

PART 1 LAWS AND REGULATIONS RELATING TO REAL ESTATE DEVELOPMENT**A. Establishment of a Real Estate Developer****(a) General Regulations**

According to the “Law on Administration of Urban Real Estate of the People’s Republic of China” (《中華人民共和國城市房地產管理法》, the “Urban Real Estate Law”) promulgated by the Standing Committee of the National People’s Congress on July 5, 1994, becoming effective in January 1995, and amended in August 2007 and August 2009 respectively, real estate development refers to the act of constructing infrastructure and buildings on state-owned land, the land use rights of which have been legally acquired; and a real estate developer is defined as an enterprise which engages in the development and operation of real estate for the purpose of making profits. Under the “Administrative Regulations on Urban Real Estate Development and Operation” (《城市房地產開發經營管理條例》, the “Development and Operation Regulations”) promulgated by the State Council on July 20, 1998 and revised on January 8, 2011, an enterprise which is to engage in the development of real estate shall satisfy the following requirements:

- its registered capital shall be RMB 1 million or more; and
- it shall have four or more full-time professional real estate/construction technicians and two or more full-time accountants, each of whom shall hold the relevant qualification certificate.

According to the Development and Operation Regulations, the People’s Government of a province, autonomous region or municipality directly under the Central Government may, based on local circumstances, impose more stringent requirements than the preceding clauses over the registered capital and professional technicians of a real estate developer. According to the “Regulations on Administration of Development of Urban Real Estate of Hubei Province” (《湖北省城市房地產開發經營管理辦法》) promulgated by the People’s Government of Hubei Province on November 19, 1999, in addition to the requirements stipulated by relevant laws and regulations, an enterprise which is to engage in the development of real estate shall also satisfy the following requirements:

- its registered capital shall be RMB 2 million or more; and
- it shall have four or more full-time professional real estate or civil engineering technicians, one or more full-time construction or real estate managers and two or more full-time accountants, each of whom shall hold the relevant qualification certificate.

According to the Development and Operation Regulations, to establish a real estate developer, an application for registration shall be submitted to the administration for industry and commerce. The real estate developer shall also file its establishment with the competent authority of real estate development in the location of its registration within 30 days upon obtaining its business license. Establishment of a foreign-invested enterprise engaging in real estate development and sale shall also go through the relevant review and approval procedures in accordance with the PRC laws and regulations on foreign-invested enterprises.

The minimum proportion of capital fund in real estate development projects (excluding affordable housing projects) was raised to 35% or more under the “Circular on Adjusting the Proportion of Capital Fund in Fixed Asset Investment Projects of Certain Industries” (《關於調整部分行業固定資產投資項目資本金比例的通知》) issued by the State Council on April 26, 2004. In May 2009, the State Council issued the “Circular on Adjusting the Proportion of Capital Fund in Fixed Asset Investment Projects” (《關於調整固定資產投資項目資本金比例的通知》) to reduce such proportion to 20% for ordinary commodity housing projects (普通商品住房項目) and indemnificatory housing projects (保障性住房項目) and 30% for other real estate development projects.

(b) Foreign-Invested Real Estate Developers

Under the “Catalogue of Industries for Guiding Foreign Investment” (《外商投資產業指導目錄》) promulgated by MOFCOM and NDRC on December 24, 2011 and becoming effective on January 30, 2012,

- the development of tracts of land (limited to equity joint ventures and cooperative joint ventures) falls within the category of industries in which foreign investment is subject to restrictions;
- the construction and operation of high-class hotels, high-class office buildings and international exhibition centers falls within the category of industries in which foreign investment is subject to restrictions;
- real estate secondary market transactions and real estate intermediaries or brokers fall within the category of industries in which foreign investment is subject to restrictions;
- the construction and operation of golf courses and villas falls within the category of industries in which foreign investment is prohibited; and
- other real estate development falls within the category of industries in which foreign investment is permitted.

Subject to approval by the relevant foreign investment administration authorities, a foreign investor intending to engage in the development and operation of real estates shall establish an equity joint venture, a cooperative joint venture or a wholly-owned foreign enterprise in accordance with the PRC laws and administrative regulations on foreign-invested enterprises.

On April 6, 2010, the State Council issued the “Opinions on Further Enhancing the Utilization of Foreign Capital” (《關於進一步做好利用外資工作的若干意見》), which provides that projects with a total investment amount (including increase in capital) of less than US\$300 million within the category of industries in which foreign investment is encouraged or permitted as listed in the “Catalogue of Industries for Guiding Foreign Investment” (《外商投資產業指導目錄》) shall, other than those that are subject to the approval of relevant departments of the State Council under the requirements of the “Catalogue of Investment Projects Approved by the Government” (《政府核准的投資項目目錄》), be subject to the approval of relevant departments of local governments.

On May 4, 2010, NDRC issued the “Circular on Properly Delegating the Authority to Approve Foreign-invested Projects” (《關於做好外商投資項目下放核准權限工作的通知》). Under the circular, projects with a total investment amount (including increase in capital) of less than US\$300 million within the category of industries in which foreign investment is encouraged or permitted as listed in the Catalogue of Industries for Guiding Foreign Investment and originally subject to the approval of NDRC shall, other than those that are subject to the approval of relevant departments of the State Council under the requirements of the Catalogue of Investment Projects Approved by the Government, be subject to the approval of the development and reform commissions at the provincial level. In particular, the authority to approve projects within the category of industries under restriction as set out in the Catalogue of Industries for Guiding Foreign Investment is not to be delegated for the time being.

On June 10, 2010, MOFCOM released the “Circular on Issues Concerning Delegating the Review and Approval Authority for Foreign Investment” (《關於下放外商投資審批權限有關問題的通知》). Under the circular, local competent authorities of commerce shall be responsible for the approval and management of the establishment and alteration of foreign-invested enterprises within the encouraged and permitted categories under the Catalogue of Industries for Guiding Foreign Investment with a total investment amount of US\$300 million or less and within the restricted category under the Catalogue of Industries for Guiding Foreign Investment with a total investment amount of US\$50 million or less; the local approval authorities shall be responsible for the approval and management of single increase of capital with an amount less than the above.

On July 11, 2006, MOC, MOFCOM, NDRC, PBOC, SAIC and SAFE jointly promulgated the “Opinions on Regulating the Entry and Administration of Foreign Capital in the Real Estate Market” (《關於規範房地產市場外資准入和管理的意見》). According to the opinions, a foreign investor shall meet the following requirements in order to invest in the real estate market in China:

- A foreign entity or individual purchasing non-self-occupied properties in China shall, subject to the principle of commercial existence, apply for the establishment of a foreign-invested enterprise pursuant to the regulations on foreign investment in real estate, and may only conduct relevant operations within the approved business scope after obtaining approval from the relevant government authorities and completing the relevant registrations.

- If the total investment amount of a foreign-invested real estate developer exceeds or equals to US\$10 million, the registered capital shall not be less than 50% of the total investment amount. If the total investment amount is less than US\$10 million, the prevailing regulations on the registered capital shall apply.
- The establishment of a real estate enterprise shall be legally approved by the competent administration of commerce and the administration for industry and commerce, which will conduct the registration procedures and issue the Foreign-Invested Enterprise Approval Certificate and business license for a term of one year. After fully settling the land premium, the enterprise may apply for the certificate of state-owned land use right from the administration of land with the above certificates. With the certificate of state-owned land use right, the enterprise may apply for the formal Foreign-Invested Enterprise Approval Certificate from the competent administration of commerce, and then apply for a business license with an operation term in line with that of the Foreign-Invested Enterprise Approval Certificate from the administration for industry and commerce, and apply for tax registration with the tax authorities.
- Transfer of projects of or equities in a foreign-invested real estate developer and the merger and acquisition of a domestic real estate developer by a foreign investor shall be approved by the competent administration of commerce in strict compliance with the relevant laws, regulations and policies. The investor shall submit: (a) a letter of guarantee pledging to comply with the state-owned land use right grant contract, the construction land planning permit and the construction project planning permit, etc.; (b) the certificate of state-owned land use right; (c) the proof of change of registration issued by the relevant competent construction and real estate administrations; and (d) the proof of tax payment issued by the relevant tax authorities.
- A foreign investor merging and acquiring a domestic real estate enterprise by way of equity transfer or other means, or acquiring a domestic investor's equity interests in joint ventures, shall make proper arrangements for the real estate enterprise's employees and bank loans, and pay all transfer fee in a lump sum with its own capital. Foreign investors with unfavorable records are prohibited from carrying out such activities in China.

On August 14, 2006, the General Office of the MOFCOM issued the "Circular Concerning the Implementation of the Opinions on Regulating the Entry 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》). The circular requires that the registered capital of a foreign-invested real estate enterprise ("FIREE") shall be not less than 50% of its total investment if its total investment exceeds US\$3 million and not less than 70% of its total investment if its total investment is US\$3 million or less. A foreign investor merging and acquiring a domestic real estate enterprise by way of equity transfer or other means shall make proper arrangements for the real estate enterprise's employees and bank loans, and pay all transfer fee in a lump sum with its own capital within 3 months after the date of issuance of business license for the foreign-invested enterprise.

On May 23, 2007, the MOFCOM and the SAFE jointly issued the “Circular on Further Strengthening and Regulating the Approval and Supervision of Foreign Direct Investments in the Real Estate Industry” (《關於進一步加強、規範外商直接投資房地產業審批和監管的通知》, the “No. 50 Circular”). According to the circular,

- The local competent authorities of commerce shall reinforce the approval and supervision of FIREEs, and strictly control foreign investors from investing in high-class real estate development projects.
- Foreign investors applying for the establishment of real estate enterprises shall first obtain land use rights and real estate or building ownership, or have entered into pre-contract purchase agreements with the relevant administrations of land, land developers or the owners of the real estate or building, otherwise the establishment will not be approved by approval authorities.
- Existing foreign-invested enterprises which intend to expand into real estate development or operation and existing FIREEs which intend to engage in the development and operation of new real estate projects shall go through the relevant procedures with approval authorities.
- The merger and acquisition of domestic real estate enterprises by means of round trip investment (including those with the same de facto controller) is strictly controlled. Foreign investors shall not avoid the examination and approval of foreign investment in real estates by changing the de facto controllers of domestic real estate enterprises.
- The Chinese or foreign investors in FIREEs are prohibited from reaching any term on fixed return or disguised fixed return in any form.
- A local approval authority shall promptly file with the MOFCOM after approving the establishment of a foreign-invested real estate company. Local administrations of foreign exchange and designated foreign exchange banks shall not go through formalities for foreign exchange settlement and sale under capital accounts of the FIREEs which fail to file with the MOFCOM or pass the joint annual inspection on foreign-invested enterprises.

The General Affairs Department of SAFE issued the “Circular Concerning the Distribution of the List of the First Foreign-Invested Real Estate Projects Having Passed the Filing Procedures of the Ministry of Commerce” (《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》, “No. 130 Circular”) on July 10, 2007 to further restrict foreign investment in the real estate sector in China. According to the No. 130 Circular,

- SAFE or its branches shall not go through the formalities of foreign exchange registration (or alteration) or settlement and sale under the capital accounts for FIREEs (including new establishment and increase in capital) which were granted approval certificates by the competent authority of commerce but have not filed with MOFCOM on or after June 1, 2007; and
- SAFE or its branches shall not approve the foreign debt registration or settlement for FIREEs which were granted approval certificates by the competent authority of commerce and have filed to MOFCOM for record on or after June 1, 2007.

Although this notice has been repealed in May 2013, the restrictions and requirements remain in effect.

On June 18, 2008, MOFCOM issued the “Circular on Properly Handling the Filing of Foreign Investment in the Real Estate Sector” (《關於做好外商投資房地產業備案工作的通知》, “No. 23 Circular”), which has become effective on July 1, 2008. According to the No. 23 Circular:

- MOFCOM entrusts provincial competent authorities of commerce to verify the filing materials of FIREEs;
- the establishment (including increase in capital) of a FIREE shall comply with the project company principle, and the business of the FIREE is limited to a single approved real estate project only.

On August 29, 2008, SAFE issued the “Circular on Issues Relating to the Improvement of Operations with Respect to the Administration of Foreign Exchange Capital Payment and Settlement of Foreign-invested Enterprises” (《關於完善外商投資企業外匯資本金支付結匯管理有關業務操作問題的通知》, “No. 142 Circular”). According to the No. 142 Circular, RMB funds derived from foreign exchange capital settlement of a foreign-invested enterprise shall be used within the business scope approved by the governmental approval authority and, unless otherwise provided for, shall not be used for any domestic equity investment. Foreign-invested enterprises other than FIREEs shall not purchase non-self-occupied domestic real estates with RMB funds derived from foreign exchange capital settlement.

On November 22, 2010, MOFCOM promulgated the “Circular on Strengthening Administration of the Approval and Filing of Foreign Investment in the Real Estate Sector” (《關於加強外商投資房地產業審批備案管理的通知》), which provides that a real estate enterprise established in China with foreign capital is prohibited from arbitraging by

purchasing and selling domestic properties which have been completed or which are under construction; local competent authorities of commerce shall not approve investment companies engaging in real estate development and operation, and shall strictly control the establishment of real estate enterprises in China by way of round-trip investment.

