

**REGULATORY OVERVIEW OF THE PRC REAL ESTATE INDUSTRY**

Real estate reform in the PRC commenced in the 1990s, prior to which the PRC government provided housing for its urban population. The PRC government owned, and was responsible for the development of, all property in the PRC. In the 1990's, China's real estate and housing sector began its transition to a market-based system. A brief timeline of key housing reforms is set out below:

- 1988 The PRC government amended the Constitution of the PRC to permit the transfer of state-owned land use rights
- 1991 Public housing sales in major cities commenced
- 1994 The PRC government implemented further reforms and established an employer/ employee funded housing fund
- 1995 The PRC government issued regulations regarding the sales and pre-sales of property, thereby establishing a regulatory framework for property sales
- 1998 The PRC government abolished state-allocated housing policies  
The Guangdong government issued regulations on the administration of pre-sales of commodity properties in Guangdong Province
- 1999 The PRC government extended the maximum mortgage term to 30 years  
The PRC government increased the maximum mortgage financing from 70% to 80%  
The PRC government formalized procedures for the sale of real property in the secondary market  
The PRC government promulgated the Measures on Disposing Idle Land (閒置土地處置辦法)
- 2000 The PRC government issued regulations to standardize the quality of construction projects, establishing a framework for administering construction quality
- 2001 The PRC government issued regulations relating to sales of commodity properties
- 2002 The PRC government promulgated the Rules Regarding the Grant of State-Owned Land Use Rights by Way of Tender, Auction and Listing-For-Sale (招標拍賣掛牌出讓國有土地使用權規定)  
The PRC government eliminated the dual system for domestic and overseas home buyers in China
- 2003 The PRC government promulgated rules for more stringent administration of property loans with a view to reducing the credit and systemic risks associated with such loans  
The State Council issued a notice for sustained and healthy development of the property market
- 2004 The CBRC issued the Guidelines for Commercial Banks on Risks of Real Estate Loans (商業銀行房地產貸款風險管理指引) in order to further strengthen risk management of commercial banks, tightening regulations governing mortgage lending and restricting approval of new large-scale development zones  
The State Council issued a notice requiring real estate developers to finance 35% instead of 20% of the total projected capital outlay of any property development with their capital funds
- 2005 The State Council issued a notice requiring municipal governments and relevant authorities to curb the rapid growth in selling prices in an effort to sustain healthy development of the property market  
Measures to eliminate speculation in regional markets were implemented, including increasing the minimum down payment to 30% of the purchase price, retracting the preferential mortgage interest rate for residential housing, enforcing a limit on the amount of monthly repayments for individual mortgage loans, imposing a business tax for sales within two years of purchase, and prohibiting the resale of properties prior to their completion

Policies to strictly enforce the imposition of a land idle fee for land which has not been developed for one year or longer and cancellation of land use rights for land idle for two years or longer, and to stop and cancel projects not in compliance with the planning permits

2006 The PRC government introduced measures to slow the rapid economic growth of the economy, with a particular emphasis on high growth sectors including the property market

Policy announcements aimed at discouraging excessive growth in the high-end residential property market and stimulating growth in the affordable mass residential property markets were announced by the State Council and other related government agencies

From May 30, 2006, banks were prohibited from providing loans to property developers whose total capital funds are less than 35% of the total investment amount in an intended development project

Restrictions on the land supply for high-end residential property developments were put in place by the MLR from May 30, 2006

Additional measures to adjust the housing supply structure and curb soaring housing prices, including: (1) the requirement that the ratio of residential housing with a GFA of less than 90 square meters reach more than 70% of the total GFA for development and construction; (2) a business tax of 5% being levied on the value of the sale of residential housing purchased and held for less than five years.

