAT in December 2008 and taking effect in January 2009, services in the PRC are subject to business tax. Taxable services include the sale of real property in the PRC. The business tax rate is between 3% and 20%, depending on the type of services provided. Generally, the sale of real property and other improvements on the land is subject to a business tax at the rate of 5% of the turnover of the selling enterprise payable to the relevant tax authorities.

LAT

According to the PRC Interim Regulation on LAT (《中華人民共和國土地增值稅暫行條例》) implemented in January 1994 and its implementation rules of 1995, the LAT applies to both domestic and foreign investors in real property in the PRC. The tax is payable by a taxpayer on the capital gains from the transfer of land use right, buildings or other facilities on such land, after deducting "deductible items" that include the following:

- payments made to acquire land use right;
- costs and charges incurred in connection with land development;

- construction costs and charges in the case of newly constructed buildings and facilities;
- assessed value in the case of old buildings and facilities;
- taxes paid or payable in connection with the transfer of the land use right, buildings or other facilities on such land; and
- other items allowed by the MOF.

Where the taxpayer is developing a project, the applicable tax is payable at the end of the project either when the whole project is sold or when all the land use right is sold.

The tax rate is progressive and ranges from 30% to 60% of the gain, as follows:

Appreciation Value	Tax Rate
Portion not exceeding 50% of deductible items	30%
Portion over 50% but not more than 100% of deductible items	40%
Portion over 100% but not more than 200% of deductible items	50%
Portion over 200% of deductible items	60%

An exemption from LAT is available in the following cases:

- taxpayers constructing ordinary residential properties for sale (i.e. the residences built in accordance with the local standard for residential properties used by the general population, excluding deluxe apartments, villas, resorts and other high-end premises), where the appreciation amount does not exceed 20% of the sum of deductible items;
- real property taken over and repossessed according to laws due to the construction requirements of the State; and
- due to redeployment of work or improvement of living standards, transfers by individuals of residential properties for their own use, with a residency period for their own use of five years or longer and with tax authorities' approval.

According to a notice promulgated by the MOF in January 1995, the LAT regulation does not apply to the following transfers of land use right:

- real property transfer contracts executed before January 1, 1994; and
- first time transfers of land use right and/or premises and buildings during the five years commencing on January 1, 1994 if the land grant contracts were executed or the development projects were approved before January 1, 1994 and the capital has been injected for the development in compliance with the relevant regulations.

After the enactment of the LAT regulations and the implementation rules in 1994 and 1995, respectively, due to the long period typically required for real property construction and transfers, many jurisdictions, while implementing these regulations and rules, did not require real property development enterprises to declare and pay the LAT. Therefore, in order to assist the local tax authorities in the collection of LAT, the MOF, the SAT, the Ministry of Construction and the State Land Administration Bureau issued several notices to reiterate that, after the assignments are

signed, taxpayers must declare the tax to the relevant local tax authorities and pay the LAT as calculated by these authorities and within the prescribed time period required. The real property administration authority will not process title change procedures and will not issue the property ownership certificates to parties unable to provide evidence of paying LAT or an exemption from LAT.

According to the Notice regarding the Serious Handling of Administration Work in relation to the Collection of Land Value-added Tax (《關於認真做好土地增值稅徵收管理工作的通知》) promulgated by the SAT in July 2002, the preferential policy of LAT exemption has expired and, accordingly, such tax will be levied on the initial transfer of properties under property development contracts signed before January 1, 1994, or project proposals that have been approved where capital was injected for development.

The Notice on the Administration of the Settlement of Land Appreciation Tax of Property Development Enterprises (《關於房地產開發企業土地增值稅清算管理有關問題的通知》) promulgated by the SAT in December 2006 and taking effect in February 2007 requires settlement of LAT liabilities by real property developers. Provincial tax authorities are authorized to formulate their implementation rules according to the notice and their local circumstances.

To further strengthen LAT collection, based on the Rules on the Administration of the Settlement of Land Appreciation Tax (《土地增值稅清算管理規程》) promulgated by the SAT in May 2009 and taking effect in June 2009, the SAT issued the Notice on Issues Regarding Land Appreciation Tax Settlement (《關於土地增值稅清算有關問題的通知》) in May 2010 to provide further clarifications and guidelines on LAT settlement, revenue recognition, deductible expenses, timing of assessment and other related issues.