B. Qualifications of Real Estate Developers

Under the “Provisions on Administration of Qualifications of Real Estate Developers” (《房地產開發企業資質管理規定》), the “Provisions on Administration of Qualifications” promulgated by MOC (currently known as MOHURD) on March 29, 2000, a real estate developer shall apply for classification of its qualifications according to the Provisions on Administration of Qualifications. An enterprise shall not engage in real estate development without a qualification classification certificate for real estate development. MOC is in charge of the management of qualifications of real estate developers nationwide, and local competent real estate development authorities at county level or above are in charge of the management of qualifications of real estate developers within their administrative divisions. In accordance with the Provisions on Administration of Qualifications, real estate developers are classified into four classes:

- Class 1 qualifications are subject to preliminary examination of the construction authorities at provincial level and final approval of MOC. A real estate developer with class 1 qualification is not restricted as to the construction scale of real estate projects undertaken and may undertake real estate projects nationwide.
- Class 2 or lower qualifications are subject to the approval of local competent construction authorities. A real estate developer with class 2 or lower qualifications may undertake projects with GFA of less than 250,000 sq.m., the specific scope of which is to be determined by the competent construction authorities at provincial level. Under the “Implementation Rules on Administration of Qualifications of Real Estate Developers of Hubei Province” (《湖北省房地產開發企業資質管理實施細則》) issued by the Office of Construction of Hubei Province on July 27, 2000, a real estate developer with class 2 qualification may undertake construction projects with GFA of less than 250,000 sq.m. and may undertake real estate projects within the whole province; a real estate developer with class 3 qualification may undertake construction projects with GFA of less than 100,000 sq.m. and may undertake real estate projects within the city (state) where it locates; and a real estate developer with class 4 qualification may undertake construction projects with less than eight floors and GFA of less than 40,000 sq.m. and may undertake real estate projects within the city district (county/city) where it locates.

Under the Development and Operation Regulations, the competent real estate development authorities shall determine the qualification class of real estate developers by considering their assets, professional technicians as well as development and business achievements, etc.

According to the Provisions on Administration of Qualifications:

- Real estate developers that have passed the qualification examination will be issued a qualification certificate of the corresponding class by the qualification examination authority. Enterprises at each qualification class may only engage in the development and operation of real estate within their approved scope of business and shall not engage in businesses which are beyond their classes.
- A newly established real estate developer shall apply to and file with the competent real estate development authorities within 30 days from the date of receiving its business license. The competent real estate development authorities shall, within 30 days after receiving the above filing, issue a provisional qualification certificate to the eligible enterprise. The provisional qualification certificate is valid for one year and may be extended for not more than two years upon the approval of the competent real estate development authorities. A real estate developer shall apply for qualification classification from the competent real estate development authorities within one month before the expiration of the provisional qualification certificate.
- The qualification of a real estate developer shall be reviewed annually.

C. Development of a Real Estate Project

(a) Land for real estate development

On April 12, 1988, the National People's Congress amended the "Constitution" (《憲法》), permitting the legal transfer of land use right. On December 29, 1988, the Standing Committee of the National People's Congress amended the "Land Administration Law" (《土地管理法》), permitting the legal transfer of land use right.

Under the "Interim Regulations on Grant and Assignment of the State-owned Urban Land Use Right of the People's Republic of China" (《中華人民共和國城鎮國有土地使用權出讓和轉讓暫行條例》), the "Interim Regulations on Grant and Assignment" promulgated by the State Council on May 19, 1990, China adopts a system of granting and assigning state-owned land use right. A land user shall pay a land premium to the State as the consideration for the grant of the land use right by the State for a specified period of time, during which the land user may assign, lease, mortgage or otherwise commercially exploit the land use right. Under the Urban Real Estate Law and the Interim Regulations on Grant and Assignment, the land administration authorities at city or county level shall enter into a land grant contract with the land user to grant land use right. The land user shall pay the land premium as stipulated by the land grant contract. After paying the land premium in full, the land user may register with the land administration authorities and obtain a land use right certificate evidencing the acquisition of land use right.

The Urban Real Estate Law and the Development and Operation Regulations provide that the land use right of land for real estate development must be obtained through grant, except for land use rights which may be obtained through premium-free allocation pursuant to the provisions of the PRC laws or the administrative regulations of the State Council.

On September 24, 2003, MLR promulgated the “Circular on Strengthening Land Supply Management and Promoting the Sustainable Sound Development of the Real Estate Market” (《關於加強土地供應管理促進房地產市場持續健康發展的通知》), which provides that land supply for high-class commodity housing shall be strictly controlled. On May 30, 2006, MLR promulgated the “Urgent Circular on Further Tightening Land Administration” (《關於當前進一步從嚴土地管理的緊急通知》), which provides that land for real estate development must be granted via tender, auction and listing; priority is given to the land supply for low to medium-priced and small to medium-sized ordinary commodity residential housing (including affordable housing) and low-rent residential housing, while strict restriction is imposed on the land supply for low-density or large-sized residential housing. In addition, the circular provides that land supply for villa real estate development projects shall be suspended.

On August 31, 2006, the State Council promulgated the “Circular on Strengthening Land Control” (《關於加強土地調控有關問題的通知》). The circular requires to establish a system for uniformly publicizing the minimum rate standards of industrial land grant to uniformly formulate and publicize the minimum rate standards of industrial land grant in all localities. The minimum rate standards of industrial land grant shall not be less than the sum of the cost of obtaining the land, the preliminary cost of land development and the related expenses collected as required. The industrial land must be transferred by way of tender, auction or listing at a price not less than the minimum rates as publicized.

Under the “Rules Regarding the Grant of State-Owned Land Use Right By Way of Tender, Auction and Listing” (《招標拍賣掛牌出讓國有土地使用權規定》) which was promulgated by MLR on May 9, 2002 and implemented from July 1, 2002, land for operational purposes, such as business, tourism, entertainment and commercial residential housing, shall be granted through tender, auction or listing. On September 28, 2007, MLR promulgated the “Rules Regarding the Grant of Right to Use State-Owned Construction Land By Way of Tender, Auction and Listing” (《招標拍賣掛牌出讓國有建設用地使用權規定》), which were effective from November 1, 2007. The Rules further clarify the procedures for the grant of land use right by way of tender, auction and listing. Moreover, pursuant to the Rules, land for operational purposes such as industry (including warehouse land, but excluding mining land), business, tourism, entertainment and commercial residential housing, and a land parcel with two or more potential users must be granted by way of tender, auction or listing. The grantee of land use right may only have the land registered and obtain the land use right certificate after full settlement of the land premium as specified in the relevant land grant contract. No land use right certificate shall be issued before full settlement of the land premium or in proportion to the land premium paid.

On September 30, 2007, MLR issued the “Circular on Implementation of the State Council’s Certain Opinions on Resolving Housing Difficulties of Urban Low Income Families By Further Strengthening Control of Land Supply” (《關於認真貫徹〈國務院關於解決城市低收入家庭住房困難的若干意見〉進一步加強土地供應調控的通知》) to further enhance the control of land supply. The circular provides that the annual total supply of the land to be developed for low-rent housing, affordable housing and ordinary commodity housing at

low-to-medium price and of small-to-medium size must be not less than 70% of the total supply of land for residential housing; the land and resources authorities shall reasonably control the size of each land parcel, shorten the development cycle of the land (the development and construction period of each land parcel shall be no longer than three years in principle) and increase the total amount of land supply, in order to prevent “land enclosure” in large scale by real estate developers. Real estate enterprises which fail to commence and complete construction according to the terms of the relevant land grant contract and rectify the situation within the specified period are prohibited from purchasing new land by tender, auction or listing.

On January 3, 2008, the State Council issued the “Circular on Promoting the Economical and Intensive Use of Land” (《關於促進節約集約用地的通知》), which provides that for land currently used for industrial purpose, under the precondition that it accords with the relevant planning and that the use of land is not changed, if the land utilization ratio and the plot ratio are increased, no additional land fee should be collected. For newly added land for industrial purpose, control indicators should be further enhanced and no additional land fee should be collected for any part that the GFA of a plant exceeds the control indicators for the plot ratio of such plant. The land user and land fee for land used for industrial and operational purposes must be determined by way of tender, auction or listing.

On May 11, 2009, MLR issued the “Circular on Adjusting the Minimum Rate Standards for Industrial Land Grant” (《關於調整工業用地出讓最低價標準實施政策的通知》). According to the Circular, for industrial projects which fall within the category of priority industries of the provinces (districts/cities) with an intensive use of land, the base price for land grant may be determined at a level of not less than 70% of the price standard for the class of land where they locate. The base price for industrial land grant shall not be less than the sum of the cost of obtaining the land, the preliminary cost of land development and the related expenses collected as required.

On August 10, 2009, MLR and MOS promulgated the “Circular on Further Implementing the Industrial Land Grant System” (《關於進一步落實工業用地出讓制度的通知》). The circular provides that the industrial land shall be granted through tender, auction or listing. During the industrial land grant period, the grantee may increase the plot ratio without paying any additional land premium upon approval, provided that such increase conforms with the plan and that the use of land is not changed.

MOF, MLR, PBOC, MOS and NAO issued the “Circular on Further Tightening Control over Income and Expenses of Land Grant” (《關於進一步加強土地出讓收支管理的通知》) on November 18, 2009. According to the circular, the term of payment by installment for land premium as stipulated in the land grant contract shall not exceed one year in principle or, in the case of special projects, the payment shall be fully settled within two years as collectively decided by local land grant coordination and decision-making authorities. The down payment shall not be less than 50% of the land premium.

On March 8, 2010, MLR promulgated the “Circular Concerning Issues on Strengthening Real Estate Land Supply and Supervision” (《關於加強房地產用地供應和監管有關問題的通知》) to strictly regulate the grant of land for commodity housing. According to the circular,

- the supply of land for affordable housing, rebuilt shanty areas and small-to-medium sized self-occupied commodity housing shall not be less than 70% of the total land supply for residential housing construction. Land supply for large-sized residential housing construction shall be strictly controlled, and land supply for villas shall be suspended.
- the area of a single land parcel granted for commodity housing shall be strictly controlled.
- the minimum price of land grant shall not be less than 70% of the benchmark price of the class where the land parcel being granted is located, and the bidding deposit shall not be less than 20% of the minimum grant price.
- after a land grant deal is closed, a land grant contract shall be signed within 10 working days therefrom. The first installment, which is 50% of the grant price, shall be paid within one month after signing the contract, while the remaining payment shall be made in time in accordance with the contract, which shall not be later than one year.

On September 21, 2010, MLR and the MOHURD jointly released the “Circular on Further Strengthening Administration and Control over Land Utilization and Construction of Real Estate” (《關於進一步加強房地產用地和建設管理調控的通知》) to tighten the examination of qualifications of land bidders. The circular specifies that when a bidder takes part in the bidding, auction or listing of the granted land, the competent department of land and resources shall, in addition to requiring effective certificate of identity and payment of the tender (bid) deposit, require an undertaking letter stating that the tender (bid) deposit is not sourced from any bank loan, shareholders’ borrowing, on-lending or fund-raising as well as a credit certificate issued by a commercial financial institution. Where a bidder is found to have violated the laws, regulations or contracts as follows, the competent department of land and resources shall forbid the bidder and his controlling shareholders from participating in land bidding activities: (1) committing crimes, such as forgery of instruments with an aim of obtaining the land by deception and illegal re-sale of the land; (2) conducting illegal activities, such as illegal transfer of land use right; (3) leaving the land idle for more than one year for developer’s own reasons; (4) where the development and construction enterprise develops and utilizes the land in violation of the conditions stipulated in the grant contract. Besides, the grant of two or more bundled land parcels or uncleared lands (毛地) is prohibited.

On December 19, 2010, MLR issued the “Circular on Issues Concerning Strict Implementation of Real Estate Land Control Policies and Promotion of Healthy Development of the Land Market” (《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》). According to the circular, where a bidder and his controlling shareholders are found to act in violation of relevant laws, regulations and contracts, such as forging instruments with an aim of obtaining the land by deception, illegally reselling the land, illegally transferring land use right, leaving the land idle for more than one year for developer’s own reason and developing and utilizing the land in violation of the conditions stipulated in grant contracts, they shall not pass the bidding qualification examination. Arbitrary adjustment of the plot ratio shall be stopped firmly. Where plot ratio adjustment is approved in line with relevant laws, the competent departments of land and resources at city or county level shall determine the land premium differences to be paid on the basis of the land value in terms of per unit floorage in the land market at the time when the adjustments are approved.