2007 Measures aimed at strengthening the collection of land appreciation tax implemented by the SAT took effect from February 1, 2007

Local branches of SAFE ceased to process any foreign debt registration application or conversion of foreign debt for any Real Estate FIE (including both newly incorporated enterprises and those which increased their registered capital) that obtained a Certificate of Approval from local MOFCOM authorities and completed registration with the central MOFCOM on or after June 1, 2007; all SAFE branches ceased to process foreign exchange registrations (or change registration) and the sale and settlement of foreign exchange under capital items for any Real Estate FIE that has obtained Certificate of Approval from local MOFCOM authorities, yet has not registered with the MOFCOM on or after June 1, 2007

2008 The State Council issued the Circular on Conservation of Intensive Land Use (關於促進節約集約用地的通知) aimed at promoting the economic and intensive use of land

MOFCOM delegated provincial MOFCOM authorities the authority to register matters concerning foreign investment in real property projects after approving the legality, authenticity and accuracy of the project from July 1, 2008

MOFCOM issued Several Opinions on Promoting the Sound Development of the Real Estate Market (關於促進房地產市場健康發展的若干意見), and set out certain policies intended to promote the construction of affordable residential housing, encourage the purchase of ordinary commodity houses for residential purposes and support real estate developers in dealing with changing market conditions

In response to the global financial and economic crisis, the PBOC issued a circular which decreased the minimum amount of down payment for residential property purchases to 20% and reduced the minimum mortgage loan rates for such purchases to 70% of the benchmark interest rate.

2009 The State Council lowered the minimum capital requirement for affordable residential housing projects and ordinary commodity residential housing projects from 35% to 20%, and to 30% for other property projects; when providing credit financing services, financial institutions shall determine, at their own discretion, whether to grant a loan and the amount of the loan having regard to the minimum capital requirements as regulated by the state

All the land in the PRC is either state-owned or collectively owned, depending on the location of the land. In general, land in the urban areas of a city or town is state-owned, and land in the rural areas of a city or town and all rural land is, unless otherwise specified by law, collectively owned. The state has the right to reclaim land in accordance with law if required for the benefit of the public. Although all the

land in the PRC is owned by the state or by collectives, private individuals and businesses and other organizations are permitted to hold, lease and develop land for which they are granted land use rights.

### **National legislation**

Under the Provisional Regulations of the People’s Republic of China on the Grant and Transfer of Land Use Rights over State-owned Urban Land (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 “Provisional Regulations on Grant and Transfer”) promulgated by the State Council on May 19, 1990, a land user shall pay a premium to the State as consideration for the grant of the land use rights within certain terms, and a land user may transfer, lease, mortgage or otherwise commercially exploit the land use rights within the terms of use.

### **Grant**

Under PRC law, land use rights can be granted by the state to the user to entitle the user to the exclusive use of a piece of land for a specified purpose within a specified term and on such other terms and conditions as may be prescribed. Under the Provisional Regulations on Grant and Transfer, all local and foreign enterprises are permitted to acquire land use rights unless the law provides otherwise. A premium is payable on the grant of land use rights. As set out in the following table, the maximum term for land use rights are specified depending on the purpose for which the land is used:

<u>Use of land</u>	<u>Maximum Period in Years</u>
Commercial, office, tourism, entertainment .....	40
Residential .....	70
Industrial .....	50
Education, science, cultural, health and sports .....	50
Mixed and others .....	50

Under PRC law, there are four methods by which land use rights may be granted, namely by agreement, tender, auction or listing-for-sale. See “Summary of PRC Laws Relating to the Property Sector — D. Development of a Property Project — (i) Land for property development” in Appendix VII to this prospectus for further details.

Where land use rights are granted by way of tender, auction or listing-for-sale, a public notice will be issued by the local land bureau to specify the location, area and purpose of use of the land; and the initial bidding price, period for receiving bids and terms and conditions upon which the land use rights are proposed to be granted. The land use rights are granted to the bidder with the highest bid who satisfies the terms and conditions. The successful bidder will enter into a land grant contract with the local land bureau and pay the relevant land premium within a prescribed period.

Upon signing the land grant contract, the grantee is required to pay the land premium pursuant to the terms of the contract and go through registration procedures with the relevant local land bureau for the issue of the land use rights certificate. The grantee may apply for a renewal at the expiration of the term of the grant, in which case, upon approval by the relevant local land bureau, a new contract is entered into to renew the grant, and a grant premium is payable. If the term of the grant is not renewed, the land use rights and ownership of any buildings erected on the land will revert to the state without compensation.

