

APPENDIX IV

REGULATORY OVERVIEW

This section sets out summaries of certain aspects of PRC laws and regulations, which are relevant to our Group’s operations and business. These include PRC laws and regulations relating to land, real property development, foreign investment in property development, foreign exchange control, taxation, property management and hotel.

THE LAND SYSTEM OF THE PRC

All land in the PRC is either State-owned or collectively-owned, depending on the location of the land. All land in the urban areas of a city or town is State-owned, and all 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 resume land in accordance with law if required for the benefit of the public. Although all land in the PRC is owned by the State or by collectives, private individuals, enterprises and other organizations are permitted to hold, lease and develop land for which they are granted land use rights in accordance with relevant PRC laws and regulations.

In April 1988, the Constitution of the PRC (the “**Constitution**”) (《中華人民共和國憲法》) was amended by the National People’s Congress (全國人民代表大會) to allow for the transfer of land use rights for value. In December 1988, the Land Administration Law (《中華人民共和國土地管理法》) of the PRC was amended by the Standing Committee of the National People’s Congress to permit the transfer of land use rights for value.

Under the Provisional Regulations of the PRC Concerning the Grant and Assignment of the Right to Use State-owned Land in Urban Areas (《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》) (“**Urban Land Regulations**”) promulgated in May 1990 by the State Council (國務院), local governments at or above county level have the power to grant land use rights for specific purposes and for a definite period to a land user pursuant to a contract for the grant of land use rights upon payment of a grant premium.

Under the Urban Land Regulations, there are different maximum periods of grant for different uses of land. They are generally as follows:

<u>Maximum period use of land</u>	<u>In years</u>
Commercial, tourism, entertainment	40
Residential	70
Industrial	50
Public utilities	50
Others	50

Under the Urban Land Regulations, all domestic and foreign enterprises are permitted to acquire land use rights unless the law provides otherwise. The State may not resume possession of lawfully granted land use rights prior to expiration of the term of grant. If public interest requires the resumption of possession by the State under special circumstances during the term of grant, compensation must be paid by the State. A land user may lawfully assign, mortgage or lease its land use rights to a third party for the remainder of the term of grant.

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Upon expiration of the term of grant, renewal is possible subject to the execution of a new contract for the grant of land use rights and payment of a premium. If the term of the grant is not renewed, the land use rights and ownership of any buildings thereon will revert to the State without compensation.

According to the Notice of the Ministry of Land and Resources on Relevant Issues Concerning the Strengthening of Examination and Approval of Land Use in Urban Construction (《國土資源部關於加強城市建設用地審查報批工作有關問題的通知》) promulgated by the Ministry of Land and Resources on September 4, 2003, from the day of issuance of the Notice, the grant of land use rights for luxurious commodity properties shall be stringently controlled, and applications of land use rights for villas will no longer be accepted. In order to stop illegal occupation and abusive use of land, prevent overheating in investment in fixed assets in some areas, and implement strict protection of cultivated land, the General Office of the State Council (國務院辦公廳) issued the Urgent Notice on Further Governing and Rectifying Land Market and Strengthening Administration of Land (《關於深入開展土地市場治理整頓嚴格土地管理的緊急通知》) on April 29, 2004.

The notice addresses issues including, (i) continuing the rectification of the land market by cooperation between the PRC Ministry of Land and Resources (中華人民共和國國土資源部) and other authorities on problems existing in the grant of State-owned land use rights for business use by way of tender, auction or listing-for-sale; (ii) strictly administering approvals of construction land; (iii) protecting basic agricultural land; (iv) strictly implementing the general strategy and annual plan for land use, and the balance system for occupying and compensating cultivated land; and (v) actively promoting the reform of the administration system of land and resources. Also, according to the notice, the rectification of the land market will take approximately half a year from the issuance of the notice. Approvals for converting agricultural land to non-agricultural construction land will be suspended throughout China during this period, except for certain major public infrastructure projects which shall be approved by the State Council.

On March 26, 2005, the General Office of the State Council promulgated a Notice on Effectively Stabilizing House Prices (《關於切實穩定住房價格的通知》) to restrain the excessive growth of house prices and promote the sound development of the real estate market. The notice provided that housing prices should be stabilized and the system governing housing supply should be vigorously adjusted and improved. In accordance with the notice, seven departments of the State Council including the MOHURD issued an Opinion on Duly Stabilizing the Prices of Residential Properties (《關於做好穩定住房價格工作的意見》) on May 9, 2005. The opinion stated, amongst the others, that: (i) Where the price of land for residential use and residential house grows too fast, the proportion of land for residential use to the total land supply should be appropriately raised, and the land supply for the construction of ordinary commodity property at medium or low price range and economical housing should be emphatically increased. Land supply for villa construction shall be continuously suspended, and land supply for high-end housing property construction shall be restricted; (ii) to curb any speculation in the real estate market, business taxes would be levied from June 1, 2005 on the total revenue arising from any transfer by individuals of houses within two years upon their purchase thereof or on the difference between the transfer price and the original price for any transfer of non-ordinary houses (非普通住宅) by individuals after two or more years upon their purchase thereof, while business taxes would be exempted for the transfer of an ordinary residential property as stipulated by relevant PRC laws after two years from date of purchase; and (iii) the real estate

registration department will no longer register the transfer of apartment units which have been pre-sold but have not obtained the relevant Real Estate Ownership Certificates.