On May 13, 2011, MLR issued the “Opinions on Maintaining and Improving the System for the Grant of Land by way of Tender, Auction and Listing” (《關於堅持和完善土地招標拍賣掛牌出讓制度的意見》). According to the opinions, on the basis of determining the base price of land grant in accordance with the law, factors affecting the development and utilization of land, such as land price and time of payment, development and construction cycle, construction requirements, degree of economical and intensive use of land and performance of previous grant contracts by the enterprises, shall be taken as bid evaluation conditions.

On March 16, 2012, MLR issued the “Opinions on Promoting the System of the Economical and Intensive Use of Land” (《關於大力推進節約集約用地制度建設的意見》), which require maintaining and improving the system for the grant of land by way of tender, auction and listing. Land use should be determined by planning and the land premium and land user should be determined by market competition. Policies encouraging the economical and intensive use of industrial land should be encouraged, and the requirement that no additional land premium will be charged when enhancing the utilization ratio and plot ratio of industrial land should be improved. A land pricing policy for priority industries is adopted. For industrial projects which fall within the category of priority industries of the provinces (districts/cities) with an intensive use of land, the base price may be determined at a level of not less than 70% of the “Minimum Rate Standards for Industrial Land”.

On May 23, 2012, MLR and NDRC jointly issued the “Catalogue of Restricted Use of Land (2012 Version)” (《限制用地項目目錄(2012年本)》) and the “Catalogue of Prohibited Use of Land (2012 Version)” (《禁止用地項目目錄(2012年本)》). According to the above catalogues, the area of a parcel of land granted for residential project shall be no more than 7 hectares in small cities and designated towns, 14 hectares in medium cities or 20 hectares in large cities; the plot ratio shall not be lower than 1.0 (1.0 included); real estate development projects for villas and golf courses shall fall into the category of prohibited use of land.

*(b) Real estate project development**i. Commencement of a real estate project and idle land*

In accordance with the “Measures for Administration of Examination and Approval of Construction Land” (《建設用地審查報批管理辦法》) promulgated by MLR on March 2, 1999 and amended in November 2010, and the “Measures for Administration of Preliminary Examination of Construction Project land” (《建設項目用地預審管理辦法》) promulgated by MLR on July 25, 2001, and amended on November 1, 2004 and November 29, 2008 respectively and taking effect from January 1, 2009, the constructor or developer must make a preliminary application for the construction land to the relevant competent land administration authorities. After receiving the preliminary application, the competent land administration authorities shall carry out preliminary examination on matters related to the construction project in compliance with the overall land utilization plans and national land supply policy. The competent land administration authorities at city or county level will sign a land grant contract with the land user and issue an Approval Certificate for Construction Land to the constructor or developer.

According to the Urban Real Estate Law, those who obtain land use right for real estate development by grant must develop the land according to the purposes and within the development time frame as agreed under the land use right grant contract. Those who fail to commence development of the land within one year from the construction commencement date stipulated in the land grant contract may be charged an idle land fee of up to 20% of the land premium, and those who fail to commence development within two years may be deprived of land use right without compensation, except where the delay in commencement is due to force majeure, actions of governments or relevant government departments, or preliminary work necessary for the commencement of development.

On January 3, 2008, the State Council issued the “Circular on Promoting Economical and Intensive Use of Land” (《關於促進節約集約用地的通知》). The circular emphasizes the strict enforcement of the current policies on the disposal of idle land, pursuant to which those who left the land idle for over one year but less than two years shall be charged an idle land fee of 20% of the land premium, and for the land which has been idle for over two years and should be recovered without compensation, recovery without compensation shall be insisted. The circular further requires financial institutions to exercise caution when granting loans to real estate enterprises which complete less than 1/3 of the land development area or which make less than 25% of the total investment one year after the construction commencement date of their real estate projects as agreed in the land grant contracts. Furthermore, MLR issued the “Circular on Strict Administration of Construction Land and Promoting the Utilization of Approved and Unused Land” (《關於嚴格建設用地管理促進批而未用土地利用的通知》) on August 11, 2009, which reiterates the previous administration on idle land.

On September 21, 2010, MLR and MOHURD jointly released the “Circular on Further Strengthening Administration and Control over Land Utilization and Construction for Real Estate” (《關於進一步加強房地產用地和建設管理調控的通知》). The circular specifies that where a bidder leaves the land idle for more than one year for developer’s own reasons, the competent department of land and resources shall forbid the relevant bidder and his controlling shareholders from participating in land bidding activities.

According to the “Regulations on the Disposal of Idle Land” (《閑置土地處置辦法》) promulgated by MLR on April 26, 1999, amended on June 1, 2012 and taking effect from July 1, 2012, land with the following conditions is considered to be idle:

- the holder of the state-owned construction land use right fails to commence developing the state-owned construction land within one year after the construction commencement date as agreed or stated in the contract of compensated use of state-owned construction land or the land allocation decision;
- the area of the construction land developed upon commencement of development is less than 1/3 of the planned total area for development and construction, and the development and construction of the state-owned construction land has been suspended for more than one year;
- the amount invested in the land is less than 25% of the total investment, and the development and construction of the state-owned construction land has been suspended for more than one year; or
- fails to commence development and construction within one year from the date of actual delivery of land, if the construction commencement date is not agreed or stated or not clearly agreed or stated.

The above regulations provide that for idle land where construction and development has not commenced for one year, the competent department of land and resources at city or county level shall charge idle land fee at 20% of the cost of land grant or allocation. In the event that the construction and development has not commenced for two years, the competent department of land and resources at city or county level shall, upon the approval of the People’s Government with approval authorities, issue the Decision on Recovering the Right to Use State-owned Construction Land to a holder of state-owned construction land use right, and recover the right to use the state-owned construction land without compensation. The above regulations also list the situations where the idleness of land is due to the reasons attributable to the governments as well as the ways of handling idle land under such situations.

ii. Planning of a real estate project

Under the “Measure for Planning 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 MOC on December 4, 1992, becoming effective from January 1, 1993 and revised on January 26, 2011, the grantee under a land grant contract, i.e. a real estate developer, shall apply for a construction land planning permit from the relevant competent authorities of urban planning and administration. The enterprise may apply for the certificate of land use right only after obtaining such permit.

Under the “Law on Urban and Rural Planning of the People’s Republic of China” (《中華人民共和國城鄉規劃法》) promulgated by the Standing Committee of the National People’s Congress on October 28, 2007, effective from January 1, 2008, a real estate developer shall apply for the construction work planning permit from the competent authorities of urban and rural planning under the People’s Government at city or county level for project construction.

iii. Construction of a real estate project

According to the “Measures for Administration of Construction Permit for Construction Projects” (《建築工程施工許可管理辦法》) promulgated by MOC on October 15, 1999, becoming effective from December 1, 1999 and amended on July 4, 2001, a developer engaging in the construction and decoration of various kinds of houses and buildings as well as the ancillary facilities shall apply for a construction permit from the competent construction administration authorities at county level or above where the construction is located before the commencement of the construction.

In accordance with the “Circular on Strengthening and Standardizing the Administration of Newly-commenced Projects” (《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 on November 17, 2007, construction projects shall meet certain conditions before commencement, including complying with the national industrial policies, development and construction plans, land supply policies and market access criteria; completing the approval, ratification or filing procedures; complying with the urban and rural planning; obtaining the approval of the use of land; completing the approval of the environmental impact assessment; completing the energy-saving appraisal and examination for fixed asset investment projects; and acquiring the construction permit.

iv. Tender of real estate project construction

Under the “Administrative Measures on Tendering and Bidding of House Construction and Municipal Infrastructure Projects” (《房屋建築和市政基礎設施工程施工招標投標管理辦法》) issued MOC on June 1, 2001, if the assessed contract value of a single construction under a house construction and municipal infrastructure project is above RMB2 million, or the total investment of a project is above RMB30 million, the construction projects must be subject to tender. With the approval of the People’s Government at the same level, the competent

administration of construction under the People's Government of relevant province, autonomous region or municipality directly under the Central Government may decide the specific scope and scale of construction projects which are subject to tender in the locality according to the actual situation. However, the administration of construction shall not narrow down the scope of construction tender required by such administrative measures. Construction tender includes public tender and invitational tender. For any projects which are wholly invested with state-owned funds or where state-owned funds are in controlling or dominant positions, public tender shall be carried out, while invitational tender may be applied to other kinds of projects. Construction projects which are subject to public tender under the law shall publish a tender announcement on newspapers, information networks or other media designated by the State or local authorities, as well as the Chinese Construction Information Network (中國工程建設和建築業資訊網). For an invitational tender, the tenderer shall send letters of invitation for bid to three or more construction enterprises with suitable qualifications.

v. *Completion of a real estate project*

According to the Development and Operation Regulations, the “Provisions on Acceptance Inspection Upon Completion of House Construction and Municipal Infrastructure Projects” (《房屋建築和市政基礎設施工程竣工驗收規定》) promulgated by MOHURD on December 2, 2013 and the “Administrative Measures on the Filing of Acceptance Inspection upon Completion of House Construction and Municipal Infrastructure Projects” (《房屋建築和市政基礎設施工程竣工驗收備案管理辦法》) promulgated by MOC on April 4, 2000 and revised by MOHURD on October 19, 2009, after the completion of real estate projects, the real estate developer must organize an acceptance inspection and, after passing the inspection, file with the relevant governmental authorities on such completion of acceptance inspection. A real estate development project shall not be delivered for use until and unless it has carried out and passed the acceptance inspection. Where a real estate project is developed in phases, acceptance inspection may be carried out by phase.

D. Transfer of Real Estate

According to the Urban Real Estate Law and the “Provisions on Administration of Transfer of Urban Real Estate” (《城市房地產轉讓管理規定》) promulgated by MOC on August 7, 1995, as amended on August 15, 2001, a real estate owner may sell, bequeath or otherwise legally transfer the real estate to another person. When transferring a real estate, the ownership of the building and the right to use the land on which the building occupies are transferred together. The parties concerned shall enter into a real estate transfer contract in writing and go through the transfer procedures with the administration authority of real estate where the real estate is located within 90 days after signing the transfer contract.

Where the land use right is obtained by grant, the real estate may only be transferred upon satisfying the following conditions:

- the land premium has been paid in full as provided by the land grant contract and the certificate for land use right has been obtained; and
- in the case of a house construction project, more than 25% of the total investment for development has been completed; or
- in case of developing tracts of land, development and construction on land has been carried out as planned, water supply and sewerage, electricity supply, heat supply, roads, telecommunication and other infrastructure or utilities have been made available, and the site has been leveled, meeting the conditions for land used for industry or other constructions.
- In case that the real estate has been completed, the real estate ownership certificate must be obtained.

If the land use right is obtained by grant, the term of usage of the land use right after transfer of the real estate will be the remaining portion of the term provided in the original land grant contract less the term used by the original land users. In the event that the transferee intends to change the use of land provided in the original grant contract, the transferee must first obtain consent from the original land use right transferor and the competent administration of planning at city or county level, and enter into an agreement to amend the land grant contract or re-enter into a new land grant contract to, inter alia, change the use of land and adjust the land premium accordingly.

If the land use right is obtained by allocation, the transfer of real estate is subject to the approval of the People's Government with approval authorities according to the regulations of the State Council. After the People's Government with approval authorities approves the transfer, the transferee must complete the formalities for the grant of the land use right and pay the land premium according to the relevant requirements of the State. Land used for industry (including warehouse land, but excluding mining land), business, tourism, entertainment and commodity housing shall be granted by tendering and bidding, public auction or listing under the prevailing PRC laws and regulations.

E. Mortgage of Real Estate

Under the Urban Real Estate Law, the "Security Law" (《擔保法》) promulgated by the Standing Committee of the National People's Congress on June 30, 1995 and becoming effective from October 1, 1995, the "Measures for Administration of Mortgage of Urban Real Estate" (《城市房地產抵押管理辦法》) promulgated by MOC on May 9, 1997, as amended on August 15, 2001, and the "Property Law" (《物權法》) promulgated by the National People's Congress on March 16, 2007 and becoming effective from October 1, 2007, when a mortgage

is created on the ownership of a legally obtained building, the mortgage must be simultaneously created on the right to use the land which the building occupies. When a mortgage is created on land obtained by way of grant, the mortgage must be simultaneously created on the ownership of the building erected on the land. The mortgagor and mortgagee shall sign a mortgage contract in writing. China adopts a registration system for real estate mortgage. Within 30 days after a real estate mortgage contract has been signed, the parties concerned must register the real estate mortgage with the real estate administration authorities at the location where the real estate is situated. The real estate mortgage right becomes effective on the date of registration of the mortgage. If a mortgage is created on a real estate in respect of which a real estate ownership certificate has been obtained legally, the registration authorities shall, when registering the mortgage, make an entry of “third party right” on the original real estate ownership certificate and then issue a certificate of third party right to the mortgagee. If a mortgage is created on a commodity building put up for pre-sale or construction in progress, the registration authority shall, when registering the mortgage, record the details on the mortgage contract. If construction of a real estate is completed during the term of a mortgage, the parties involved shall re-register the mortgage of the real estate after obtaining the certificates evidencing the rights and ownership to the real estate.