In order to control and facilitate the procedure for obtaining land use rights, several local governments have stipulated standard provisions for state-owned construction land use rights grant contracts. Such provisions generally include terms such as use of land, land premium and manner of payment, building restrictions including site coverage, total GFA and height limitations, constructions of public facilities, submission of building plans and approvals, deadlines for commencement and completion of construction, town planning requirements, restrictions against alienation before payment of premiums and completion of prescribed development and liabilities for breach of contract. After the

execution of a land grant contract, any request by the land user to change the specified use of land will be subject to approvals from the relevant land bureau and the relevant urban planning department. Where approval is forthcoming, a new land grant contract may have to be signed and the land premium may have to be adjusted to reflect the value of the new use of the land. Registration procedures must be carried out immediately.

### **Transfers and leases**

After land use rights relating to a particular parcel of land have been granted by the State, unless any restriction is imposed, the party to whom such land use rights have been granted may transfer, lease or mortgage such land use rights for a term not exceeding the term which has been granted. The difference between a transfer and a lease is that a transfer involves the vesting of the land use rights by the transferor in the transferee during the term for which such land use rights are vested in the transferor. A lease, on the other hand, does not involve a transfer of such rights by the lessor to the lessee. Furthermore, a lease, unlike a transfer, does not usually involve the payment of a premium, with rent generally being payable during the term of a lease. Land use rights cannot be transferred, leased or mortgaged in circumstances where the provisions with respect to the prescribed period, conditions of investment and development and use of the land under the land grant contract have not been complied with.

According to the Law of the People's Republic of China on the Administration of Urban Property (中華人民共和國城市房地產管理法) (the "Urban Property Law") promulgated by the Standing Committee of the National People's Congress and the Provisions on Administration of Transfer of Urban Property (城市房地產轉讓管理規定) promulgated by the MOC on August 7, 1995 and as amended in August 2007, a property owner may sell, bequeath or otherwise legally transfer property to another person or legal entity. When transferring a building, the ownership of the building and the land use rights to the site on which the building is situated are transferred simultaneously. The parties to a transfer shall enter into a property transfer contract in writing and register the transfer with the property administration authority having jurisdiction over the location of the property within 90 days of the execution of the transfer contract.

Under article 39 of the Urban Property Law, if land use rights are acquired by means of grant, the following conditions must have been met before the property may be transferred: (i) the premium for the grant of land use rights must have been paid in full in accordance with the land grant contract; (ii) a land use rights certificate must have been obtained; and (iii) investment or development as to the land must have been made or carried out in accordance with the terms of the land grant contract. In respect of condition (iii): (a) where the investment or development involves building construction projects, more than 25% of the total amount of investment or development must have been made or completed; and (b) where the investment or development involves a large tract of land, conditions for use of the land for an industrial or other construction purpose must have been confirmed.

All transfers and mortgages of land use rights must be evidenced by a written contract registered with the relevant local land bureau. Upon a transfer of land use rights, all rights and obligations contained in the contract pursuant to which the land use rights were originally granted by the state are deemed to be incorporated as part of the terms and conditions of such transfer. Under article 38 of the Urban Property Law promulgated by the Standing Committee of the National People's Congress on July 5, 1994 and revised in August 2007, real estate property that has not been registered and for which a title certificate has not been obtained in accordance with the law cannot be transferred. Under the Measures for the Administration of Leases of Property in Urban Areas (城市房屋租賃管理辦法) promulgated by the MOC on May 9, 1995 and in effect from June 1, 1995, the parties to a lease of a building shall enter into a lease contract in writing.

### **Termination**

A grant of land use rights terminates upon the expiry of the term of grant specified in the land grant contract and the resumption by the state of that right.

The State will generally not withdraw a grant of land use rights before the expiration of the term of the grant. If the State does withdraw a grant for some special reason, such as where the public interest demands, it must offer proper compensation to the land user.

