

APPENDIX VI SUMMARY OF PRC LAWS RELATING TO THE PROPERTY SECTOR

ESTABLISHMENT OF A REAL ESTATE DEVELOPMENT ENTERPRISE

According to the Law of the People's Republic of China on Administration of Urban Real Estate (the “Urban Real Estate Law”) promulgated by the Standing Committee of the National People's Congress, effective in January 1995, as amended in August 2007 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 Administration of Development of Urban Real Estate (the “Development Regulations”) promulgated by the State Council in July 1998, an enterprise which is to engage in development of real estate must satisfy the following requirements:

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

The local government of a province, autonomous region or municipality directly under the PRC central government may, based on local circumstances, impose more stringent requirements on the registered capital and the professional personnel of a real estate developer.

To establish a real estate development enterprise, the developer must apply for registration with the administration for industry and commerce. The developer must also report its establishment to the real estate development authority in the location of its registration, within 30 days of the receipt of its business license. Where a foreign-invested enterprise is to be established to engage in the development and sale of real estate, it must also comply with the relevant requirements under the PRC laws and administrative regulations regarding foreign-invested enterprises and apply for approvals relating to foreign investments in China.

Under the Catalog of Guidance on Industries for Foreign Investment promulgated by MOFCOM and NDRC in October 2007,

- the development of a whole land lot, the construction and operation of high-quality hotels, houses, premium office buildings, international conference centers large theme parks and secondary market residential property trading and brokering falls within the category of industries in which foreign investment is subject to restrictions,
- other real estate development falls within the category of industries in which foreign investment is permitted.

Subject to approval by the relevant foreign investment regulatory authorities, a foreign investor intending to engage in the development and sale of real estate may establish an equity joint venture, a cooperative joint venture or a wholly foreign owned enterprise by the foreign investor in accordance with the PRC laws and administrative regulations regarding foreign-invested enterprise.

Under the Notice on Adjusting the Portion of Capital Fund for Fixed Assets Investment of Certain Industries issued by the State Council on April 26, 2004, the portion of capital fund of real estate projects (excluding affordable housing projects) has been increased from 20% or above to 35% or above.

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In response to the global financial crisis and in an effort to expand domestic demand, the State Council issued a notice for “Adjusting the Portion of Capital for Fixed Assets Investment” 《國務院關於調整固定資產投資項目資本金比例的通知》 in May 2009. Under the notice, the capital ratio for protected housing projects and ordinary commodity housing projects is adjusted from 35% to 20%, and the capital ratio for other properties is adjusted from 35% to 30%.

In July 2006, the Ministry of Construction, the Ministry of Commerce, NDRC, PBOC, the State Administration for Industry and Commerce and SAFE promulgated the “Opinions on Standardizing the Admittance and Administration of Foreign Capital in the Real Estate Market”. According to the Opinions, a foreign investor must comply with the following requirements in order to invest in the real estate market in China:

- A foreign entity or individual purchasing real estate in China other than for self-use shall, subject to the principle of commercial existence, apply for the establishment of a foreign-invested enterprise pursuant to the regulations relevant to foreign investment in real estate, and conduct relevant operations within the authorized business scope after obtaining approvals from the relevant government authorities and upon completion of the relevant registrations.
- If the total investment amount of a foreign-invested real estate development enterprise exceeds or equals to US\$10 million, the registered capital shall not be less than 50% of the total investment amount of the enterprise. If the total investment amount is less than US\$10 million, the current rules on registered capital shall apply.
- A transfer of projects or shares in a foreign-invested real estate development enterprise, and the acquisition of a domestic real estate development enterprise by foreign investors shall be approved by the commerce authorities in strict compliance with the relevant laws, regulations and policies. The investor should submit: (a) a letter of guarantee pledging to abide by the State-owned Land Use Right Grant Contract, the Permit for Land Planning for Construction Purpose and the Permit for the Planning of Construction Projects; (b) the State-owned Land Use Certificate; (c) the certification of a change of registration issued by the relevant construction administration authorities; and (d) the certification of tax payment issued by the relevant tax authorities.
- Foreign investors acquiring a domestic real estate enterprise by way of equity transfer or other means, or acquiring domestic investors’ equity interest in an equity joint venture, shall make proper arrangements for the real estate enterprise’s employees and bank loan repayment. The foreign investors shall pay the transfer price in a lump sum and with their own capital. Foreign investors with unfavorable records are prohibited from involvement in such real estate activities in China.

In August 2006, the General Office of MOFCOM issued a notice on the implementation of the “Opinion on Standardizing the Admittance and Administration of Foreign Capital in the Real Estate Market” 《關於貫徹落實〈關於規範房地產市場外資准入和管理的意見〉有關問題的通知》. The notice requires that, the registered capital of a FIREE shall not be less than 50% of its total investment if its total investment exceeds US\$3.0 million, and the registered capital of a FIREE shall not be less than 70% of its total investment if its total investment is US\$3.0 million or less.