F. Real Estate Credit

Under the “Circular on Further Strengthening the Administration of Real Estate Credit” (《關於進一步加強房地產信貸業務管理的通知》) issued by the PBOC on June 5, 2003, the requirements for banks to provide loans for residential development, individual housing mortgage and individual commodity housing are tightened:

- Real estate development loans shall be granted to real estate developers which are qualified for real estate development, rank high in credibility and have no overdue payment for construction fees. Such loans shall be given in support of residential housing projects which are affordable by families with medium-to-low income particularly, and shall be strictly restricted from projects involving building properties of large size and/or covering large area, such as luxurious commodity housing and villas. For real estate developers with high vacancy rate of commodity housing and high debt ratio, strict approval and close monitoring must be applied to their new real estate development loans.
- Commercial banks may not grant loans to real estate developers for the payment of land premium.
- Commercial banks shall not grant any kind of loans to projects without the certificate of land use right, the construction land planning permit, the construction project planning permit and the construction permit. Loans applied for by real estate developers shall only be granted by commercial banks in the name of real estate development loans, but not in the name of real estate development liquidity loans or other types of loans. Commercial banks may recover the non-real estate

development loans that have been granted to the real estate developers, but are not allowed to grant new ones. To apply for bank loans, a real estate developer's self-owned funds (owner's equity) shall not be less than 30% of the total investment of the development project. The real estate loans granted by a commercial bank may only be used for the real estate projects in the region where the developer is located, and are prohibited to be used across regions.

In the "Circular on Facilitating the Continuous Healthy Development of the Real Estate Market" (《關於促進房地產市場持續健康發展的通知》) issued by the State Council on August 12, 2003, a series of measures were adopted by the government to control the real estate market, including, among others, strengthening the construction and management of affordable houses, increasing the supply of ordinary commodity housing and controlling the construction of high-class commodity housing. Besides, the government also staged a series of measures on developing residential housing credit, including strengthening efforts on housing provident fund collection and granting of loans, improving the guarantee mechanism of individual residential housing loans and strengthening the supervision over real estate loans.

Under the "Circular on Adjusting the Proportion of Capital Fund in Fixed Asset Investment of Certain Industries" (《國務院關於調整部分行業固定資產投資項目資本金比例的通知》) issued by the State Council on April 26, 2004, the proportion of capital fund of real estate projects (excluding affordable housing projects) has been increased from 20% or above to 35% or above.

Pursuant to the "Guidance on Risk Management of Real Estate Loans Granted by Commercial Banks" (《商業銀行房地產貸款風險管理指引》) issued by the CBRC on August 30, 2004, commercial banks shall not provide any loan in any form for projects without the certificate of land use right, the construction land planning permit, the construction project planning permit and the construction permit. For any real estate developer applying for real estate development loan, the proportion of capital fund to be invested in the development project shall be no less than 35%.

On September 27, 2007, the PBOC and the CBRC jointly issued the "Circular on Strengthening the Administration of Commercial Real Estate Credit" (《關於加強商業性房地產信貸管理的通知》) to further regulate the administration of commercial real estate credit. These measures include:

- prohibiting commercial banks from granting any kind of loans to projects with a proportion of capital fund (owners' equity) of less than 35%, or without the certificate of land use right, the construction land planning permit, the construction project planning permit and the construction permit;
- prohibiting commercial banks from granting loans to real estate developers solely for the payment of land premium.

According to the requirements under the “Circular on Promoting Economical and Intensive Utilization of Land through Financing” (《關於金融促進節約集約用地的通知》) issued by PBOC and CBRC on July 29, 2008, a real estate developer applying for land reserve loans from a financial institution by way of mortgage shall have the legitimate certificate of land use right. The maximum amount of mortgage loan offered by a financial institution shall not be more than 70% of the assessed value of the collateral and the loan term shall not exceed two years in principle. The circular also required to tighten the examination and approval of loans for municipal infrastructure and industrial land projects. No credit support shall, in any form, be given to the construction of any municipal infrastructure, ecological planting project or industrial project which does not meet the national standards, or for which no land use approval has been obtained from the land and resources authorities. A financial institution should give prioritized financial support to projects which are to increase the land utilization rate and plot ratio of the existing industrial land as well as to projects which are to develop and utilize the spare, abandoned or idle land provided that such projects meet the planning requirements without changing the original purposes.

According to the “Circular on Adjusting the Proportion of Capital Fund 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》) issued by the State Council on May 25, 2009, the proportion of capital fund for affordable housing projects and ordinary commodity housing projects is adjusted from 35% to 20%, and, for other properties, from 35% to 30%. Financial institutions shall decide on their own whether to issue loans to real estate developers based on the adjustments to the proportion of capital fund.

On September 29, 2010, PBOC and CBRC jointly issued the “Circular on Issues Concerning Improving Differentiated Housing Credit Policies” (《關於完善差別化住房信貸政策有關問題的通知》), which provides that if a real estate developer has records of violating the laws and regulations, such as having idle land, changing the use and nature of land, delaying project commencement or completion and hoarding the real estates, all commercial banks shall stop granting loans or providing loan extension to such real estate developer for its new development projects.

G. Sale of Commodity Housing

Under the “Administrative Measures on the Sale of Commodity Housing” (《商品房銷售管理辦法》) promulgated by MOC on April 4, 2001 and becoming effective from June 1, 2001, sale of commodity housing includes the pre-sale of commodity housing and spot sale of commodity housing. The commodity housing for spot sale shall pass the inspection and acceptance upon completion and satisfy other conditions. Before the spot sale of commodity housing, the real estate developer shall file the project manual of real estate development and the relevant evidence documents with the competent authorities of real estate development to prove its satisfaction of the conditions for spot sale of commodity housing. A real estate developer shall not sell uncompleted commodity housing by after-sale lease guarantee or any such mean in disguised form.

According to the Development and Operation Regulations and the “Administrative Measures on the Pre-sale of Urban Commodity Housing” (《城市商品房預售管理辦法》, the “Pre-sale Measures”) promulgated by MOC on November 15, 1994, as amended on August 15, 2001 and July 20, 2004, a pre-sale permit must be in place before commodity housing may be put into pre-sale. The pre-sale of commodity housing shall meet the following conditions:

- the land premium has been paid in full and a certificate of land use right has been obtained;
- the construction work planning permit and construction permit have been obtained;
- the funds invested in the development and construction of the commodity housing put into pre-sale represent 25% or more of the total investment in the project and the progress of construction and the completion and delivery dates have been determined; and
- a permit for pre-sale of commodity housing has been obtained.

The proceeds from pre-sale of commodity housing must be used to develop the relevant pre-sale project.

On April 13, 2010, MOHURD issued the “Circular on Further Strengthening Supervision on the Real Estate Market and Improving the Commodity Housing Pre-sale System” (《關於進一步加強房地產市場監管完善商品住房預售制度有關問題的通知》). The circular provides that:

- a real estate developer shall not charge fees of earnest or advance nature or in disguised form from the purchaser in the form of subscription, ordering, numbering or issuance of VIP card in relation to commodity residential housing projects that have not obtained the pre-sale permits;
- a real estate developer shall disclose all the flats that are permitted to be sold and the price of each flat at one time within ten days after the commodity residential housing project obtains the pre-sale permit, and price quotation shall strictly follow the pre-sale plan with actual price shown for external sales;
- the requirements of the minimum scale for a pre-sale permit and the project image progress of a commodity residential housing project shall be determined reasonably. Pre-sale permits can only be issued to the entire building at the minimum extent, instead of individual floors or units;
- all the pre-sale proceeds shall be deposited into an escrow account to ensure the legitimate use for project construction.

Under the “Regulation on the Sale of Commodity Housing at Expressly Marked Price” (《商品房銷售明碼標價規定》) promulgated by the NDRC on March 16, 2011 and effective from May 1, 2011, real estate developers are required to expressly mark the price of commodity housing for sale or pre-sale, and make public all the flats available for sale or pre-sale at one time within the required period. Real estate developers are also required to clearly indicate factors that are closely related to housing price and relative charges, such as commission fee and property management fee. No additional charge beyond what is made public by the real estate developer is permitted.

H. Lease of Housing

Under the Urban Real Estate Law, parties to a housing tenancy shall sign a lease contract in writing and file it with the administration authority of real estate.

Under the “Administrative Measures on the Lease of Commodity Housing” (《商品房屋租賃管理辦法》), issued by the MOHURD on December 1, 2010 and becoming effective from February 1, 2011, the parties to a housing tenancy shall go through the housing tenancy registration and filing process with the competent construction (real estate) departments under the People’s Government of the municipality directly under the Central Government, city or county where the housing is located within 30 days after the housing tenancy contract is signed. For those who fail to comply with the above regulations, the relevant competent governmental construction (real estate) departments may impose a fine of below RMB1,000 on individuals, and a fine of between RMB1,000 and RMB10,000 on units.

I. Environment Protection in Real Estate Development

Under the “Regulations on Administration of Environmental Protection of Construction Projects” (《建設項目環境保護管理條例》) issued by the State Council on November 29, 1998, a construction unit shall, during the stage of construction project feasibility study, submit the construction project environmental impact report, environmental impact statement or environmental impact registration form for approval. The environmental protection facilities that are required in relation to the construction project must be designed, constructed and put into operation simultaneously with the main structure of the construction project. In addition, the construction unit shall, during the trial production of the construction project, monitor the operation of the environmental protection facilities and the environmental impact of the construction project. On completion of construction, the construction unit shall file an application with the competent department of environmental protection administration that reviews and approves the relevant construction project environmental impact report, environmental impact statement or environmental impact registration form for environmental protection acceptance inspection upon completion. The acceptance inspection upon completion of environmental protection facilities shall be conducted simultaneously with the main structure of the project.

J. Insurance

There is no mandatory provision in the PRC laws, regulations and government rules which requires a real estate developer to take out insurance policies for its real estate development projects. According to the common practice of the real estate industry in China, in the course of tendering and bidding for construction projects, construction companies are usually required to provide insurance plans, pay insurance premium at their own costs and take out the relevant kinds of insurance during the construction period, such as property insurance, third party liability insurance, employer's liability insurance, construction performance guarantee insurance and all risk insurance for construction and installation projects. All these insurance coverage will cease immediately subsequent to the acceptance inspection upon completion of the construction project.

K. Measures on Stabilizing Housing Price

Under the "Circular on Further Strengthening the Administration of Real Estate Credit" (《關於進一步加強房地產信貸業務管理的通知》) issued by PBOC on June 5, 2003, the requirements for banks to grant individual housing loans and individual commercial housing mortgage loans are tightened as follows:

- Commercial banks may only provide housing loans to individual buyers when the main structural buildings have been topped out. When a borrower applies for individual housing loans to buy his first self-occupied residential housing, the percentage of down payment made by the borrower remains at 20%. In respect of loan application for the second or further (including the second) residential housing, the percentage of down payment made by the borrower shall be properly raised.
- When a borrower applies for a mortgage loan for an individual commercial housing, the mortgage ratio shall not be more than 60%. In addition, the term of loan shall not be more than 10 years and the commercial housing must have passed the acceptance inspection of the relevant government departments upon completion.

The General Office of the State Council promulgated the "Circular on Stabilizing Housing Price" (《關於切實穩定住房價格的通知》) on March 26, 2005, requiring to adopt measures to restrain the housing price from increasing too fast and to promote a stable development of the real estate market.

On April 30, 2005, MOC, NDRC, MOF, MLR, PBOC, SAT and CBRC jointly issued the "Opinions on Properly Stabilizing Housing Price" (《關於做好穩定住房價格工作的意見》) with the following requirements:

- Where the housing price is growing too fast, while the supply of low-to-medium priced ordinary commodity housing and affordable housing is insufficient, the residential housing construction shall mainly involve projects of low-to-medium priced ordinary commodity housing and affordable housing. The construction of low-density and high-class residential housing shall be strictly controlled.

- Where the price of land for residential use and residential housing is growing too fast, the proportion of land for residential use to total land supply shall be appropriately raised, and the land supply for the construction of low-to-medium priced ordinary commodity housing and affordable housing shall be particularly increased. Land supply for villas shall continue to be suspended, and land supply for high-class residential housing shall be strictly controlled.
- Commencing from June 1, 2005, business tax upon the transfer of a residential housing by an individual within two years from his/her purchase shall be levied on the entire proceeds from such sale. For an individual transferring an ordinary residential housing after two years (including 2 years) from his/her purchase, the business tax will be exempted. For an individual transferring a real estate other than an ordinary residential housing after two years from his/her purchase (including 2 years), the business tax shall be levied on the difference between the selling price and the original purchase price of the housing.
- Small-to-medium sized ordinary residential housing at low-to-medium prices are supported by preferential treatment in planning permit, land supply, credit, taxation and other aspects. Residential housing enjoying these preferential policies must satisfy the following conditions in principle: the plot ratio is above 1.0, the GFA of a single unit is less than 120 sq.m., and the actual trading price is less than 1.2 times the average transaction price of housing located on the land of the same class. The local governments at provincial level may, based on actual circumstances, formulate specific standards for ordinary residential housing that may enjoy the preferential policies in locality.
- Transfer of uncompleted pre-sold commodity housing by any pre-sale purchaser is forbidden. In addition, purchasers are required to buy properties in their real names. Any commodity housing pre-sale contract must also be filed with the relevant government authorities online immediately after execution.