A land user may apply for renewal of the land use rights and, if the application is granted, the land user is required to enter into a new land grant contract, pay a premium and effect appropriate registration for the renewal of the grant.

### **Document of Title**

There are two registers for real estate property in the PRC; one for land registration and one for property registration. Land registration is acknowledged by the issue to the land user of a land use rights certificate by the local governments. It is the evidence that the land user has obtained land use rights which can be transferred, mortgaged or leased. Property registration is acknowledged by the issue of a real estate certificate to the owner. It is the evidence that the owner has obtained building ownership rights in respect of the buildings erected on that piece of land. According to the Law of Land Administration (中華人民共和國土地管理法) (the “Land Law”) promulgated by the Standing Committee of the National People’s Congress on June 25, 1986, and as amended on August 28, 2004, and the Rules on Registration of Real Estate Property (房屋登記辦法) promulgated by the MOC on February 15, 2008, and implemented as from July 1, 2008, all duly registered land use rights and building ownership rights are protected by the law. Real estate and land registries have been established in the PRC in connection with these registration systems. In most cities in the PRC, the above systems are maintained separately. However, in Shanghai, Shenzhen and Guangzhou, the two systems have been consolidated and a single composite real estate and land use rights certificate will be issued evidencing both the land use rights and the ownership rights of the buildings erected on the land.

## **REAL ESTATE DEVELOPMENT**

### **Foreign investment in real estate development**

Under the Foreign Investment Industrial Guidance Catalogue (外商投資產業指導目錄) amended jointly by the MOFCOM and the NDRC in October 2007 and effective as of December 1, 2007, foreign investment in the following areas is subject to restriction: the development of a whole land lot; the construction and operation of high-end hotels, villas, premium office buildings, international conference centers and large theme parks; transactions in the real estate secondary market; and investment in real estate intermediary or broker companies. Foreign investment in other areas relating to real estate development is permitted.

A foreign investor intending to engage in the development and sale of real estate may establish a wholly foreign owned enterprise, equity joint venture or cooperative joint venture in accordance with the Law of the PRC on Wholly Foreign-owned Enterprises (中華人民共和國外資企業法), the Law of the PRC on Sino-Foreign Equity Joint Ventures (中華人民共和國中外合資經營企業法) or the Law of the PRC on Sino-Foreign Cooperative Joint Ventures (中華人民共和國中外合作經營企業法), respectively.

### **New regulations aimed at regulating the entry of foreign investment in the real estate market**

From July 2006, several Ministries implemented a series of regulations aimed at strengthening and further regulating the approval, entry and administration process for foreign direct investment in the real estate market. See “Summary of PRC Laws Relating to the Property Sector — B. Foreign-invested Property Enterprises” in Appendix VII to this prospectus for further details.

### **Real estate developer**

According to the Urban Property Law, a real estate developer is defined as an enterprise which engages in the development and sale of real estate for the purpose of making profits. Under the

Regulations on the Administration of Urban Real Estate Development (城市房地產開發經營管理條例) (the “Development Regulations”) issued by the State Council on July 20, 1998, an enterprise which is to engage in the development of real estate must have a registered capital of at least RMB1 million and must employ at least four professional real estate/construction technicians and at least two accounting officers, each of whom shall hold the relevant qualification certificate. The Development Regulations also stipulate that the local government of a province, autonomous region or municipality directly under the central government may, base on local circumstances, impose more stringent requirements in respect of the minimum registered capital and the number or qualifications of professional of a real estate developer. For details specific to Guangdong, Shenzhen, Sichuan, Tianjin and Yixing, see “Summary of PRC Laws Relating to the Property Sector — A. Establishment of a Property Development Enterprise” in Appendix VII to this prospectus.

To establish a real estate development enterprise, the promoter should apply for registration with the Administration for Industry and Commerce at the county level or above. The real estate developer must also report its establishment to the real estate development authority in the location of the registration authority within 30 days upon the receipt of its business license.