According to the Notice on Strengthening the Collection Land Appreciation Tax (《關於加強土地增值稅徵管工作的通知》) promulgated by the SAT in May 2010, it provides for a minimum LAT prepayment rate at 2% for provinces in eastern China region, 1.5% for provinces in the central and northeastern China regions, and 1% for provinces in the western China regions.

Urban Land Use Tax

According to the PRC Interim Regulations on Land Use Tax in respect of Urban Land (《中華人民共和國城鎮土地使用稅暫行條例》) promulgated by the State Council in September 1988 and amended by the State Council in January 2007, the land use tax in respect of urban land is levied according to the area of relevant land. The annual tax on urban land was between RMB0.2 and RMB10 per sq.m. An amendment by the State Council in December 2006 changed the annual tax rate to between RMB0.6 and RMB30 per square meter of urban land.

Buildings Tax

According to the PRC Interim Regulations on Buildings Tax (《中華人民共和國房產稅暫行條例》) promulgated by the State Council in September 1986, a building tax is applicable to domestic enterprises at a rate of 1.2% if it is calculated on the basis of the residual value of a building and 12% on the basis of the rent. The following categories of buildings are exempt from the building tax:

- buildings owned by governmental agencies, people's organizations and the armed forces for their own use;

- buildings of institutions funded by State finance departments, for an institution's own use;

- religious temples, shrines' parks and places of historic and scenic beauty;
- buildings owned by individuals for non-business use; and
- other buildings allowed by the MOF.

According to the Notice on Issues Relating to Assessment of Buildings Tax against Foreign-invested Enterprises and Foreign Individuals (《關於對外資企業及外籍個人徵收房產稅有關問題的通知》) promulgated by the MOF and the SAT in January 2009, the building tax on foreign-invested enterprises, foreign enterprises and foreign individuals at the same rate as for domestic enterprise.

Stamp Duty

According to the PRC Interim Regulations on Stamp Duty (《中華人民共和國印花稅暫行條例》) promulgated by the State Council in August 1988 and amended by the State Council in January 2011, property transfer instruments, including those in respect of property ownership transfers, are subject to stamp duty at a rate of 0.05% of the amount stated therein.

Municipal Maintenance Tax

According to the PRC Interim Regulations on Municipal Maintenance Tax (《中華人民共和國城市維護建設稅暫行條例》) promulgated by the State Council in 1985, a taxpayer of product tax, value-added tax or business tax is required to pay a municipal maintenance tax calculated on the basis of product tax, value-added tax and business tax. The tax rate is 7% for a taxpayer in an urban area, 5% in a county or a town, and 1% for a taxpayer not in any urban county or town.

According to the Notice on Relevant Issues of Imposition of Municipal Maintenance and Education Surcharge on Foreign-invested Enterprises promulgated by the MOF and the SAT (《財政部、國家稅務總局關於對外資企業徵收城市維護建設稅和教育費附加有關問題的通知》) promulgated by the MOF and the SAT in November 2010 and taking effect in December 2010, foreign-invested enterprises must pay municipal maintenance tax on any value-added tax, consumption tax and business tax incurred on or after December 1, 2010. However, foreign-invested enterprises will be exempted from municipal maintenance tax on any value-added tax, consumption tax and business tax incurred before December 1, 2010.

Education Surcharge

According to the Interim Provisions on Imposition of Education Surcharge (《徵收教育費附加的暫行規定》) promulgated by the State Council in April 1986 and amended in 1990, in August 2005, and in January 2011, any taxpayer of value-added tax, business tax or consumption tax is liable for an education surcharge, unless such taxpayer is required to pay a rural area education surcharge as provided by the Notice of the State Council on Raising Funds for Schools in Rural Areas (《國務院關於籌措農村學校辦學經費的通知》). The Education Surcharge rate is 3% calculated on the basis of consumption tax, value-added tax and business tax. According to the Supplementary Circular Concerning Imposition of Education Surcharge promulgated by the State Council (《國務院關於教育費附加徵收問題的補充通知》) in October 1994, the education surcharge is currently not applicable to foreign-invested enterprises.