On May 24, 2006, MOC, NDRC, MOS, MOF, MLR, PBOC, NBS, SAT and CBRC jointly issued the “Opinions on Adjusting Housing Supply Structure and Stabilizing Housing Price” (《關於調整住房供應結構穩定住房價格的意見》). The opinions provide the following measures:

- At least 70% of the total annual land supply for residential housing shall be used for developing low-to-medium priced and small-to-medium sized ordinary commodity residential housing (including affordable houses) and low rent housing;
- Since June 1, 2006, for residential projects which are newly approved or which have just commenced construction, at least 70% of the GFA developed and constructed must consist of residential housing (including affordable housing) with a unit floor area (套型建築面積) of less than 90 sq.m. For projects which have already received project development approval but have not obtained construction permits, the layout shall be adjusted accordingly in order to conform to this requirement;

- Since June 1, 2006, the minimum proportion of down payment of individual residential housing mortgage loan shall be at least 30%. Where the loan is for a self-occupied residential housing with a unit floor area of less than 90 sq.m., the minimum proportion of down payment is still 20%;
- Commercial banks are prohibited from granting loans to real estate enterprises with a project capital ratio of less than 35%. Commercial banks shall strictly control the extension of loans or the grant of revolving credit facilities to real estate developers holding a large amount of idle land and vacant commodity housing. Commercial banks are prohibited from taking commodity housing which has been vacant for more than three years as security for their loans; and
- Since June 1, 2006, business tax is levied on the entire proceeds from the re-sale of residential housing if the holding period is shorter than five years; where an individual transfers an ordinary residential housing after five years (including five years) from his/her purchase, business tax is exempted; where an individual transfers a property other than an ordinary residential housing after five years from his/her purchase, business tax shall be levied on the difference between such re-sale price and the original purchase price of the housing.

According to the “Circular on Strengthening the Administration of Commercial Real Estate Credit” (《關於加強商業性房地產信貸管理的通知》) jointly issued by the PBOC and the CBRC on September 27, 2007,

- banks are required to support funding needs of borrowers purchasing their first small-to-medium self-occupied residential housing, and to grant loans only to individuals who purchase residential housing of which the main structure has been topped out;
- the minimum proportion of down payment for the first self-occupied residential housing bought with a unit floor area of less than 90 sq.m. shall not be less than 20%. The minimum proportion of down payment for the first self-occupied residential housing bought with a unit floor area of over 90 sq.m. shall not be less than 30%. The minimum proportion of down payment for the second (or more) residential housing payable by an individual who has already obtained a housing mortgage shall not be less than 40%. The loan interest rate shall not be less than 1.1 times the benchmark rate published by the PBOC, and the minimum proportion of down payment and interest rate shall significantly increase with the number of flats purchased;
- commercial housing purchased with loans shall have been completed and passed acceptance inspection upon completion; and

- for commercial housing, the minimum proportion of down payment shall not be less than 50%, the loan term shall not exceed 10 years and the loan interest rate shall not be less than 1.1 times the benchmark rate issued by the PBOC. For combined commercial and residential housing, the minimum proportion of down payment shall not be less than 45% and the term and interest rate shall be determined according to the administrative regulations on commercial housing loans.

On December 5, 2007, PBOC and CBRC jointly issued the “Supplemental Circular on Strengthening the Management of Commercial Real Estate Credit” (《關於加強商業性房地產信貸管理的補充通知》), which clarifies that the number of property mortgage loans shall be calculated on a family basis, including the borrower and his/her spouse and minor children.

On October 22, 2008, MOF and SAT jointly issued the “Circular on Adjusting the Taxation Policies with Regard to Real Estate Transaction” (《關於調整房地產交易環節稅收政策的通知》), effective from November 1, 2008 and revised on October 1, 2010. According to the circular:

- stamp duty is temporarily exempted for individual residential housing purchase or sale; and
- land appreciation tax is temporarily exempted for individual residential housing sale.

On October 22, 2008, PBOC promulgated the “Circular on Several Issues Regarding the Expansion of Downward Floating Interest Rate for Commercial Individual Housing Loans” (《關於擴大商業性個人住房貸款利率下浮幅度等有關問題的通知》), which provides that, from October 27, 2008, the minimum interest rate for commercial individual housing loans will be 70% of the benchmark loan interest rate and the minimum proportion of down payment will be adjusted to 20%. Related matters are as follows:

- Loan interest rate and proportion of down payment granted by financial institutions to their clients shall be determined based on the following factors: whether it is the first time for the borrower to buy a house, whether the house is purchased for self-occupation, whether the house type and GFA conform to those of an ordinary residential housing and other risk factors, such as the borrower’s credit record and repayment capacity.
- Financial institutions may provide preferential treatments on loan interest rate and proportion of down payment to residents for first purchase of ordinary self-occupied housing and for improvement of ordinary self-occupied housing. For non-self-occupied housing and non-ordinary residential housing, financial institutions may properly raise the loan conditions.
- The policy that the borrower’s monthly expenditure on repayment of housing loans shall not exceed 50% of his/her monthly income remains unchanged.

On December 20, 2008, the General Office of the State Council issued the rules on the “Opinions on Promoting the Healthy Development of the Real Estate Market” (《國務院辦公廳關於促進房地產市場健康發展的若干意見》), which provides that in order to expand domestic demand and encourage consumption of ordinary residential housing, on the condition that the GFA per capita of the first residential housing bought with loans is lower than the local average standard, the buyer may apply for the purchase of the second housing with the same preferential interest rate and proportion of down payment for the first residential housing. For other circumstances of buying the second residential housing, the interest rate and other relevant factors shall be reasonably determined by the commercial banks based on risk factors.

The General Office of the State Council issued the “Circular on Accelerating the Stable and Smooth Development of the Real Estate Market” (《關於促進房地產市場平穩健康發展的通知》) on January 7, 2010. The circular provides that for families, including the borrower and his/her spouse and minor children, which have bought a house with loans and apply to buy the second or above (inclusive) house with loans, the proportion of down payment shall not be less than 40% of the total house price. The interest rate will be adjusted based on risk pricing.

On April 17, 2010, the State Council issued the “Circular on Resolutely Curbing the Rapid Rising of the House Price in Certain Cities” (《國務院關於堅決遏制部分城市房價過快上漲的通知》), which stipulates that the proportion of down payment for the first self-occupied home with a unit floor area of larger than 90 sq.m. shall not be less than 30% of the purchase price; the proportion of down payment for the second house bought with mortgage loans for a family shall not be less than 50% of the purchase price and the loan interest rate shall not be less than 1.1 times the benchmark lending rate published by the PBOC. In addition, the proportion of down payment and interest rate shall significantly increase for the third or further houses bought with mortgage loans. In certain regions where commodity residential housing are in short supply and prices rise too quickly, the banks may suspend granting mortgage loans for the third or further houses bought with mortgage loans or to non-local residents who cannot provide any proof of tax or social insurance payment for more than one year.

The MOHURD, the PBOC and the CBRC jointly released the “Circular on Regulating the Recognition Standards of the Second House in Commercial Individual Housing Loans” (《關於規範商業性個人住房貸款中第二套住房認定標準的通知》) on May 26, 2010 to regulate the recognition standards of the second house for applicants of commercial housing loans. Under the circular, for commercial individual housing loans, the number of houses owned by a family shall be calculated based on the number of flats which are actually owned by the members (including the loan applicant and his/her spouse and minor children, hereinafter the same) of the family who plans to purchase a house. The circular also stipulates that house purchasers shall check the house registration records of the family via the house registration information system and provide written enquiry results. Loan applicants who cannot provide enquiry results shall provide written credit guarantee to prove the actual number of houses owned by his/her family.

On September 29, 2010, the PBOC and the CBRC jointly issued the “Circular on Issues Concerning Improving Differentiated Housing Loan Policies” (《關於完善差別化住房信貸政策有關問題的通知》), which stipulates that all commercial banks shall suspend issuing housing loans to house buyers whose family members already own two or more housing properties and to non-local residents who cannot provide evidence showing that they have paid taxes or social insurance contribution for more than one year.

On September 29, 2010, the State Administration of Taxation, MOF and MOHURD issued the “Circular on Adjusting the Preferential Policies on Deed Tax and Individual Income Tax in Real Estate Deals” (《關於調整房地產交易環節契稅個人所得稅優惠政策的通知》), effective from October 1, 2010, which provides that where an individual purchases an ordinary house as the sole house for his/her family (including the purchaser and his/her spouse and minor children, hereinafter the same) to live in, deed tax thereon shall be reduced by half. Where an individual purchases an ordinary house of 90 sq.m. or less as the sole house for his/her family to live in, the deed tax shall be reduced and levied at the rate of 1%.

On September 30, 2010, the MOHURD, MLR and MOS jointly issued “Circular on Further Implementing Guofa [2010] No.10 Document” (《關於進一步貫徹落實國發[2010]10號文件的通知》). According to the circular, in areas where the housing price is too high and rises too fast and the supply is in shortage, the local government may take provisional measures to limit the number of houses to be purchased within a certain period.

On November 2, 2010, MOF, MOHURD, CBRC and PBOC jointly issued the “Circular on Issues Concerning the Regulation of the Policies on Personal Housing Provident Fund Loan” (《關於規範住房公積金個人住房貸款政策有關問題的通知》). Under the circular, where personal housing provident fund loan is used to buy the first ordinary self-occupied house with a unit floor area of not more than 90 sq.m., the down payment proportion shall not be lower than 20%; where the unit floor area of the house is more than 90 sq.m., the down payment proportion shall not be lower than 30%. Only the housing provident fund-paying families whose GFA per capita is less than the local average shall have access to personal housing provident fund loan for the purchase of the second house, and the loan shall only be used to buy ordinary self-occupied house so as to improve living conditions. Where the personal housing provident fund loan is used to buy the second house, the down payment proportion shall not be lower than 50%, and the interest rate of such loan shall not be less than 1.1 times the interest rate of the personal housing provident fund loan for the purchase of the first house. Granting of personal housing provident fund loans to fund-paying families buying the third or further house shall be stopped.

On November 4, 2010, SAFE and MOHURD jointly issued the “Circular on Further Regulating the Administration of Housing Purchases by Overseas Institutions and Individuals” (《關於進一步規範境外機構和個人購房管理的通知》), which indicates that unless otherwise provided for in laws and regulations, an overseas individual may purchase only one self-occupied house in China; any overseas institution which sets up a branch or representative office in China may only purchase a non-residential house required for business purposes in the city where such branch or representative office is situated.

On January 26, 2011, the General Office of the State Council issued the “Circular concerning Further Strengthening the Control of the Real Estate Market” (《進一步做好房地產市場調控工作有關問題的通知》). This circular, among others, provides that:

- an individual selling residential housing within five years of their purchase will be uniformly charged business taxes on the entire amount of the sale price of such residential housing;
- the proportion of minimum down payment for the purchase of the second house is raised from 50% to 60%, and the loan interest rate shall not be less than 1.1 times the prevailing benchmark rate published by PBOC; and
- municipalities directly under the Central Government, municipalities with independent planning status, provincial capitals and cities with high housing prices shall limit the number of houses that a local resident can buy in a certain period. In principle, local resident families that own one house and non-local resident families which can provide local tax or social insurance payment proof for a certain period are permitted to purchase only one more house (including newly-built houses and second-hand houses). Sale of properties to (a) local resident families which own two or more houses; (b) non-local resident families which own one or more houses; and (c) non-local resident families which cannot provide local tax or social insurance payment proof for a certain period shall be suspended in local administrative regions.

Under the “Circular on Adjusting the Policies on Business Tax on Individual Transfer of Houses” (《關於調整個人住房轉讓營業稅政策的通知》) jointly issued by the State Administration of Taxation and MOF on January 27, 2011, where an individual sells a house which has been purchased for less than 5 years, business tax shall be levied on the entire proceeds; where an individual sells a non-ordinary house which has been purchased for more than 5 years, business tax shall be levied on the difference between the sale proceeds and the price for purchasing the house; where an individual sells an ordinary house which has been purchased for more than 5 years (inclusive), business tax shall be exempted.

On February 26, 2013, the General Office of the State Council announced the “Notice on Continuing to Improve the Regulation and Control of the Real Estate Market” (《國務院辦公廳關於繼續做好房地產市場調控工作的通知》), which, among others, provides the following requirements: (i) limitations on the purchase of commodity residential housing must be strictly implemented, and the scope of such limitations must cover all newly constructed commodity residential housing and second-hand housing located in all the administrative regions of the city concerned; (ii) for cities with excessive growth in housing prices, the local counterparts of PBOC may further increase down payment proportion and interest rates for loans to purchase second housing in accordance with the price control policies and targets of the corresponding local governments; and (iii) the gains generated from the sale of a self-owned residential property shall be subject to individual income tax at a rate of 20%, if the original value of such property can be verified through historical information, such as tax filings and property registration.