Under the Provisions on the Administration of Qualifications of Real Estate Developers (房地產開發企業資質管理規定) (the “Provisions on the Administration of Qualifications”) promulgated by the MOC and implemented on March 29, 2000, a real estate developer must apply for a qualification certificate and an enterprise may not engage in development and sale of real estate without such qualification certificate. The construction authority under the State Council oversees the qualifications of real estate developers throughout the country, and the real estate development authority under a local government on or above the county level shall oversee the qualifications of local real estate developers. A developer that passes the qualification examination will be issued a qualification certificate of the relevant class by the qualification examination authority.

### **Land for real estate development**

According to the Land Law and the Implementation Rules of the Law of the People’s Republic of China on Land Administration (中華人民共和國土地管理法實施條例) promulgated by the State Council in December 1998, the state regulates and controls the use of land, the land register and the system of the issuance of land certificates. When an approved construction project involves the use of state-owned land, the construction entity should first apply to the land administration authorities of county level or higher that have the authorization to approve projects on construction land by submitting the requisite documents as prescribed by relevant laws and regulations. After examination by the local land administration authorities, the application must be reported to and approved by the government of the same level. Where the occupation of land for construction purposes involves the conversion of agricultural land into construction land, specific examination and approval procedures must be undertaken.

The Urban Property Law and the Development Regulations both provides that, except for land use rights which may be obtained through appropriation pursuant to PRC laws or the stipulations of the State Council, land for property development shall be obtained by means of grant.

Prior to the acquisition of land use rights, a real estate developer may carry out a feasibility study for a proposed construction project on the land to be acquired. When carrying out the feasibility study for a proposed construction project, a construction entity shall, in accordance with the Administrative Measures for Examination and Approval of Use of Land for Construction (建設用地審查報批管理辦法) and the Administrative Measures for the Pre-Examination on the Use of Land for Construction Projects (建設項目用地預審管理辦法) promulgated by the MLR in March 1999 and in July 2001 respectively (and amended in 2004 and 2008), make a preliminary application for construction on the relevant site at the land administration authority of the same level as the project approval authority. After receiving the preliminary application, the land administration authority shall carry out preliminary approval of various matters relating to the proposed construction project in compliance with the overall zoning plans and

land supply policy of the state, and shall then issue a preliminary approval report in respect of the project site. The preliminary approval report is the requisite document of approval for the proposed construction project. The land administration authority under the people's government of the relevant city or county may then enter into a land use rights grant contract with the land user and issue a notice of approval for construction projects to the construction entity.

The Regulations on the Grant of State-owned Land use Rights through Competitive Bidding, Auction and Listing-for-Sale (招標拍賣掛牌出讓國有土地使用權規範), provide that competitive bidding for land use rights involves the issue by the relevant land administration authority (the "grantor") of a bidding announcement, pursuant to which individuals, legal persons or other organizations (whether specified or otherwise) are invited to participate in a tender for the land use rights of a particular parcel of land. The successful bidder is determined according to the results of the tender. Auction for land use rights is where the grantor issues an auction announcement, and the bidders can at a specified time and location openly bid for a parcel of land. Listing-for-sale is where the grantor issues a listing-for-sale announcement, and in accordance with the announcement, the grant conditions of the land use right are listed at a specified land grant exchange during a specified period. Bidders list their payment applications in response to the conditions, and the successful bidder is determined at the end of such listing period. According to the Measures on Disposing Idle Land (閒置土地處置辦法) promulgated by the MLR on April 28, 1999, with respect to land which is obtained by grant and is within the scope of city planning, if the construction work has not yet started after one year from the granting of the relevant approvals and since the duration in which construction may be commenced has elapsed, a fine for idle land which is equivalent to less than 20% of the assignment price may be imposed on the land user. If the construction work has not started after two years have elapsed, the right to use the land can be taken back by the PRC government without any compensation. However, the above sanctions shall not apply when the delay in commencement of construction is caused by force majeure or acts of government or indispensable preliminary work before commencement of construction.