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In May 2007, MOFCOM and SAFE issued the Notice on Further Strengthening and Regulating the Approval and Administration of Foreign Direct Investments in the Real Estate Industry (the "No. 50 Notice"). Under the Notice, local commercial authorities should reinforce the approval and supervision process over foreign investment in real estate enterprises, and strictly control foreign fund from investing in high quality real estate development projects. For foreign-invested company intending to engage in real estate development businesses, land use rights, house or other construction ownership right should be obtained, or at least has entered into pre-contract purchase agreement with the relevant land administrative authorities, land developers, or the owners of the house or other constructions, otherwise the proposed foreign-invested real estate company will not be approved by the authorities. For existing foreign-invested company who intends to increase real estate development businesses in its business operation or company who intends to engage in the operation or development of the new real estate project, they should undertake relevant procedures with the approval authority.

No. 50 Notice strictly controls the acquisition or merger of domestic real estate enterprises by means of round trip investment (includes the same effective controller). It also prohibits Chinese or foreign investors in foreign-invested real estate joint ventures to reach any fixed return related term, or any term to the same effect, for either party.

The local MOFCOM administrative authority should make a record to MOFCOM after a foreign-invested real estate company is established. The local SAFE administrative authority and designated foreign exchange bank will not conduct foreign exchange purchase and settlement process for capital projects of FIREEs who fail to satisfy the MOFCOM for filing requirement or to pass the annual review.

SAFE issued No. 130 Notice on July 10, 2007, further regulating foreign investment in real estate sector in China.

According to No. 130 Notice, after June 1, 2007, real estate enterprises with foreign investment as filed with MOFCOM will not be permitted to borrow money from overseas, including shareholder loans and foreign commercial loans. Further, for those which fail to file with MOFCOM after June 1, 2007, neither foreign exchange registration nor foreign exchange alteration registration will be effected with SAFE or its branches, and as a result, injected foreign currencies will not be settled.

In June 2008, MOFCOM issued the Notice on Completing the Registration of Foreign Investment in the Real Estate Sector 《關於做好外商投資房地產企業備案工作的通知》, often known as "Notice No. 23". According to Notice No. 23, MOFCOM entrusts provincial MOFCOM departments to verify materials on records of FIREEs. Notice No. 23 requires that the establishment (including the increase of registered capital) of a FIREE shall comply with the project company principle of engaging in one approved real estate project only.

QUALIFICATIONS OF A REAL ESTATE DEVELOPER

Under the Provisions on Administration of Qualifications of Real Estate Developers (the "Provisions on Administration of Qualifications") promulgated by the Ministry of Construction in March 2000, a real estate developer must apply for registration of its qualifications according to such Provisions on Administration of Qualifications. An enterprise may not engage in property development without a qualification classification certificate for real estate development. The Ministry of Construction oversees the qualifications of real estate developers with national

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operations, and local real estate development authorities at or above the county level oversee the qualifications of local real estate developers. 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 by the construction authorities at the provincial level and final approval of the Ministry of Construction. A class 1 real estate developer is not restricted as to the scale of its real estate projects and may undertake a real estate development anywhere in the country.
- Class 2 or lower qualifications are regulated by the construction authorities at the provincial level subject to delegation to lower level government agencies. A real estate developer of class 2 or lower may undertake a project with a GFA of less than 250,000 square meters subject to confirmation by the construction authorities at the provincial level.

Under the Development Regulations, the real estate development authorities will examine applications for registration of qualifications submitted by real estate developers by considering the professional personnel in their employ, financial condition and operating results. A real estate developer that passes the qualification examination will be issued a qualification certificate of the relevant class by the qualification examination authority. A developer of any qualification classification may only engage in the development and sale of real estate within its approved scope of business and may not engage in business which is limited to another classification.

For a newly established real estate developer, the real estate development authority will issue a provisional qualification certificate, if it is an eligible developer, within 30 days of receipt by the authority of the application. The provisional qualification certificate will be effective for one year from its date of issuance and may be extended for not more than two additional years with the approval of the real estate development authority. The real estate developer must apply for qualification classification to the real estate development authority within one month before expiration of the provisional qualification certificate.

DEVELOPMENT OF A REAL ESTATE PROJECT

Under the Catalog of Guidance on Industries for Foreign Investment promulgated by MOFCOM and NDRC in October 2007, foreign investments are restricted in the development of a whole land lot and construction, operation, transacting in the secondary real estate market and acting as real estate intermediaries or agents of high-quality hotels, houses, premium office buildings, international conference centers and large theme parks in China; and foreign investments are permitted in other real estate developments. According to the Interim Provisions on Approving Foreign Investment Project promulgated by NDRC in October 2004, approval of NDRC is required for foreign investment projects with total investment of US\$100 million or more within the category of encouraged or permitted foreign investments and those with total investment of US\$50 million or more within the category of foreign investments subject to restrictions. Other foreign investments in China will require only local approval. Specifically, the local authorities may examine and approve foreign investment projects with total investment less than US\$100 million within the category of encouraged or permitted foreign investments and those with total investment less than US\$50 million within the category of foreign investments subject to restrictions.