In the third quarter of 2013, there has been a further tightening on the down payment of second home purchase mortgages in several cities including Wuhan, Shenyang, Shanghai, Hangzhou and Guangzhou. Down payment requirement for second home purchases was raised from 60% to 65% or 70%.

PART 2 LAWS AND REGULATIONS RELATING TO OTHER BUSINESS SECTORS

A. Legal Supervision Relating to Construction Sector in the PRC

Under the “Construction Law of the People’s Republic of China” (《中華人民共和國建築法》) promulgated by the Standing Committee of the National People’s Congress on November 1, 1997, amended on April 22, 2011 and becoming effective from July 1, 2011, as well as the “Administrative Provisions on the Qualifications of Enterprises in the Construction Industry” (《建築業企業資質管理規定》) issued by MOC on June 26, 2007 and becoming effective from September 1, 2007, enterprises in the construction industry are divided into different qualification levels based on conditions such as registered capital, professional technicians, technologies, equipment and achievement of construction projects completed, and may only engage in construction activities within the scope of its qualification level after passing the qualification examination and obtaining the qualification certificate as an enterprise in the construction industry.

According to the provisions under the “Administrative Provisions on the Qualifications of Enterprises in the Construction Industry”, the qualifications of enterprises in the construction industry shall be classified into three tiers, namely, general contracting, specialized contracting and labor service sub-contracting, each of which is further classified into several qualification types based on the nature and technical features of the project. Each qualification type shall be further divided into several qualification grades according to the prescribed conditions.

Extra grade and first grade qualifications of the tier of general contracting and specialized contracting in the fields of civil aviation, highway, railway and other specific fields shall be approved by the competent administration of construction under the State Council. Second grade qualification of the tier of general contracting shall be approved by the competent administration of construction of the People’s Government of a province, autonomous region or municipality directly under the Central Government. Third grade qualification of the tier of general contracting shall be approved by the competent administration of construction of the People’s Government of a city. Construction enterprises shall engage in construction activities under the approved scope of its qualification grade and shall be subject to annual qualification inspection.

Under the “Regulations on Enterprise Management of Foreign-Invested Construction Enterprises” (《外商投資建築業企業管理規定》) promulgated by the Ministry of Foreign Trade and Economic Cooperation and MOC on September 27, 2002 and effective from December 1, 2002, wholly foreign-owned construction enterprises are only allowed to undertake the following projects within the scope permitted by their qualification grades: (1) projects built exclusively with foreign investment and foreign donations; (2) construction projects financed by international financial institutions and awarded through international tender according to their loan terms; (3) sino-foreign construction projects with 50% or more foreign investment, or sino-foreign construction projects that, though with less than 50% of foreign investment, cannot be independently implemented by Chinese construction enterprises due to technical difficulties, as approved by the People’s Governments of provinces, autonomous regions and municipalities directly under the Central Government; (4) construction projects invested by China but cannot be independently implemented by Chinese construction enterprises due to technical difficulties which, upon the approval of the competent administration of construction of the People’s Governments of provinces, autonomous regions and municipalities directly under the Central Government, can be jointly undertaken by sino-foreign construction enterprises. Sino-foreign equity joint venture construction enterprises and sino-foreign cooperative joint venture construction enterprises shall undertake projects within the scope permitted by their qualification grades.

According to the “Implementation Measures of MOC on Qualification Administration in the Administrative Provisions on Enterprise Management of Foreign-Invested Construction Enterprises” (《建設部關於外商投資建築業企業管理規定中有關資質管理的實施辦法》) issued by MOC on April 8, 2003, for domestic construction enterprises which have become foreign-invested construction enterprises due to acquisition by foreign enterprises, the qualifications shall be reassessed according to the standards actually reached by them.

B. Legal Supervision Relating to Property Management Sector in the PRC

(a) Foreign-invested Property Service Enterprises

According to the “Catalogue of Industries for Guiding Foreign Investment” (《產業指導目錄》), property management falls within the category of permitted foreign investment industries. According to the “Catalogue of Industries for Guiding Foreign Investment” and the relevant requirements set out under the laws and administrative regulations on foreign-invested enterprises, a foreign-invested property service enterprise can be set up in the form of sino-foreign equity joint venture, sino-foreign cooperative joint venture or wholly foreign-owned enterprise. Before the administration for industry and commerce registers a foreign-invested enterprise as a foreign-invested property service enterprise, the foreign-invested property service enterprise shall obtain an approval from the relevant competent department of commerce and receive a Foreign-Invested Enterprise Approval Certificate.

(b) Qualifications of a Property Service Enterprise

According to the “Regulations on Property Management” (《物業管理條例》) issued by the State Council on June 8, 2003, effective from September 1, 2003 and amended on August 26, 2007, the State implements a qualification scheme in managing property service enterprises. Under the “Measures for Administration of Qualifications of Property Service Enterprises” (《物業服務企業資質管理辦法》) issued by MOC on March 17, 2004, effective from May 1, 2004 and amended on November 26, 2007, a newly established property service enterprise shall, within 30 days from the date of receiving its business license, apply from the competent authorities of real estate of the People’s Governments of municipalities directly under the Central Government and cities divided into districts where industrial and commercial registration was completed for a grading assessment. The departments of qualification examination and approval will check and issue the qualification certificate corresponding to their grades.

Under the “Measures for Administration of Qualifications of Property Service Enterprises”, the qualifications of property service enterprises shall be classified into class one, class two and class three. The competent construction authorities of the State Council shall be responsible for issuance and administration of the qualification certificates of class one property service enterprises. The competent construction authorities of the People’s Governments of provinces and autonomous regions shall be responsible for issuance and administration of the qualification certificates of class two property service enterprises, and the competent departments of real estate of People’s Governments of municipalities directly under the Central Government shall be responsible for issuance and administration of the qualification certificates of classes two and three property service enterprises. The competent departments of real estate of the People’s Governments of cities divided into districts shall be responsible for the issuance and administration of the qualification certificates of class three property service enterprises.

Property service enterprises with class one qualification may undertake various property management projects. Property service enterprises with class two qualification may undertake property management business for residential projects of less than 300,000 sq.m. and non-residential projects of less than 80,000 sq.m. Property service enterprises with class three qualification may undertake property management business for residential projects of less than 200,000 sq.m. and non-residential projects of less than 50,000 sq.m.

(c) Hiring a Property Service Enterprise

According to the “Regulations on Property Management” (《物業管理條例》), with the consent of the owners occupying more than half of the total area of the building and representing more than half of the total number of property owners, a property service enterprise may be hired and removed. If a construction unit has hired a property service enterprise before the formal hiring of the property management enterprise by the owners or the general meeting of owners, it shall enter into a preliminary property service contract in writing with the property service enterprise.

C. Legal Supervision Relating to Hotel Sector in the PRC

According to the “Catalogue of Industries for Guiding Foreign Investment”, construction and operation of high-end hotels falls within the category of “restricted foreign investment industries”. Construction and operation of ordinary and economical hotels other than the said high-end hotels falls within the category of “permitted foreign investment industry”.

A foreign-invested enterprise engaging in the hotel business may set up an enterprise in the form of sino-foreign equity joint venture, sino-foreign cooperative joint venture or wholly foreign-owned enterprise according to the “Catalogue of Industries for Guiding Foreign Investment” and the relevant laws and administrative regulations on foreign-invested enterprises. A foreign-invested enterprise engaging in the hotel business shall obtain approval from the relevant competent department of commerce and obtain a Foreign-Invested Enterprise Approval Certificate before registering with the competent administration authority of industry and commerce.

The procedures involved in hotel construction in China include obtaining approvals for land use, project planning and project construction, which shall all be subject to the aforementioned regulations relating to real estate project development.

There is currently no specific authority in China responsible for the supervision of daily operation and management of hotel business. The supervision of daily management of hotel business vests in different authorities based on the respective business scopes of different hotels and mainly involves the followings:

- ***Legal supervision on security and fire control***

On March 21, 1985, MPS issued the “Circular on Reforming and Strengthening the Administration of Special Industries” (《關於改革和加強特種行業管理工作的通知》). The circular provides that the approval system for opening of special industries shall be reformed. The competent authorities and administration for industry and commerce are in charge of the approval of establishment of special industries (including hotel industry) and the public security authorities are no longer responsible for the approval. To facilitate the public security authorities’ understanding of the situation and management, enterprises engaging in special industries shall report to the public security authorities for filing after obtaining business licenses, and shall be subject to public security management and safety supervision of the public security authorities.

Pursuant to the “Measures for Security Control of the Hotel Industry” (《旅館業治安管理辦法》) issued by MPS on November 10, 1987, a hotel can operate only after being examined by and obtaining an approval from the competent authorities, obtaining opinions as signed by a local public security bureau and obtaining a business license. A hotel shall file with the local public security bureau and its branches at county or city level within 3 days from the registration of changes with the administration for industry

and commerce in case of shutting down, transferring or merging of business, changing its place of business and name, etc. Pursuant to the “Provisions on the Administration of Fire Control Safety of State Organs, Organizations, Enterprises and Business Units” (《機關、團體、企業、事業單位消防安全管理規定》) enacted by MPS on November 14, 2001 and enforced since May 1, 2002, hostels (or hotels) are units which require special supervision on fire control safety. When a hotel is under construction, decoration or renovation, a fire control design examination procedure is required and a hotel can only be put to use after passing the fire control inspection upon completion.

- *Supervision on public sanitation*

According to the “Administrative Regulations on Sanitation of Public Places” (《公共場所衛生管理條例》) promulgated by the State Council on April 1, 1987, hotels are subject to public sanitation supervision. An operating enterprise shall obtain a sanitation license. The measures for granting and managing sanitation license are formulated by the public sanitation administration of the People’s Governments of provinces, autonomous regions and municipalities directly under the Central Government. The sanitation license is signed and issued by the public sanitation administration at county level or above, and the public sanitation and epidemic prevention institutions are in charge of granting and managing the license. The sanitation license shall be reviewed once every two years.

- *Supervision on catering services*

According to the “Food Safety Law” (《食品安全法》) issued by the Standing Committee of the National People’s Congress on February 28, 2009 and enforced from June 1, 2009, a hotel operating catering services shall obtain a catering services permit. Catering services permits are granted by food hygiene administration departments.

- *Supervision on entertainment and culture*

According to the “Regulations on the Administration of Entertainment Venues” (《娛樂場所管理條例》) issued by the State Council on January 29, 2006 and enforced from March 1, 2006, hotels that operate singing, dancing and game premises shall apply to the local competent administration of culture at county level or above for cultural operation review. To establish a sino-foreign equity or sino-foreign cooperative joint venture entertainment premise, an application shall be filed with the competent department of culture of the People’s Government of a province, autonomous region or municipality directly under the Central Government. If approved, the relevant local competent administration of culture shall issue a permit for entertainment business operations. In case the relevant local application is approved, the number of consumers to be accommodated by the entertainment premise shall be determined according to the provisions set down by the competent department of culture under the State Council.

According to the “Provisions for the Administration of Ground Satellite Television Broadcast Reception Facilities” (《衛星電視廣播地面接收設施管理規定》) issued by the State Council on October 5, 1993, the “Implementation Rules on Provisions for the Administration of Ground Satellite Television Broadcast Reception Facilities” (《衛星電視廣播地面接收設施管理規定實施細則》) issued by the State Administration of Radio, Film and Television on February 3, 1994, as well as the “Administrative Measures on the Reception of Foreign Satellite Television Channels” (《境外衛星電視頻道落地管理辦法》) promulgated by the State Administration of Radio, Film and Television on June 18, 2004 and enforced from August 1, 2004, hotels for foreigners of above three-star or the second rank of the national standards may apply to local administration of radio and television at county or city level for installing ground satellite reception facilities to receive overseas TV programs via satellite transmission upon receiving the opinions signed by the administration of radio and television at regional or city level and national security authorities and submitting to the administration of radio and television of province, autonomous region and municipality directly under the Central Government for approval. Upon the completion of installation of ground satellite reception facilities and passing the inspection imposed by the administration of radio and television of province, autonomous region and municipality directly under the Central Government and national security authorities, a permit for receiving overseas television programs via satellite transmission would be issued.

- *Supervision on disposition of sewage and pollutants*

According to the “Regulations of the Ministry of Construction on the Conditions for the 15 Items of Administrative Licensing that are Included in the Decisions of the State Council” (《建設部關於納入國務院決定的十五項行政許可的條件的規定》) enacted by MOC on October 15, 2004 and enforced from December 1, 2004, a hotel that has been connecting or planning to connect to the urban drainage system for sewage discharge shall apply to the local competent urban construction authorities for an urban drainage permit.