According to the Notice on Relevant Issues of Imposition of Municipal Maintenance and Education Surcharge on Foreign-invested Enterprises (《關於對外資企業徵收城市維護建設税和教育費附加有關問題的通知》), foreign-invested enterprises must pay an education surcharge on any value-added tax, consumption tax and business tax incurred on or after December 1, 2010. However, foreign-invested enterprises are exempted from paying an education surcharge on any value-added tax, consumption tax or business tax incurred before December 1, 2010.

Surplus Reserve

Our PRC subsidiaries are subject to different requirements regarding the allocation of funds to surplus reserve in accordance with the Company Law (《公司法》), the Law of the People's Republic of China on Equity Joint Ventures Using Chinese and Foreign Investment (《中華人民共和國中外合資經營企業法》) and its implementing regulations, the Law of the People's Republic of China on Wholly Foreign-owned Enterprises (《中華人民共和國外資企業法》) and its implementing regulations, and their respective articles of association of our PRC subsidiaries. Such requirements vary in accordance with the form of establishment of such subsidiaries.

Income Tax Related to Reorganization

On December 10, 2009, SAT promulgated the Circular of the SAT on Strengthening the Administration of Enterprise Income Tax on Incomes from Equity Transfers of Non-Resident Enterprises (《國家税務總局關於加強非居民企業股權轉讓所得企業所得税管理的通知》) ("Circular 698") to regulate the administration of enterprise income tax on equity transfer from non-resident enterprise, with retroactive effect from 1 January 2008. Under Circular 698, if a foreign investor transfers its indirect equity interest in a PRC resident enterprise by means of disposal of its equity interests in an overseas holding company (the "Indirect Transfer") and the overseas holding company is located in a tax jurisdiction which levies tax at an effective tax rate of less than 12.5% or does not levy tax, the foreign investor shall report the Indirect Transfer to the competent tax authorities and provide required materials within 30 days after signing of the equity transfer agreement. The competent taxation authorities may ignore the existence of the overseas holding company, if the foreign investor conducts Indirect Transfer without reasonable commercial purpose and establishes the overseas holding company for tax avoidance purposes. As a result, gains derived from the Indirect Transfer may be subject to PRC withholding tax at a rate of up to 10% and the foreign investor may be subject to penalty for any late tax payment.

Seeking to clarify lingering issues related to the tax treatment of corporate restructurings under the EIT Law, the MOF and the SAT jointly promulgated the Circular on Certain Issues Concerning Enterprise Income Tax Treatment for Corporate Restructuring (《關於企業重組業務企業所得税處理若干問題的通知》, the "Circular 59") on April 30, 2009 and taking effect retroactively as of January 1, 2008, and the SAT issued further guidance, the Measures for the Administration of Enterprise Income Tax for Corporate Restructuring (《企業重組業務企業所得税管理辦法》, the "Notice 4") on July 26, 2010. The two regulations provide investors with a tax framework for structuring acquisitions and divestments or for undergoing internal reorganizations under the EIT Law and the filing and documentation requirements. The Corporate Restructuring Circular 59 introduces the concepts of "general tax treatment" (一般性税務處理, "GTT") and "special tax treatment" (特殊性税務處理, "STT") for certain corporate restructuring transactions, with guidelines on qualification and procedures for obtaining STT status. Further, Notice 4 provides detailed guidance on documentation and procedural requirements for all types of corporate restructuring covered under Circular 59.

Forms of Restructuring Covered

Circular 59 defines and discusses the following forms of restructurings that are subject to tax treatments discussed in the circular:

- *Equity Acquisition:* A company acquires the shares of another company by giving up equity, non-equity considerations, or a combination of both for the purpose of controlling the second company.

- *Asset Acquisition:* A company acquires all or part of the business assets of another company by giving equity, non-equity considerations, or a combination of both.

- *Merger:* One or more companies transfer all of its or their assets and liabilities to another existing or newly established company (the "Surviving Company") in exchange for shares of the Surviving Company and/or non-equity considerations.

- *Split:* A company transfers all or part of its assets and liabilities to two or more existing or newly established companies (the "Split-off Companies") in exchange for shares of the Split-Off Companies and/or non-equity considerations.