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Under the Interim Regulations of the People’s Republic of China on Grant and Assignment of the Use Right of State-owned Urban Land (the “Interim Regulations on Grant and Assignment”) promulgated by the State Council in May 1990, China adopted a system to grant and assign the right to use state-owned land. A land user must pay a land premium to the state as consideration for the grant of the right to use a land site within a specified period of time, and the land user may assign, lease out, mortgage or otherwise commercially exploit the land use rights within the term of use. Under the Urban Real Estate Law and the Interim Regulations on Grant and Assignment, the land administration authority at the city or county level may enter into a land grant contract with the land user to provide for the grant of land use rights. The land user must pay the land premium as provided by the land grant contract. After payment in full of the land premium, the land user may register with the land administration authority and obtain a land use rights certificate which evidences the acquisition of land use rights. The Urban Real Estate Law and the Development Regulations provide that land use rights for a site intended for real estate development must be obtained through grant except for land use rights which may be obtained through premium-free allocation by the PRC government pursuant to the PRC laws or the stipulations of the State Council. Government-allocated land is not allowed to be transferred unless the transfer is approved by the relevant PRC government authorities and the land premium as determined by the relevant PRC government authorities has been paid.

When carrying out the feasibility study for a construction project, the construction or the developer entity must make a preliminary application for construction on the relevant site to the relevant land administration authority in accordance with the Measures for Administration of Examination and Approval for Construction land promulgated by the Ministry of Land and Resources in March 1999 and the Measures for Administration of Preliminary Examination of Construction Project land promulgated by the Ministry of Land and Resources in July 2001, as amended in October 2004 and November 2008. After receiving the preliminary application, the land administration authority will carry out preliminary examinations of various aspects of the construction project in compliance with the overall zoning plans and land supply policy of the government, and will issue a preliminary approval in respect of the project site if its examination proves satisfactory. The land administration authority at the relevant city or county will sign a land grant contract with the land user and issue an approval for the construction land to the construction entity or the developer.

According to the Urban Real Estate Law, a land user who obtains land use rights under the grant system must develop the land according to the purposes for which the land is acquired and must commence the development within the time frame agreed to under the land grant contract. If the land user fails to commence developing the land within one year of the construction commencement date stipulated in the land grant contract, then the local land administration authority may charge the land user a “land idle fee” of up to 20% of the land premium. If the land user fails to commence development of the relevant land after two years from the deadline set forth in land grant contract, the land user’s land use rights may be forfeited without compensation. However, the foresaid penalties do not apply if the failure to commence development and construction is due to force majeure or caused by government actions. According to the “Regulations on Idle Land Administration” promulgated by the Ministry of Land and Resources on April 28, 1999, if:

- after the land user obtains the land use right, the land user fails to commence developing the land within the period stated in the contract without the permission of the previous governments;

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- the developed GFA on the land is less than one-third of the total planned GFA under the land grant contract;
- the sum already expended on the development of the land is less than one-fourth of the total investment budget under the land grant contract and the suspension of development of the land without government approval has lasted for one year or more; or
- the grant contract or the approval for construction of land does not provide the period of construction and the land user does not commence developing the land for one year from when the grant contract became effective or the date of presentation of the approval for construction, then such land will be treated as idle land and may be subject to land idle fee or forfeiture.

Under the Measures for Control and Administration of Grant and Assignment of Right to Use Urban State-owned Land promulgated by the Ministry of Construction in December 1992, the grantee under a land grant contract, i.e. a real estate developer, must further apply for a permit for construction site planning from the relevant municipal planning authority. After obtaining such permit, a real estate developer will organize the necessary planning and design work. Planning and design proposals in respect of a real estate development project are again subject to relevant reporting and approval procedures required under the Law of the People's Republic of China on Urban and Rural Planning promulgated by the Standing Committee of the National People's Congress in October 2007, effective from January 1, 2008, and local statutes on municipal planning. Upon approval by the authorities, a permit for construction works planning will be issued by the relevant municipal planning authority.

In accordance with the Regulations for the Administration of Demolition and Removal of Urban Housing promulgated by the State Council in June 2001, if demolition of existing structures and removal of existing residents on the construction site need to be conducted before commencement of construction of the real estate project contemplated, the developer may apply to the local municipal, district or county level government in the place where the real estate is located for a permit for demolition and removal. Upon approval, the local government will issue a demolition and removal permit and post a demolition and removal notice to inform the inhabitants of the area subject to demolition. The designated demolition and removal party, typically a local government entity and sometimes the developer, must implement the demolition and removal within the area and period specified in the demolition and removal permit. If the demolition and removal party fails to complete the demolition and removal works within the permitted period, it may, within 15 days prior to the expiration of the permit for demolition and removal, apply to the original approval department in charge of demolition and removal for an extension.

During the demolition and removal period announced by the department in charge of demolition and removal, the demolition and removal party and the parties subject to demolition and removal will enter into a written agreement for compensation and resettlement in respect of the demolition and removal. If the demolition and removal party and the parties subject to demolition and removal cannot reach an agreement, any such party may apply to the original approval department in charge of the demolition and removal for a ruling. Such a ruling must be rendered within 30 days of the application. If any such party disagrees with the ruling, it may initiate proceedings in the People's Court in China within three months from the date of delivery

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of the ruling. Pursuant to current PRC laws, if the demolition and removal party has provided proper monetary compensation or proper replacement housing to the parties subject to demolition and removal, the demolition and removal may not be stopped.