- *Supervision on special equipment security*

Elevators (lifts and escalators), boilers and pressure containers and so on are special equipments. According to the “Regulations on Security Supervision of Special Equipment” (《特種設備安全監察條例》) issued by the State Council on March 11, 2003, implemented on June 1, 2003, amended on January 24, 2009 and enforced from May 1, 2009, a hotel shall register with the special equipment security supervision administration of municipality directly under the Central Government or cities divided into districts prior to or within 30 days after the use of the aforesaid special equipment. Besides, supervision and examination, regular examination, model testing and no-damage testing of special equipment shall be conducted by special equipment examination and testing institutions as approved according to such regulations.

- *Supervision on sale of tobacco and alcohol*

According to the “Administrative Measures on Tobacco Monopoly Licenses” (《煙草專賣許可證管理辦法》) issued by NDRC on February 5, 2007 and enforced from March 7, 2007, hotels that sell tobacco shall apply to the competent department of tobacco monopoly administration for a tobacco monopoly retail permit. According to the “Administrative Measures on Foreign Investment in Commercial Fields” (《外商投資商業領域管理辦法》) issued by MOFCOM on April 16, 2004 and enforced on June 1, 2004, a foreign-invested commercial enterprise that engages in wholesale and retail is not allowed to operate the tobacco business. According to the “Administrative Measures on Alcohol Circulation” (《酒類流通管理辦法》) issued by MOFCOM on November 7, 2005 and enforced from January 1, 2006, an enterprise that sells alcohol shall file and register with the competent administration of commerce at the same level as the administration for industry and commerce to which the registration is made. The licensing system shall continue to apply in those regions where the licensing administration of alcohol circulation has already been carried out according to the law.

D. Legal Supervision Relating to Project Design Sector in the PRC

Under the “Administrative Regulations on the Survey and Design of Construction Projects” (《建設工程勘察設計管理條例》) promulgated by the State Council on September 25, 2000 and the “Administrative Regulations on the Survey and Design Qualifications of Construction Projects” (《建設工程勘察設計資質管理規定》) issued by MOC on June 26, 2007 and implemented from September 1, 2007, the State applies a qualification management system to entities engaging in the surveying and designing activities for construction projects. An enterprise engaged in the construction project design activities shall apply for the relevant qualifications based on conditions such as registered capital, professional technicians, technical equipment and design performances, and may only engage in construction project design activities within the scope of its qualification after passing the qualification examination and obtaining the construction project design qualification certificate.

The qualification of project design is classified into the comprehensive qualification of project design, the industrial qualification of project design, the professional qualification of project design and the special qualification of project design. The comprehensive qualification of project design comprises Grade A only, while the industrial qualification, professional qualification and special qualification of project design comprise Grade A and Grade B. Based on the nature and technical features of the projects, certain industrial, professional and special qualifications may comprise Grade C, and the professional qualification of construction projects may comprise Grade D.

An enterprise with the comprehensive qualification of project design may undertake construction project design businesses of all grades in all industries; an enterprise with the industrial qualification of project design may undertake project design businesses of the corresponding grades in the corresponding industries as well as corresponding professional and

special project design businesses of the same grade in its own industry (except for the qualification of design-construction integration); an enterprise with the professional qualification of project design may undertake professional project design businesses of the corresponding grades in its own profession and corresponding special project design businesses of the same grade (except for the qualification of design-construction integration); an enterprise with the special qualification of project design may undertake special project design businesses of the corresponding grades in its own specialized field.

If an enterprises applies for the Grade A qualification of project design, or Grade B qualification of project design involving railway, transportation, water resources, information industries, civil aviation and other aspects, it shall submit an application to the competent construction departments of People's Government of the province, autonomous region or municipality directly under the Central Government of the place where it completes its industrial and commercial registration. Grade B qualification of project design (except for Grade B qualification of project design in railway, transportation, water resources, information industry, civil aviation and other aspects) and lower qualifications shall be determined by the competent construction departments of the People's Governments of a province, autonomous region and municipality directly under the Central Government according to the law.

PART 3 LAWS AND REGULATIONS RELATING TO FOREIGN EXCHANGE AND TAX

A. Foreign Exchange Control

(a) General Regulations

The lawful currency of the PRC is Renminbi ("RMB"), which is subject to foreign exchange control and is not freely convertible into foreign exchange at the time being. The SAFE, under the authority of the PBOC, is empowered to administer all matters relating to foreign exchange, including the enforcement of foreign exchange control regulations.

Prior to December 31, 1993, a quota system was used for the management of foreign exchange in the PRC. Any enterprise requiring foreign currency was required to obtain a quota from the local SAFE before it could convert RMB into foreign currency through the Bank of China or other designated banks. Such conversion had to be effected at the official rate prescribed by the SAFE on a daily basis.

On December 28, 1993, the PBOC, under the authority of the State Council, promulgated the "Circular of the People's Bank of China Concerning Further Reform of the Foreign Currency Control System" (《中國人民銀行關於進一步改革外匯管理體制的公告》), effective from January 1, 1994 (abolished on August 28, 2009). The circular announced the abolition of the foreign exchange quota system, the implementation of conditional conversion of RMB in current account items, the establishment of the system of settlement and payment of foreign exchange by banks and the unification of the official RMB exchange rate and the RMB market rate established by swap centers.

On January 29, 1996, the State Council promulgated the “Administrative Regulations on Foreign Exchange of the People’s Republic of China” (《中華人民共和國外匯管理條例》), the “Administrative Regulations on Foreign Exchange”) which became effective from April 1, 1996 and was subsequently amended on January 14, 1997. The Administrative Regulations on Foreign Exchange classifies all international payments and transfers into current account items and capital account items. Current account items are no longer subject to the SAFE’s approval while capital account items are still subject to its approval.

On June 20, 1996, the PBOC promulgated the “Regulations for Administration of Settlement, Sale and Payment of Foreign Exchange” (《結匯、售匯及付匯管理規定》) (the “Settlement Regulations”) which became effective on July 1, 1996. The Settlement Regulations superseded the Provisional Regulations and abolished the remaining restrictions on the convertibility of foreign exchange in respect of current account items while retaining the existing restrictions on foreign exchange transactions in respect of capital account items.

The Administrative Regulations on Foreign Exchange was amended by the State Council on August 1, 2008 and became effective on August 5, 2008. Under the revised Administrative Regulations on Foreign Exchange, the compulsory settlement of foreign exchange is dropped. As long as the foreign exchange income and expenses under the current accounts are based upon real and legal transactions, the foreign exchange income generated from current account transactions may be retained or sold by individuals and entities to financial institutions engaged in foreign currency settlement and sale according to the provisions and terms to be set forth by the SAFE. Whether to retain or sell the foreign exchange income generated from capital account transactions to financial institutions engaged in foreign currency settlement and sale is subject to the approval of the SAFE or its branches, except otherwise stipulated by the State. Foreign exchange or RMB funds for settlement under the capital account must be used in the way as approved by the SAFE and its branches, and the SAFE and its branches are empowered to supervise the use of the foreign exchange or RMB funds for settlement under the capital account and the alterations of the capital accounts.

On August 29, 2008, the General Affairs Department of the SAFE issued the “Circular on Relevant Operating Issues concerning the Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-invested Enterprises” (《關於完善外商投資企業外匯資本金支付結匯管理有關業務操作問題的通知》) to further regulate the administration of payment and settlement of foreign currency capital of foreign-invested enterprises in the PRC. According to the circular, RMB funds obtained by foreign-invested enterprises through foreign currency capital settlement shall be used within the business scope approved by the government authorities. Furthermore, such funds shall not be used for equity investments in the PRC unless otherwise stipulated. Except for FIREEs, foreign-invested enterprises may not use RMB funds obtained through foreign currency capital settlement to purchase real estate in the PRC other than for self-occupation.

(b) RMB Exchange Rate Regulations

On January 1, 1994, the dual exchange rate system for RMB was abolished and replaced by a single controlled floating exchange rate system, which was based on market demand and supply. Pursuant to such system, the PBOC set and published the daily RMB-US dollar exchange rate. Such exchange rate was determined with reference to the transaction price for RMB-US dollar in the inter-bank foreign exchange market on the previous day. The PBOC would also, with reference to exchange rates in the international foreign exchange market, announced the exchange rates of RMB against other major foreign currencies. In foreign exchange transactions, designated foreign exchange banks may, within a specified range, freely determine the applicable exchange rate in accordance with the rate announced by the PBOC.

On July 21, 2005, the PBOC announced that, beginning from July 21, 2005, China will implement a regulated and managed floating exchange rate system based on market supply and demand and by reference to a basket of currencies. The RMB exchange rate is no longer pegged to the US dollar only. The PBOC will announce the closing price of the RMB exchange rate, such as the trading price of US dollar against RMB, in the inter-bank foreign exchange market after the closing of the market on each business day, setting the central parity for trading of RMB on the following business day.

(c) Foreign Exchange Registration of Offshore Special Purpose Companies

On October 21, 2005, the SAFE issued the “Circular on Issues Relating to the Administration of Foreign Exchange in Fund-raising and Round-trip Investment Activities of Domestic Residents Conducted via Offshore Special Purpose Companies”(《關於境內居民通過境外特殊目的公司融資及返程投資外匯管理有關問題的通知》), which became effective on November 1, 2005. According to the circular, a “special purpose company” refers to an offshore company established or indirectly controlled by a PRC resident for the purpose of carrying out offshore financing with his/her assets or equity interest in a domestic enterprise. Prior to establishing or controlling such a special purpose company, each PRC resident must complete the overseas investment foreign exchange registration procedures with the relevant local SAFE branch. The circular may be applied retrospectively. As a result, PRC residents who have established or acquired control of such offshore companies that have made onshore investments in the PRC in the past are required to complete the relevant overseas investment foreign exchange registration procedures by March 31, 2006.

The SAFE issued the “Circular on Further Improving and Adjusting the Direct Investment Foreign Exchange Administration Policies”(《關於進一步改進和調整直接投資外匯管理政策的通知》) on November 19, 2012, effective on December 17, 2012. The circular contains an attachment which made specific provisions on the implementation of various matters, including the foreign exchange registration and alteration of special purpose company, establishment of special purpose company and merger and acquisition of domestic enterprises, as well as foreign exchange registration of newly-established foreign-invested enterprises and merger and acquisition of domestic enterprises by foreign-invested enterprises.

(d) Special Foreign Exchange Regulations on Real Estate Enterprises

On September 1, 2006, SAFE and MOC jointly issued the “Circular on Regulating Issues Relevant to Administration of Foreign Exchange 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 circular provides that:

- where a FIREE fails to pay the registered capital in full or to obtain a state-owned land use right certificate or to make its capital fund for a development project reach 35% of the total investment to the project, the foreign exchange bureau shall not register the foreign debt or approve the settlement of foreign debt;
- where a foreign institution or individual acquires a domestic real estate enterprise but fails to pay the transfer price in a lump sum with its (his) own fund, the foreign exchange bureau shall not register the foreign exchange income from the transfer of equities;
- the domestic and foreign investors of a FIREE shall not reach an agreement including any clauses which promise a fixed return or fixed revenue in any disguised form to any party, otherwise the foreign exchange bureau will not handle the foreign exchange registration or registration alteration for the foreign-invested enterprise; and
- the funds in the foreign exchange account exclusive for foreign investors opened by a foreign institution or individual in a domestic bank shall not be used for real estate development or operation. The circular also provides for the foreign exchange handling process related to the purchase and sale of commodity houses in the PRC by branches of overseas institutions established in the PRC, overseas individuals, Hong Kong, Macao or Taiwan residents and overseas Chinese.

B. Major Taxes Applicable to the Operations of the Group

Corporate Income Tax. Prior to the “Corporate Income Tax Law of the People’s Republic of China” (《中華人民共和國企業所得稅法》, “new Corporate Income Tax Law”) and its implementation rules that became effective on January 1, 2008, our PRC subsidiaries and joint ventures were generally subject to a 33% corporate income tax. Under the new income tax law, effective from January 1, 2008, a unified corporate income tax rate is set at 25% for both domestic enterprises and foreign-invested enterprises, with the exception of those enterprises that enjoyed preferential tax treatment according to laws and regulations before the new Corporate Income Tax Law took effect. However, there will be a five-year transition period for enterprises established before March 16, 2007 and enjoying a preferential income tax rate under the previous tax laws and administrative regulations.

Simultaneously, under the new Corporate Income Tax Law and its implementation rules, enterprises established under the laws of foreign jurisdictions with “de facto management body” located in China are treated as “resident enterprises” for PRC tax purposes, and will be subject to PRC income tax on their worldwide income. Under the implementation rules of the new Corporate Income Tax Law, a “de facto management body” is defined as a body that has real and overall management control over the business, personnel, accounts and properties of an enterprise.

In addition, dividends paid by a PRC subsidiary to its foreign shareholder will be subject to a withholding tax at a rate of 10% unless such foreign investor’s jurisdiction of incorporation has a tax treaty with the PRC that provides for a different withholding tax arrangement. According to the tax treaty entered into between the Mainland China and Hong Kong in August 2006, dividends paid by a foreign-invested enterprise in the Mainland China to its shareholders in Hong Kong will be subject to a withholding tax at a rate of 5% if such Hong Kong shareholder directly holds a 25% or more interest in the Mainland China enterprise.