### Project Planning and Pre-construction

The Development Regulations provide that a real estate development project may be carried out having regard to an overall land use plan, annual construction land schedule, applicable municipal zoning plans and an annual property development scheme. Those projects which should be approved by the planning control authorities in accordance with the relevant rules should also be included in the annual planning of the investment in fixed assets. Under the State Council's Notice on Stringent Control Over High Class Real Estate Development Projects (國務院關於嚴格控制高檔房地產開發項目的通知) issued by the State Council in May 1995, project proposals and commencement of works shall be subject to approval by the State Development Planning Commission (now known as NDRC) in respect of high class real estate projects with a total GFA of more than 100,000 square meters, projects with a total investment of more than RMB200 million and foreign invested high class real estate projects with a total investment of US\$30 million or more. For high class real estate projects with a total GFA of more than 20,000 square meters but less than 100,000 square meters, or projects with a total investment of more than RMB30 million but less than RMB200 million, the project proposal and commencement of works shall be subject to approval by the Development Planning Commission of the relevant province, autonomous region, municipality directly under the central government or separate-planning city and the submission of a report to the State Development Planning Commission. A high class real estate project with foreign investment of more than US\$100 million is subject to approval by the State Council based on the recommendation of the State Development Planning Commission.

According to the Measures for the Control and Administration of the Assignment and Transfer of the Right to Use of Urban State-owned Land (城市國有土地使用權出讓轉讓規劃管理辦法) promulgated by the MOC on December 4, 1992 and implemented on January 1, 1993 and the Notice of the Ministry of Construction on Strengthening the Planning Administration of the Assignment and Transfer of the Right to the Use of State-owned Land (建設部關於加強國有土地使用權出讓規劃管理工作的通知) promulgated by the MOC and implemented on December 26, 2002, after signing the grant contract of land use rights, a

property developer shall apply for a construction land planning permit from the municipal planning authority. Once a construction land planning permit has been obtained, a real estate developer shall organize the necessary survey, planning and design work. Once these are in line with relevant planning and design requirements, the developer may apply for a construction works planning permit from the municipal planning authority.

In accordance with the Regulations for the Administration of Demolition and Removal of Urban Housing (城市房屋拆遷管理條例), which were promulgated by the State Council on June 13, 2001, upon obtaining approvals for a construction project, a construction land planning permit and approvals for State-owned land use rights; a developer must prepare a demolition and relocation plan as well as proof issued by a financial institution evidencing the proper payment of compensation to displaced inhabitants. Application must then be made to the municipal or county people's government of the place where the real estate is located (i.e. the Administration Bureau of State-owned Land Resources and Housing of the relevant city, district or county) for a property demolition and removal permit. Upon the granting of an approval and the issuance of the permit, the real estate administration department shall issue a demolition and removal notice to the inhabitants of the area to be demolished. The demolition and removal party shall implement the demolition and removal within the area and period specified in the property demolition and removal permit. If the demolition and removal party fails to complete the demolition and removal works within the permitted period, it shall, within 15 days prior to the expiry of the permit, apply to the original approval authority, which means local government, for an extension.

### **Construction**

After a real estate developer has obtained the construction land planning permit and the construction works planning permit, the site is ready for the commencement of construction works. On the basis that the progress of demolition and relocation of existing buildings complies with the relevant requirements and funding for the construction project is available, the real estate developer shall, in accordance with the Measures for the Administration of Construction Works Commencement Permits for Construction Projects (建築工程施工許可管理辦法) promulgated by the Ministry of Construction on October 15, 1999 and as amended and implemented on July 4, 2001, apply for a construction works commencement permit from the construction authority under the local people's government at the county level or above.

### **Completion**

According to the Development Regulations, the Regulation on the Quality Management of Construction Projects (建設工程質量管理條例) promulgated by the State Council on January 30, 2000, the Interim Measures for Reporting Details Regarding Acceptance Examination Upon Completion of Buildings and Municipal Infrastructure (房屋建築工程和市政基礎設施工程竣工驗收備案管理暫行辦法) promulgated by the MOC in April 2000 and the Interim Provisions on Acceptance Examination Upon Completion of Buildings and Municipal Infrastructure (房屋建築工程和市政基礎設施工程竣工驗收暫行規定) promulgated by the MOC on June 30, 2000, after completion of a construction project, the property developer shall apply for an acceptance examination to the property development authority under the people's government at the county level or above. For residential housing or other building complex projects, a comprehensive completion inspection shall be conducted upon completion of the whole project and where such a project is developed in phases, a completion inspection may be carried out for each completed phase. The real estate developer should register the project completion inspection and acceptance within 15 days from passing the completion inspection, after which time a completion inspection report shall be prepared and filed with the relevant government authority.