Compensation for demolition and removal may be effected by way of monetary compensation or exchange of property rights. If the monetary compensation method is used, the amount of compensation is assessed on the basis of the real property market price determined by the location, uses and the GFA of the housing to be demolished. If property exchange or replacement is used, the demolition and removal party and the parties subject to demolition and removal will, on the basis of the location, uses and the GFA of the housing to be demolished and the housing offered for exchange or replacement, calculate the amount of compensation for the housing to be demolished, the price of the housing to be exchanged or replaced for the housing to be demolished, and work out the difference between the two. In addition to paying the demolition and removal compensation, the demolition and removal party will also pay removal allowance to the parties subject to demolition and removal including lessees of the property.

When the site has been properly prepared and is ready for the commencement of construction works, the developer must apply for a permit for commencement of works from the construction authorities at or above the county level according to the Measures for Administration of Granting Permission for Commencement of Construction Works promulgated by the Ministry of Construction in October 1999, as amended in July 2001.

The development of a real estate project must comply with various laws and legal requirements on construction quality, safety standards and technical guidance on architecture, design and construction work, as well as provisions of the relevant contracts. After completion of construction works for a project, the real estate developer must organize an acceptance examination by relevant government authorities and experts according to the Development Regulations and the Interim Provisions on Inspection Upon Completion of Buildings and Municipal Infrastructure (“Acceptance Examination Measures”) promulgated by the Ministry of Construction in June 2000. The developer must also report details of the acceptance examination according to the Interim Measures for Reporting Details Regarding Acceptance Examination upon Completion of Buildings and Municipal Infrastructure promulgated by the Ministry of Construction in April 2000. A real estate development project may not be delivered until and unless it has satisfactorily passed the necessary acceptance examination. Where a property project is developed in phases, an acceptance examination may be carried out for each completed phase.

LAND FOR PROPERTY DEVELOPMENT

In April 1988, the National People’s Congress amended the Constitution to permit the transfer of land use rights for value. And in December 1988, the Standing Committee of the National People’s Congress amended the Land Administration Law to permit the transfer of land use rights for value.

Under current PRC laws and regulations on land administration, land for property development may be obtained only by grant except for land use rights obtained through allocation.

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On September 24, 2003, the Ministry of Land and Resources promulgated the Notice on Strengthening the Land Supply Management and Promoting the Sustainable Sound Development of Real Estate Market which provides that land supply for luxury commodity housing shall be strictly controlled. On May 30, 2006, the Ministry of Land and Resources promulgated an Urgent Notice on Currently Strengthening Further Strict Land Management which provides that land grant for real estate development must be conducted via invitation for bids, auction and listing, and land supply for low to medium-priced and/or small to medium-sized ordinary commercial residential housing (including affordable housing) and for low-rental residential housing must be given priority, and land supply for low-density and/or large-sized residential housing shall be strictly restricted. In addition, the notice provides that land supply for new villa project shall be suspended.

In September 2007, The Ministry of Land and Resources (國土資源部) promulgated the Rules Regarding the Grant of State-Owned Construction Land Use Rights By Way of Tender, Auction and Listing-For-Sale 《招標拍賣掛牌出讓國有建設用地使用權規定》 (the “Rules”), which became effective in November 2007. The Rules further clarify the procedures for the grant of land use rights by way of tender, auction and listing-for-sale. Moreover, pursuant to the Rules, all land for commercial use, such as industry (including warehouse land, but excluding mining land), business, tourism, entertainment and commodity residential housing, and a land parcel with two or more purposes must be granted by way of tender, auction or listing for sale. The grantee of land use rights shall register the land and obtain the land use rights certificate only after full settlement of the land premium specified in the relevant land grant contract. No land use rights certificates shall be issued before full settlement of the land premium and land use rights certificates shall not be issued in proportion to the land premium paid.

On January 3, 2008, the State Council issued a Notice on Promoting Economization of Land Use 《關於促進節約集約用地的通知》 with respect to the collection of additional land premium, establishment of a land utilization priority planning scheme and the formulation of a system for assessing the optimal use of land and other measures. The notice urges the full and effective use of existing construction land and the preservation of farming land. The notice also emphasizes the enforcement of the current rules on idle land fee for any land left idle for over one year but less than two years, with such idle land fee charged at 20% of the land grant premium. The notice further urges the financial institutions to exercise caution when they process loan applications from property developers that have failed to commence construction, to complete development of at least one third of the land area or to invest at least 25% of the total investment within one year of the construction date provided in the land grant contract. The notice informs that the relevant governmental authorities will formulate and issue further rules and regulations on such requirements.

SALE OF COMMODITY PROPERTIES

Under the Measures for Administration of Sale of Commodity Houses promulgated by the Ministry of Construction in April 2001, sale of commodity houses can include both sales before the completion of the properties (“pre-sale”) and sales after the completion of the properties.