- *Change of Legal Form:* A company changes its registered name, address, or entity type.

- *Debt Restructuring:* An arrangement between a debtor and its creditors relating to debts as a result of financial difficulties of the debtor.

Notice 4 further clarifies the restructuring date of the forms of restructurings that are subject to tax treatments discussed in the circular described above:

- *Equity Acquisition:* the date when the equity transfer agreement becomes effective and the equity transfer change formalities are completed.

- *Asset Acquisition:* the date when the asset transfer agreement becomes effective and the assets actual closing are completed.

- *Merger:* the date when the Surviving Company obtains the ownership of the assets of the absorbed company and the change formalities with the SAIC and its local counterparts are completed.

- *Split:* the date when the Split-off Company obtains the ownership of the assets of the divided company and the change formalities with the SAIC and its local counterparts are completed.

- *Debt Restructuring:* the date when the debt restructuring agreement becomes effective.

General Tax Treatment

Under Circular 59, GTT is the norm for companies that do not obtain STT status. The general principle for GTT is that enterprises undergoing corporate restructuring should recognize gains or losses from the transfer of relevant assets and/or equity at fair market value when the transaction takes place, and the tax basis of relevant assets in the hands of the transferee should be revised according to transaction prices. Circular 59 also discusses detailed tax treatments for each of the above forms of restructuring.

Special Tax Treatment

Circular 59 also allows parties involved in a restructuring to select STT, the essence of which is deferral of taxes if certain conditions are satisfied. In contrast to GTT, the general principle of STT is that the recognition of gain or loss by the transferor on the transfer of assets or equity (shares) may be deferred with respect to the portion that is equity payment; and the transferee shall take over the transferor's tax basis on the transferred assets or equity (shares). The deferral of tax means the enterprise income tax is exempted on the gain or loss of the transferred assets or equity share upon the demerger if the demerger has been approved by the relevant tax authority to enjoy the STT.

STT Qualifications and Conditions

For both domestic and foreign investors, five general conditions must be met in order for a transaction to qualify for STT:

- *Reasonable business purposes:* The transaction must have a reasonable business purpose – the primary purpose of the transaction must not be to reduce, avoid, or defer tax payments. No further guidance is provided under Circular 59 about what a "reasonable business purpose" is or how to determine whether this requirement has been satisfied. The issue was further clarified in Notice 4.

- *Prescribed ratios on amount of assets or equity transferred:* In equity deals, at least 75 percent of the total equity of the target company should be transferred if it is an equity acquisition. In asset deals, at least 75 percent of the total assets of the transferor should be transferred in an asset acquisition.

- *Continuity of business operations:* There must be no change in the operating activities of the target company for 12 months after the restructuring.

- *Prescribed ratio on amount of equity payments required:* At least 85 percent of the total consideration received by the transferor must consist of equity of the acquirer. For satisfying this condition, the acquiring companies need to consider the impact of share dilution when formulating the terms of the transaction.

- *Continuity of ownership:* The major transferor must not transfer the acquired equity for 12 months after the acquisition.

Filing Procedures

For enterprises that satisfy the above conditions and intend to apply for STT, the involved parties should submit written documentation (details of which are clarified in Notice 4) to the competent tax authority to prove that they comply with the conditions stipulated at the time of completion of the annual declaration of enterprise income tax for the current fiscal year in connection with the restructuring. If the enterprise fails to make a written filing, STT will not be granted.

Notice 4 provides the timeline for restructuring parties to choose STT and seek confirmation from tax authorities (i.e. before completion of the annual declaration of enterprise income tax of the current fiscal year in connection with the restructuring). It also provides detailed guidance on follow-up reporting and review procedures after STT has been elected.

If the STT conditions listed above are violated within the prescribed period after completion of the restructuring (for example, if the company fails to meet the requirement for a 12-or 36-month holding period), the restructuring parties must make tax adjustments within 60 days of the breach. More importantly, they must (i) re-calculate the gain or loss from the restructuring based on the fair market value at the time of the original restructuring, and (ii) adjust their Enterprise Income Tax returns for the year in which the original restructuring took place. Notice 4 does not mention whether there would be a penalty or surcharge if the parties involved make tax adjustments within the prescribed timeframe.