### **Sales and Pre-sales**

Under the Regulatory Measures on the Sale of Commodity Buildings (商品房銷售管理辦法) promulgated by the MOC on April 4, 2001 and implemented on June 1, 2001, the sale of commodity buildings can include both pre-completion sales (pre-sales) and post-completion sales.



(a) Permit for Pre-sales of Commodity Buildings

According to the Development Regulations and the Measures for the Administration of the Pre-sale of Commodity Buildings (城市商品房預售管理辦法) (the “Pre-sale Measures”) promulgated by the MOC on November 15, 1994 and as amended on August 15, 2001 and July 20, 2004, the pre-sale of commodity buildings shall be subject to a licensing system. A property developer intending to sell a commodity building before its completion shall make the necessary pre-sale registration with the property development authority of the relevant city or county to obtain a pre-sale permit. A commodity building may be sold before completion only if: a) the assignment price has been paid in full for the assignment of the land use rights involved and a land use rights certificate has been obtained; b) a construction works planning permit and a construction works commencement permit have been obtained; c) the funds invested in the development of commodity buildings eligible for pre-sales represent at least 25% of the total investment in the project and the progress of works and the completion and delivery dates have been ascertained; and d) the pre-sale has been registered and a permit for the pre-sale of commodity buildings has been obtained.

For details specific to Guangdong, Shenzhen, Sichuan, Tianjin and Yixing, see “Summary of PRC Laws Relating to the Property Sector — E. Transfer and Sale of Property — (ii) Sale of commodity buildings — (a) Permit of Pre-sale of Commodity Buildings” in Appendix VII to this prospectus.

(b) Supervision of pre-sale income of commodity buildings

According to the Pre-sale Measures, the income of a property developer from the pre-sale of commodity buildings must be used for the construction of the relevant projects. The specific measures for the supervision of the income from the pre-sale of commodity buildings shall be formulated by the property administrative authorities.

(c) Conditions on the sale of post-completion commodity buildings

Under the Pre-sale Measures, commodity buildings may be put to post-completion sale only when the following preconditions have been satisfied: a) the property development enterprise shall have a business license and a qualification certificate of a property developer; b) the enterprise shall obtain a land use rights certificate and other approval documents related to land use; c) the enterprise shall have a construction works planning permit and a construction works commencement permit; d) The commodity building shall have been completed, inspected and accepted; e) the original residents shall have been well settled after their relocation; f) the essential facilities for the supply of water, electricity, heating, gas, communication etc. shall have been installed and ready for use, and other essential facilities and public facilities shall have been made ready for use, or the schedule of construction and delivery date shall have been specified; g) and the property management plan shall have been completed.

Before the post-completion sale of a commodity building, a property developer shall submit the Property Development Project Manual and other documents evidencing the satisfaction of the preconditions for post-completion sales to the property development authority.

(d) Regulations on transfer of commodity buildings

According to the Development Regulations and the Pre-sale Measures, for any pre-sale of a commodity building, the developer shall sign a contract for the pre-sale with the purchaser. Within 30 days of signing the contract, the developer shall apply for registration and filing of the pre-sale commodity building to the relevant property administration authorities.

See “Summary of PRC Laws Relating to the Property Sector — E. Transfer and Sale of Property — (ii) Sale of commodity buildings — (d) Regulations on transactions of commodity buildings” in Appendix VII to this prospectus for further details.