Any pre-sale of commodity buildings must be conducted in accordance with the Measures for Administration of Pre-sale of Commodity Buildings (the “Pre-sale Measures”) promulgated by the Ministry of Construction in November 1994, as amended in August 2001 and July 2004, and the Development Regulations. The Pre-sale Measures provide that any pre-sale of commodity buildings is subject to specified procedures. According to the Development Regulations and the

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Pre-sale Measures, a pre-sale permit must be in place before a commodity building may be put to pre-sale. Specifically, a developer intending to sell a commodity building before its completion must apply to the real estate development authority for a permit for pre-sale. A commodity building may be sold before completion only if:

- the purchase price has been paid in full for the grant of the land use rights involved and a land use rights certificate has been properly obtained;
- a permit for construction works planning and a permit for commencement of works have been properly obtained;
- the funds invested in the development of the commodity buildings put to pre-sale represent 25% or more of the total investment in the project and the progress of works and the completion and delivery dates have been properly ascertained; and
- a permit for pre-sale of commodity buildings has been obtained through pre-sale registration.

The proceeds of pre-sale of commodity buildings must be used to develop the relevant project so pre-sold.

Commodity buildings may be put to post-completion sale after they have passed the clearance examination and otherwise satisfy the various preconditions for such sale. Before the post-completion sale of a commodity building, the developer must, among other things, submit the Real Estate Development Project Manual and other documents evidencing the satisfaction of preconditions for post-completion sale to the real estate development authority for its record.

TRANSFER OF REAL ESTATE

According to the Urban Real Estate Law and the Provisions on Administration of Transfer of Urban Real Estate promulgated by the Ministry of Construction in August 1995, as amended in August 2001, a real estate owner may sell, bequeath or otherwise legally transfer real estate 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 together. The parties to a transfer must enter into a real estate transfer contract in writing and register the transfer with the real estate administration authority having jurisdiction over the location of the real estate within 90 days of the execution of the transfer contract.

Where the land use rights were originally obtained by grant, the real property may only be transferred on the condition that:

- the land premium has been paid in full for the grant of the land use rights as provided by the land grant contract and a land use rights certificate has been properly obtained; and
- in the case of a project in which buildings are being developed, development representing more than 25% of the total investment has been completed; or

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- in case of a whole land lot development project, construction works have been carried out as planned, water supply, sewerage, electricity supply, heat supply, access roads, telecommunications and other infrastructure or utilities have been made available, and the site has been leveled and made ready for industrial or other construction purposes.
- in case of where the real property has been completed in construction, the property ownership certificate shall have been obtained.

If the land use rights were originally obtained by grant, the term of the land use rights after transfer of the real estate will be the remaining portion of the original term provided in the land grant contract after deducting the time that has been used by the former land users. In the event that the assignee intends to change the use of the land provided in the original grant contract, consent must first be obtained from the original land use rights grantor and the planning administration authority at the relevant city or county and an agreement to amend the land grant contract or a new land grant contract must be signed in order to, inter alia, change the use of the land and adjust the land premium accordingly.

If the land use rights were originally obtained by allocation, such allocation may be changed to land use rights grant if approved by the government vested with the necessary approval power as required by the State Council. After the government authorities vested with the necessary approval power approve such change, the grantee must complete the formalities for the grant of the land use rights and pay the land premium according to the relevant statutes. Land for industry (including warehouse land, but excluding mining land), commercial use, tourism, entertainment and commodity housing development must be assigned by competitive bidding, public auction or listing-for-sale under the current PRC laws and regulations.

LEASES OF BUILDINGS

Under the Urban Real Estate Law and the Measures for Administration of Leases of Buildings in Urban Areas promulgated by the Ministry of Construction in May 1995, parties to a lease of a building must enter into a lease contract in writing. China has adopted a system to register the leases of real properties. When a lease contract is signed, amended or terminated, the parties must register the details with the real estate administration authority at the city or county in which the building is situated.

MORTGAGES OF REAL ESTATE

Under the Urban Real Estate Law, the Security Law of PRC promulgated by the Standing Committee of the National People's Congress in June 1995, and the Measures for Administration of Mortgages of Urban Real Estate promulgated by the Ministry of Construction in May 1997, as amended in August 2001, when a mortgage is created on the ownership of a building legally obtained, a mortgage must be simultaneously created on the land use rights of the land on which the building is situated. When a mortgage is created on land obtained by way of grant, a mortgage must be simultaneously created on the ownership of the building which is on the land. The mortgagor and the mortgagee must sign a mortgage contract in writing. China has adopted a system to register mortgages of real estate. Within 30 days after a real estate mortgage contract has been signed, the parties to the mortgage must register the mortgage with the real estate administration authority at the location where the real estate is situated. A real estate mortgage contract will become effective on the date of registration of the mortgage. If a mortgage is created on the real estate in respect of which a property ownership certificate has

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been obtained legally, the registration authority will, when registering the mortgage, make an entry under “third party rights” on the original property ownership certificate and then issue a certificate of third party rights to the mortgagee. If a mortgage is created on the commodity building put to pre-sale or on works in progress, the registration authority will, when registering the mortgage, record the details on the mortgage contract. If construction of a real property is completed during the term of a mortgage, the parties involved will re-register the mortgage of the real property after issuance of the certificates evidencing the rights and ownership to the real estate.