The State Administration of Taxation issued the “Measures for Handling Corporate Income Tax on Real Estate Development and Operation” (《房地產開發經營業務企業所得稅處理辦法》) on March 6, 2009, with retrospective effect from January 1, 2008. The circular provides that the gross margin for tax calculation of the sale of uncompleted development product by an enterprise shall be determined by the state taxation bureau and local taxation bureau of each province, autonomous region and municipality directly under the Central Government pursuant to the following stipulations. For development products located in the city proper and suburbs of cities in which the People’s Governments of provinces, autonomous regions, municipalities directly under the Central Government and cities specifically designated in the state plan are located, it shall not be lower than 15%; for development products located in the city proper and suburbs of prefectures or prefecture-level cities, it shall not be lower than 10%; and for development products located in other areas, it shall not be lower than 5%.

On May 12, 2010, the State Administration of Taxation issued the “Circular on Issues Concerning Conditions for Confirmation of the Completion of Real Estate Development Products” (《關於房地產開發企業開發產品完工條件確認問題的通知》), which clarifies the conditions for confirming the completion of real estate development products. According to the circular, regardless of whether the project quality has passed the inspection and acceptance, or whether the completion filing and final accounting procedures have been completed, any real estate development product meeting one of the following conditions shall be deemed as a completed development product: (1) The enterprise starts to process the delivery procedure of the development product (including the check-in procedure); (2) The development product has started to be put into use. The developer shall timely settle the tax costs of the development product, and compute its taxable income of the year.

Business Tax. Under the “Interim Regulations on Business Tax of the People’s Republic of China” (《中華人民共和國營業稅暫行條例》) promulgated by the State Council on December 13, 1993 and revised on November 10, 2008, effective from January 1, 2009, providing labor service in Mainland China is subject to business tax. Taxable services include sale of real estates in Mainland China. Business tax rate is from 3% to 20%, depending on the type of services provided. Sale of real estates and other improvements on the land attracts a business tax at 5% of the turnover of selling such properties, which is payable by the selling enterprise to the relevant local tax authorities.

Value-added Tax. Under the “Interim Regulations on Value-added Tax of the People’s Republic of China” (《中華人民共和國增值稅暫行條例》) promulgated by the State Council on December 13, 1993 and revised on November 5, 2008, effective from January 1, 2009, all enterprises and individuals engaged in the sale of goods, provision of processing, repair and replacement services, and the importation of goods in the PRC shall pay value-added tax. Value-added tax rate is 13% or 17%, depending on the type of goods sold or imported. For taxpayers that provide processing, repair and replacement services, the tax rate shall be 17%. Small-scale taxpayers shall pay value-added tax at a rate of 3%.

Land Appreciation Tax (LAT). Under the “Interim Regulations on Land Appreciation Tax of the People’s Republic of China” (《中華人民共和國土地增值稅暫行條例》) promulgated by the State Council on December 13, 1993 and effective from January 1, 1994, as well as its implementation rules issued on January 27, 1995, land appreciation tax is payable on the appreciation value derived from the transfer of land use rights and buildings or other facilities on such land, after deducting the “deductible items” that include the followings:

- Payment made to acquire land use rights;
- Costs and charges incurred in connection with land development;
- Construction costs and charges for newly constructed buildings and facilities, or assessed value for old buildings and facilities;
- Taxes in connection with the transfer of real estates; and
- Other deductible items allowed by MOF.

The land appreciation tax shall adopt four levels of progressive tax rates, ranging from 30% to 60% of the appreciation value as follows:

Appreciation value	LAT 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%

Exemption from LAT is available to the following cases:

- Taxpayers constructing ordinary residential properties for sale, where the appreciation amount does not exceed 20% of the sum of deductible items;
- Real estates taken over or recovered according to laws due to the construction needs of the State;
- Relocation due to the need of city planning and national construction;
- Due to redeployment of work or improvement of living standard, transfer by individuals of originally self-occupied residential properties after five years or more of self-residence with the approval of the tax authorities.

The State Administration of Taxation issued the “Circular on Careful Management of Land Appreciation Tax Collection” (《關於認真做好土地增值稅徵收管理工作的通知》) on July 10, 2002 to require local authorities to optimize the withholding methods of LAT. This requirement is restated in the “Circular of the State Administration of Taxation on Further Strengthening Administration Work in Relation to the Collection of Urban Land Use Tax and Land Appreciation Tax” (《國家稅務總局關於進一步加強城鎮土地使用稅和土地增值稅徵收管理工作的通知》) issued on August 5, 2004 by the State Administration of Taxation.

On December 28, 2006, the State Administration of Taxation promulgated the “Circular Concerning the Administration of Settlement of Land Appreciation Tax Imposed on Real Estate Developers” (《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》), effective from February 1, 2007. Starting from February 1, 2007, real estate developers shall settle the LAT in connection with their real estate development projects with the competent tax bureau at applicable tax rates. LAT shall be settled on the basis of the real estate development projects examined and approved by the relevant authority, and projects developed in phases shall be settled on the basis of the project phase.

LAT must be paid if a project meets any one of the following requirements:

- The real estate development project has been completed and sold out;
- The entire uncompleted and unsettled development project has been transferred; or
- The land use right of the relevant project has been transferred.

In addition, the competent tax authorities may require a real estate developer to settle the LAT in any one of the following circumstances:

- For completed real estate development projects, the transferred GFA represents more than 85% of the total saleable GFA, or if the proportion is less than 85%, the remaining saleable GFA has been leased out or used by the developer;
- The project has not been sold out three years after obtaining the sale or pre-sale permit;
- The developer applies for cancellation of tax registration without having settled the LAT; or
- Other conditions stipulated by the provincial tax authorities.

The provincial tax authorities will, taking into account of the local practical conditions, stipulate specific rules or measures on the management of the LAT settlement as required by the circular.

The State Administration of Taxation issued the “Circular on the Publication of the Administrative Rules for the Settlement of Land Appreciation Tax” (《關於印發<土地增值稅清算管理規程>的通知》) on May 12, 2009, effective from June 1, 2009. The State Administration of Taxation reiterated the above standards and requirements in the circular.

On May 19, 2010, the State Administration of Taxation issued the “Circular on Issues Concerning Settlement of Land Appreciation Tax” (《關於土地增值稅清算有關問題的通知》), which clarifies the revenue recognition in the settlement of land appreciation tax and other relevant issues. According to the circular, in the settlement of land appreciation tax, if the sales invoices of commodity housing are issued in full, the revenue shall be recognized based on the amount indicated in the invoices; if sales invoices are not issued or are issued in part, the revenue shall be recognized based on the purchase price and other income indicated in the sales contract signed by both parties. If the area of a commodity housing specified in a sales contract is inconsistent with the actual area measured by the relevant authorities and the purchase price has already been made up or returned before the settlement of land appreciation tax, adjustments shall be made in the calculation of land appreciation tax. The circular provides that the deed tax paid by a real estate developer for obtaining land use right shall be treated as the “relevant fees paid in accordance with the uniform regulations of the State” and be deducted as the “amount paid for obtaining land use right”.

On May 25, 2010, the State Administration of Taxation published the “Circular on Strengthening the Collection and Administration of Land Appreciation Tax” (《關於加強土地增值稅徵管工作的通知》) to require all local governments to scientifically formulate the withholding tax rate and strengthen the withholding of land appreciation tax. According to the circular, all local governments shall make adjustments to the current withholding rate. Apart from indemnificatory housing, the withholding rate of provinces in the eastern region shall not be lower than 2%, the provinces in the central and northeastern region shall not be lower than 1.5% and the provinces in western region shall not be lower than 1%. The local governments shall determine the appropriate withholding rates applicable to different types of real estates.

Deed Tax. Under the “Interim Regulations on Deed Tax of the People’s Republic of China” (《中華人民共和國契稅暫行條例》) promulgated by the State Council on July 7, 1997 and effective from October 1, 1997, deed tax is chargeable to transferees of land use right and/or ownership of real estates in the PRC. These taxable transfers include:

- Grant of state-owned land use rights;
- Sale, gift and exchange of land use rights; and
- Sale, gift and exchange of buildings.

Deed tax rate is from 3% to 5% subject to determination by local governments at the provincial level in light of the local conditions.

On September 29, 2010, the State Administration of Taxation, MOF and MOHURD issued the “Circular on Adjusting the Preferential Policies on Deed Tax and Individual Income Tax in Real Estate Deals” (《關於調整房地產交易環節契稅個人所得稅優惠政策的通知》), effective from October 1, 2010, which provides that where an individual purchases an ordinary house as the sole house for his/her family (family members include the purchaser and his/her spouse and minor children, hereinafter the same) to live in, deed tax thereon shall be reduced by half. Where an individual purchases an ordinary house of 90 sq.m. or less as the sole house for his/her family to live in, the deed tax shall be reduced and levied at the rate of 1%. The tax authority shall inquire about the deed tax payment record of a taxpayer. In respect of individual purchase of an ordinary house that fails to satisfy the above requirements, no preferential tax policies set out above may be enjoyed.

Urban Land Use Tax. Pursuant to the “Interim Regulations on Urban Land Use Tax of the People’s Republic of China” (《中華人民共和國城鎮土地使用稅暫行條例》) promulgated by the State Council on September 27, 1988 and revised on December 31, 2006, the urban land use tax is levied based on the area of the relevant land. As of January 1, 2007, the annual tax on each sq.m. of urban land shall be between RMB0.6 and RMB30.0.

Real Estate Tax. Under the “Interim Regulations on Real Estate Tax of the People’s Republic of China” (《中華人民共和國房產稅暫行條例》) promulgated by the State Council on September 15, 1986 and effective from October 1, 1986, the real estate tax is 1.2% if calculated on the basis of the residual value of the real estate and 12% if calculated on the basis of the rental of the real estate.

The State Council approved in January 2011, on a trial basis, the launch of a new real estate tax scheme on individual housing in selected cities. The detailed measures would be formulated by the governments of the pilot provinces, autonomous regions or municipalities directly under the Central Government. On January 27, 2011, the governments of Shanghai and Chongqing issued their respective measures for implementing pilot real estate tax schemes, which became effective on January 28, 2011.

Stamp Duty. Under the “Interim Regulations on Stamp Duty of the People’s Republic of China” (《中華人民共和國印花稅暫行條例》) promulgated by the State Council on August 6, 1988 and effective from October 1, 1988, for transfer instruments of property rights, including those in respect of property ownership transfer, the duty rate is 0.05% of the amount stated therein; for permits and certificates relating to rights, including real estate title certificates and certificates of land use right, stamp duty is levied on an item-by-item basis of RMB5.0 per item.

Urban Maintenance and Construction Tax. Under the “Interim Regulations on Urban Maintenance and Construction Tax of the People’s Republic of China” (《中華人民共和國城市維護建設稅暫行條例》) promulgated by the State Council on February 8, 1985, starting from the year of 1985 any taxpayer of product tax, value-added tax or business tax, whether an enterprise or an individual, is liable for an urban maintenance and construction tax. The tax rate is 7% for a taxpayer whose domicile is in an urban area, 5% for a taxpayer whose domicile is in a county or a town, and 1% for a taxpayer whose domicile is not in any urban area, county or town.

On October 18, 2010, the State Council issued the “Circular on Unifying the System of Urban Maintenance and Construction Tax and Education Surcharge Paid by Domestic and Foreign-invested Enterprises and Individuals” (《關於統一內外資企業和個人城市維護建設稅和教育費附加制度的通知》), which provides that, starting from December 1, 2010, the “Interim Regulations on Urban Maintenance and Construction Tax of the People’s Republic of China” promulgated in 1985 shall be applicable to foreign-invested enterprises, foreign enterprises and individual foreigners. Laws, regulations, rules and policies on urban maintenance and construction tax promulgated by the State Council and the competent finance and tax authorities under the State Council since 1985 shall also be applicable to foreign-invested enterprises, foreign enterprises and individual foreigners.

Education Surcharge. Under 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 on April 28, 1986 and revised on June 7, 1990 and August 20, 2005 respectively, any taxpayer of value-added tax, business tax or consumption tax, whether an individual or an enterprise, is liable for an education surcharge, unless such taxpayer is required to pay a rural area education surcharge as provided by the “Circular 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》).

On October 18, 2010, the State Council issued the “Circular on Unifying the System of Urban Maintenance and Construction Tax and Education Surcharge Paid by Domestic and Foreign-invested Enterprises and Individuals”, which provides that, starting from December 1, 2010, the “Interim Provisions on Imposition of Education Surcharge” promulgated in 1986 shall be applicable to foreign-invested enterprises, foreign enterprises and individual foreigners. Laws, regulations, rules and policies on education surcharge promulgated by the State Council and the competent finance and tax authorities under the State Council since 1986 shall also be applicable to foreign-invested enterprises, foreign enterprises and individual foreigners.