## **Mortgages of real estate**

In accordance with the Urban Property Law, the Guarantee Law of the People's Republic of China (中華人民共和國擔保法) promulgated by Standing Committee of the National People's Congress on June 30, 1995 and implemented on October 1, 1995, and the Measures on the Administration of Mortgages of Property in Urban Areas (城市房地產抵押管理辦法) promulgated by the MOC in May 1997 and as amended on August 15, 2001, when a mortgage is lawfully created over a building, a mortgage is simultaneously created on the land use rights of the land on which the building is situated. In the case that a mortgage is created over the land use rights of State-owned land acquired through means of grant, the buildings on the land shall also be mortgaged. The land use rights owned by town and village enterprises cannot be mortgaged; however, when buildings owned by town and village enterprises are mortgaged, the land use rights over the land occupied by the buildings shall also be mortgaged. The mortgagor and the mortgagee must sign a mortgage contract in writing. Within 30 days after a property mortgage contract is signed, the parties to the mortgage must register the mortgage with the property administration authority at the location where the property is situated. A property mortgage contract comes into effect on the date of registration of the mortgage. If a mortgage is created on the property in respect of which a house ownership certificate has been obtained, the registration authority shall make an entry under the "third party rights" item on the original house ownership certificate and then issue a certificate of third party rights to the mortgagee. If a mortgage is created on a pre-sale or under-construction commodity building, the registration authority shall record the details on the mortgage contract. If construction of a real property is completed during the term of a mortgage, the parties involved shall re-register the mortgage of the real property after issuance of the certificates evidencing the ownership of the property.

## **Recent measures on PRC property market**

Over the past few years, property developers have invested heavily in the PRC property market, intensifying concerns that certain parts of the market have started to overheat. Since 2004, to reduce the growth rate of China's economy and achieve balanced and sustainable economic growth, the PRC central government implemented measures to control money supply, credit availability and fixed assets investment. The PRC central government also took measures to discourage speculation in the residential property market and to increase the supply of affordable housing to meet the needs of middle to low income families. In response to concerns over the scale and rate of the increase in real estate investment, the PRC government has introduced policies to restrict future real estate development, including:

- allowing banks to cap the amount of mortgage backed loans they are willing to provide depending on the market conditions of different regions, but setting a maximum amount of 80% of the purchase price;
- limiting the monthly mortgage payment to no more than 50% of an individual borrower's monthly income and limiting the total monthly debt repayments of an individual borrower to 55% of his or her monthly income;
- requiring that the minimum capital contribution of real estate developers be increased from 20% to 35% of the total projected capital outlay of any property development;
- increasing the required reserve ratio of funds that a commercial bank must hold on deposit from 7% to 14.5%, effectively reducing the amount of money a bank is able to lend; and
- tightening regulations governing mortgage lending and restricting approval of new development zones.

## REGULATORY OVERVIEW

More recently, since 2008 the Chinese central government has implemented a series of policies intended to strengthen and improve the sound development of the real estate market, particularly the development and construction of affordable residential housing and regular commodity residential housing. Such policies include:

- reducing the minimum capital requirements for affordable residential housing and regular commodity residential projects from 35% to 20%; and reducing the minimum capital requirements of capital funding for other property projects to 30%;
- allowing financial institutions to determine, at their own discretion, whether to grant a loan and the amount having regard to the minimum capital requirements as regulated by the state;
- allowing individuals with an existing house with the per-person floor area smaller than the local average to buy a second apartment for self residence purposes under similar favourable loan terms to those that apply to first-time buyers;
- starting from November 1, 2008, temporarily reducing the deed tax rate for individuals buying their first ordinary residence with GFA of less than 90 square meters to a unified rate of 1% and temporarily exempting stamp duty and land appreciation tax for individuals selling or buying residential properties;
- temporarily introducing preferential policies on business tax related to the transfer of residential properties which will be effective until December 31, 2009;
- increasing credit financing services and financial support for real estate developers; and
- unifying building taxes by abolishing city building taxes and applying the Interim Regulations of the People's Republic of China on Building Tax to both domestic and foreign-funded enterprises and individuals.

See “Summary of PRC Laws Relating to the Property Sector — I. Legal Supervision Relating to the Property Sector in the PRC — F. Property Credit — K. Measures on Stabilizing Housing Price” in Appendix VII to this prospectus for further details.