According to the Notice of the People’s Bank of China on Regulating Home Financing Business promulgated by PBOC in June 2001, all banks must comply with the following requirements before granting residential development loans, individual home mortgage loans and individual commercial property mortgage loans:

- Housing development loans from banks may only be granted to real estate developers with development qualification and credit ratings in the higher categories. Such loans may be offered to residential projects with good market potential. While the borrowing enterprise’s internal capital shall not be less than 30% of the total investment required for the project, the project itself must have been issued with a “State-Owned Land Use Rights Certificate,” “Construction Land Planning Permit,” “Construction Works Planning Permit” and “Construction Works Commencement Permit.”
- In respect of the grant of individual home mortgage loans, the ratio between the loan amount and actual value of the collateral (the “Mortgage Ratio”) may never exceed 80%. Where an individual applies for a home purchase loan to buy a pre-sale property, the property must have achieved the stage of “topping-out of the main structure completed” for multi-storey buildings and “two-thirds of the total investment completed” for high-rise apartment buildings.
- In respect of the grant of individual commercial use building mortgage loans, the Mortgage Ratio for commercial use building mortgage loans may not exceed 60% with a maximum loan period of 10 years and the subject commercial use building already completed.

PBOC issued a Circular on Further Strengthening the Management of Loans for Property Business in June 2003 to tighten the requirements for banks to provide loans for the purposes of residential development, individual home mortgage and individual commodity houses as follows:

- Property development loans may be granted to property developers who are qualified for property development, rank high in credibility and have no overdue payment for construction. Such loans shall be given in full support of residential housing projects which conform to the purchasing capacity of families with medium-to-low income, and shall be property restricted where projects involve building properties of large size and/or cover large area, such as luxury commodity houses and villas. For property developers with commodity houses of high vacancy rate and debt ratio, strict approval procedures must be applied for their new property development loans and their activities must also be subject to close monitoring.
- Commercial banks may not grant loans to property developers to pay off land premium.

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- 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 home loans for his first residential unit, the down-payment by the borrower remains to be 20%. In respect of his loan application for additional purchase of residential unit(s), the percentage of the down-payment by the borrower should be approximately increased.
- When a borrower applies for a mortgage loan for an individual commercial use building, the Mortgage Ratio may not be more than 60%. In addition, the term of loan may not be more than 10 years and the commodity building must be duly completed and accepted after the relevant governmental inspection.

The down-payment requirement was subsequently increased to 30% of the property price for residential units with a unit floor area (套型建築面積) of 90 square meters or more, effective on June 1, 2006. See “— Measures on Stabilizing Housing Price” below.

In a Circular on Facilitating the Continuously Healthy Development of Property Market issued by the State Council in August 2003, a series of measures were adopted by the government to control the property market. They included, among others, strengthening the construction and management of low-cost affordable houses, increasing the supply of ordinary commodity houses and controlling the construction of high quality commodity houses. Besides, the government also staged a series of measures on the lending for residential development. They included, among others, strengthen efforts in housing provident fund collection and the granting of loans, improving the guarantee mechanism of individual home loans and strengthening the monitoring over property loans. It is expected that the circular will have a positive effect on the development of the PRC property market in the long run by facilitating a continuously healthy growth of the property market in China.

Pursuant to the Guidance on Risk Management of Property Loans Granted by Commercial Banks issued by China Banking Regulatory Commission in August 2004, commercial banks may not provide any loan in any form for a project without the State-owned Land Use Rights Certificate, Construction Land Use Planning Permit, Construction Works Planning Permit and Construction Works Commencement Permit. Any property developer applying for property development loans must have invested at least 35% of capital required for the development and a commercial bank should maintain a strict project approval mechanism for processing applications for property development loans.

Under the “Notice of the People’s Bank of China on Adjusting the Housing Credit Policies of Commercial Banks and Deposit Interest Rate of the Excess Part of the Reserve” issued by PBOC on March 16, 2005 and effective from March 17, 2005, the minimum amount of down payment for an individual residence shall be increased from 20% to 30% of the purchase price for properties in cities where the property market is considered to be overheating.

In May 2006, the General Office of the State Council issued an opinion developed by the Ministry of Construction (and relevant departments) on Adjustment of Housing Supply Structure and Stabilization of Property Prices 《關於調整住房供應結構穩定住房價格的意見》. According to the opinion, in order to curtail the rapid rise in property prices, from June 1, 2006, the minimum amount of down payment for individual housing shall not be less than 30%. However, considering the housing needs of low- and middle-income earners, the minimum down payment for self-occupied housing with a GFA of less than 90 square meters per unit remains unchanged, and shall not be less than 20%.

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In September 2007, PBOC and CBRC jointly issued the Notice on Strengthening the Administration of Commercial Real Estate Credit Loans 《關於加強商業性房地產信貸管理的通知》 to further regulate the management of credit loans for commercial real estate. These measures include:

- prohibiting commercial banks from lending to projects with an internal capital ratio (owners' equity) of less than 35%, or without a land use rights certificate, construction land use planning permit, construction planning permit and a construction permit;
- prohibiting commercial banks from lending to property developers solely for the payment of land premiums;
- requiring banks to support funding needs of borrower purchasing their first small and medium self-occupied flat, and to grant loans only to individuals who have purchased flats the main structure of which have been topped out;
- the minimum down payment for a self-occupied flat with a GFA of less than 90 square meters per unit shall not be less than 20%. The minimum amount of down payment for a self-occupied flat with a GFA of over 90 square meters per unit shall not be less than 30%. The minimum down payment payable by an individual who has obtained a mortgage to purchase the second (or more) flat shall not be less than 40%. The loan interest rate shall not be less than 1.1 times the prevailing basis rate issued by PBOC, and the minimum amount of down payment and interest rate shall significantly increase with the number of flats purchased;
- commercial properties purchase by loans shall have been completed and passed completion acceptance inspection; and
- for commercial properties, the minimum 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 prevailing basis rate issued by PBOC. For combined commercial and residential properties, the minimum down payment shall not be less than 45% and the term and interest rate shall be determined according to the administrative regulations of commercial property loans.

According to the requirement under a notice issued by PBOC and CBRC 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》 in July 2008, real estate developers applying for loans from financial institutions by way of mortgage should have the legitimate land use rights certificate, the maximum amount of the mortgage offered by the financial institution should not be more than 70% of the assessed value of the collateral and the loan term should not exceed two years in principle.

On October 22, 2008, PBOC promulgated the Notice 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, effective October 27, 2008, the float-down range for interest rate for individual mortgage loans is expanded and the ratio of down payments is be adjusted. As a result, the minimum interest rate for individual mortgage loans is 70% of the benchmark loan interest rate and the minimum down payment ratio is adjusted to 20%.

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In December 2008, the General Office of the State Council issued the Opinion on Promoting the Healthy Development of 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》. The opinion provides that in order to expand domestic demand and encourage purchase of ordinary residential housing, residents who purchase ordinary self-occupied housing for the first-time by borrowing a mortgage loan shall enjoy preferential policies in relation to loan interest rates and down payment. For residents who have already borrowed a mortgage loan and purchased self-occupied housing for the first-time, if the GFA per person of that first housing is lower than the local average, such residents may still enjoy the preferential policies in relation to loan interest rates and down payment when they purchase a second self-occupied house. For any other application on mortgage loans for purchasing a second or subsequent housing unit, the interest rate shall be determined by the commercial banks based on the benchmark interest rate and their the banks' risk assessments.

According to an opinion on Adjusting the Portion of Capital for Fixed Assets Investment 《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 in May 2009, the capital ratio for protected housing projects and ordinary commodity housing projects is adjusted from 35% to 20%, and the capital ratio for other property is adjusted from 35% to 30%. Financial institutions shall decide based on the capital ratio adjustments whether or not to issue loans to real estate companies.

REAL ESTATE MANAGEMENT

Under the Measures for the Administration of Qualifications of Property Management Enterprises promulgated by the Ministry of Construction in March 2004 and amended in November 2007, a property service enterprise must apply for assessment of its qualification by the relevant qualification approval authority. An enterprise which passes such a qualification assessment will be issued a qualification certificate. No enterprise may engage in property management without undertaking a qualification assessment conducted by the relevant authority and obtaining a qualification certificate.

INSURANCE

There is no mandatory provision in PRC laws, regulations and government rules which require a property developer to take out insurance policies for its real estate developments. According to the common practice of the property industry in China, construction companies are usually required to submit insurance proposals in the course of tendering and bidding for construction projects. Construction companies must pay for the insurance premium at their own costs and take out insurance to cover their liabilities, such as third party's liability risk, employer's liability risk, risk of nonperformance of contract in the course of construction and other kinds of risks associated with the construction and installation works throughout the construction period. The insurance coverage for all these risks will cease immediately after the completion and acceptance upon inspection of construction.

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MEASURES ON STABILIZING HOUSING PRICE

The General Office of the State Council promulgated a Circular on Stabilizing Housing Price in March 2005, introducing measures to be taken to restrain the housing price from increasing too fast and to promote a stable development of the real estate market. In April 2005, the Ministry of Construction, NDRC, the Ministry of Finance, the Ministry of Land and resources, PBOC, the State Taxation Bureau and the China Banking Regulatory Commission jointly issued the Opinions on Stabilizing Housing Prices with the following guidance:

- Where the housing price is growing too fast, while the supply of ordinary commodity houses at medium or low prices and low-cost affordable houses is insufficient, the housing construction should mainly involve projects of ordinary commodity houses at medium or low prices and low cost affordable houses. The construction of low-density, high quality houses should be strictly controlled. The relevant local government authorities are authorized to impose conditions on planning and design such as building height, plot ratio and green space and to impose such requirements as sale price, type and GFA as preconditions on land assignment. The local governments are also required to strengthen their supervision of real estate developments in their jurisdictions.
- Where the price of land for residential use and the price for residential housing are growing too fast, the proportion of land supply for residential use to the total land supply should be appropriately raised, and the land supply for the construction of ordinary commodity houses at medium or low prices and low-cost affordable houses should be especially increased. Land supply for house construction should continue to be suspended, and land supply for high quality housing property construction should be strictly restricted.
- Commencing from June 1, 2005, a business tax upon transfer of a residential house by an individual within two years from his/her purchase will be levied on the gain from such sale. For an individual to transfer an ordinary residential house after two years from his/her purchase, the business tax will be exempted. For an individual to transfer a property other than an ordinary residential house after two years from his/her purchase, the business tax will be levied on the difference between the price of such sale and the original purchase price.
- Ordinary residential houses with medium or small GFAs and at medium or low prices may be granted preferential treatment such as planning permits, land supply, credit and taxation. Houses enjoying these preferential policies must satisfy the following conditions in principle: the plot ratio is above 1.0, the GFA of one single unit is less than 120 square meters, and the actual transfer price is lower than 120% of the average transfer price of comparable houses at comparable locations. The local governments at the provincial level may, based on their actual local circumstances, formulate specific standards for ordinary residential houses that may enjoy the preferential policies.
- Transfer of uncompleted commodity properties by any pre-sale purchaser is forbidden. In addition, purchasers are required to buy properties in their real names. Any commodity property pre-sale contract must also be filed with the relevant government agencies electronically immediately after its execution.

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On May 24, 2006, the Ministry of Construction, NDRC, the Ministry of Supervision, the Ministry of Finance, the Ministry of Land and Resources, PBOC, the State Bureau of Statistics, the State Taxation Bureau and CBRC jointly issued Opinions on Adjusting Housing Supply Structure and Stabilization of Housing Prices. The Opinions reiterated the existing measures and introduced new measures to further curb fast increase in property prices in large cities and to promote healthy development of the PRC property market. These measures, among the others, include:

- requiring that at least 70% of the land supply approved by a local government for residential property development for any given year must be used for developing low-to medium-cost and small to medium-size units and low-cost rental properties;
- requiring that at least 70% of GFA of residential projects approved or constructed on or after June 1, 2006 must consist of units with a unit floor area (套型建築面積) less than 90 square meters per unit (including affordable housing) and that projects which have received project development approvals prior to that date but have not obtained construction permits must adjust their planning in order to be in conformity with this new requirement, with the exception that municipalities under direct administration of the PRC central government and provincial capitals and certain cities may deviate from such ratio under special circumstances upon approval from the Ministry of Construction;
- requiring that, from June 1, 2006, the minimum amount of down payment be at least 30%; where a self-occupied flat has a unit floor area of less than 90 square meters per unit, the minimum amount of down payment is still 20%;
- prohibiting commercial banks from lending funds to real estate developers with an internal capital ratio, calculated by dividing the internal funds by the total project capital required for the relevant projects, of less than 35%, restricting the extension of loans and the grant of revolving credit facilities to property developers holding a large amount of idle land and vacant commodity properties, and prohibiting commercial banks from taking commodity properties which have been vacant for more than three years as security for their loans; and
- imposing a business tax levy on the entire sales proceeds from re-sale of properties if the holding period is shorter than five years, effective from June 1, 2006, as opposed to two years as such levy was initially implemented from June 2005; where an individual transfers a property other than an ordinary residential property after five years from his/her purchase, the business tax will be levied on the difference between the price for such re-sale and the original purchase price.

On May 30, 2006, the Ministry of Land and Resources published the Urgent Notice on Tightening Land Administration. In this Notice, the Ministry of Land and Resources stressed that local governments must adhere to their annual overall land use planning and land supply plans and tighten the control on land supply for non-agricultural use. The Notice requires local governments to suspend the supply of land for new villa projects to ensure adequate supply of land for more affordable housing.

In December 2008, the General Office of the State Council issued the rules on the Opinion on Promoting the Healthy Development of 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

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encourage consumption in ordinary residential housing, a business tax relief policy for real property transfers will be implemented for one year in relation to residential property conveyance. Business tax is exempted for any transfer of ordinary housing purchased and held by individuals for at least two years, as opposed to five years previously; any transfer of ordinary housing purchased by individuals for less than two years is subject to business tax based on the difference between the sale price from such transfer and the original purchase price, as opposed to the full sale price. Any transfer of non-ordinary housing purchased by individuals for at least two years, as opposed to five years previously, is subject to business tax based on the difference between the gain from such transfer and the original purchase price. Any transfer of non-ordinary housing purchased by individuals for less than two years remains subject to business tax based solely on the sale price from such transfer. The above-mentioned policy is tentatively scheduled to be enforced until December 31, 2009.

On October 22, 2008, PBOC promulgated the Notice on Several Issues Regarding the Expansion of Downward Floating Interest Rate for Commercial Individual Housing Loans which provides that, as of October 27, 2008, the float-down range for interest rate for commercial individual housing loans will be expanded and the ratio of down payments will be modified. The minimum interest rate for commercial individual housing loans will be 70% of the benchmark loan interest rate and the minimum down payment ratio will be adjusted to 20%. Related matters are as follows:

- Loan interest rate and down payment ratio granted by the financial institutions to their clients shall be determined based on the following factors: whether or not it is the first time for the borrower to buy the house, whether or not the house is used for self-occupancy, whether or not the house type and GFA conform to an ordinary residential house, 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 down payment ratio to residents for their first purchase of ordinary self-occupied houses and improved ordinary self-occupied houses. For non-self-occupied houses and non-ordinary residential houses, financial institutions may properly raise the loan conditions.
- As to commercial individual housing loans granted, financial institutions shall determine the interest rate for the outstanding portion thereof, in accordance with Section 1 of this notice, on the basis of reasonable assessment of loan risks and according to the original loan contracts. The down payment ratio under the original loan contracts shall remain effective.
- The policy that the borrower's monthly expenditure on repayment of housing loans shall not exceed 50% of his/her monthly income remains unchanged.