On May 24, 2006, the General Office of the State Council further issued a Notice on Adjusting the Housing Supply Structure and Stabilizing Housing Prices (《關於調整住房供應結構穩定住房價格意見的通知》). The notice provided for six broad measures including but not limited to the following specific directives to (i) encourage mass-market residential developments and to curb the development of high-end residential properties; (ii) enforce the collection of business taxes on property sales (as of June 1, 2006, business taxes will be levied on the entire sale price of any property sold within five years, or on the profit arising from any non-ordinary property sold after five years); (iii) restrict housing mortgage loan to not more than 70% of the total property price (for houses purchased for self-residential purposes and with an area of less than 90 sq.m., the owners are still able to apply for housing mortgage up to an amount representing 80% of the total property price); (iv) halt land supply for villas projects and restrict land supply for high-end, low density residential projects; (v) moderate the progress and scale of demolition of old properties for redevelopment; (vi) local governments are also required to ensure that at least 70% of the total development and construction area also must consist of units of less than 90 sq.m. in size (with any exceptions requiring the approval of the MOHURD); and (vii) banks are not permitted to provide loans to a property developer whose total capital fund is less than 35% of the total investment amount in an intended development project. To the developers with a large amount idle land and vacant commodity properties, commercial banks should restrict the grant or extension of revolving credit facilities in any form pursuant to the prudence principle. Commodity buildings which are vacant for more than 3 years should not be accepted as an object of pledge by the commercial banks.

On May 30, 2006, the Ministry of Land and Resources published an urgent notice to tighten up land administration (《關於當前進一步從嚴土地管理的緊急通知》). 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 up 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 this notice, the Ministry of Land and Resources also required the local governments to conduct thorough investigations of illegal land use and submit a report on such investigations to the Ministry by the end of October 2006. The land authority should rigidly execute the “Model Text of the State-owned Land Use Rights Grant Contract” and “Model Text of the State-owned Land Use Rights Grant Supplementary Agreement (for Trial Implementation)” jointly promulgated by the Ministry of Land and Resources and the State Administration for Industry and Commerce, or the SAIC. The documents of the land assignment should ascertain the requirements of planning, construction and land use such as the restriction of the dwelling size, plot ratio, and the time limit for the commencement and completion of construction. All these should be set forth in the Land-Use Rights Assignment Contract.

On July 6, 2006, the MOHURD promulgated a Supplemental Opinion on Carrying out the Residential Property Size Ratio in Newly-Built Residential Buildings (《關於落實新建住房結構比例要求的若干意見》) (the “**Supplemental Opinion**”). The Supplemental Opinion provides that as of June 1, 2006, as to the total area of the newly approved and newly commenced construction projects in each city including town and county in any given year, at least 70% of the total construction area must be used for building small apartments with unit floor area of 90 sq.m. or below (including economically affordable apartments). In the case of residential property projects that were

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granted approvals before June 1, 2006 but without a construction work permit by that date, the relevant local governments should ensure that the prescribed residential property size ratio requirement is complied with.

On September 30, 2007, the Ministry of Land and Resources issued Notice on Implementation of the State Council’s Certain Opinions on Resolving Difficulties and Further Strengthening Macro-control of Land Supply (《關於認真貫徹〈國務院關於解決城市低收入家庭住房困難的若干意見〉進一步加強土地供應調控的通知》) to further enhance the control of land supply, which stipulates that the supply of the land to be developed for low-rent housing, economical housing and housing at low or medium price and of small or medium size shall be no less than 70% of the total land supply of the current year; the land and resources authorities shall control the area of each parcel of land and increase the number of parcels of land to be supplied, in order to prevent the coemption of land by property developers. Property developers shall develop their land according to the terms of the relevant land grant contract, and any violation thereof may restrict or prevent such property developers from participating in future land bidding. Generally, the development period of each parcel of land shall not exceed three years.

In order to control the land market and promote reasonable land utility, the Ministry of Land and Resources, the Ministry of Finance and the People’s Bank of China (the “PBOC”) jointly promulgated the Administration Measures on Land Reserve (《土地儲備管理方法》) on November 19, 2007, which regulates the earlier stage land development and land reserve by land reserve entities which are affiliates of the land and resources authorities at city or county level, before the land and resources authorities grant land according to relevant laws and regulations. The enterprises shall be elected through public tender to conduct the earlier stage land development involving road development, supply of water, power and gas, telecommunications, lighting, landscaping and land leveling etc. according to applicable laws and regulations.

On January 3, 2008, the State Council issued a Notice on Promoting the Saving and Intensification of Use of Land (《關於促進節約集約用地的通知》) with respect to the collection of value-added 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 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 a value-added land premium should be levied on the idle land, especially on those used for property development, and the relevant rules will be formulated jointly by the Ministry of Land and Resources and other authorities. And the notice also requires the use of a public bidding process in selecting companies to assist the local governments with earlier stage land development work. Furthermore, the Ministry of Land and Resources issued a Notice on Restricting the Administration of Construction Land and Promoting the Use of Approved Land (《關於嚴格建設用地管理促進批而未用土地利用的通知》) in August 2009, which reiterates the current rules on idle land.

RECENT INCENTIVE MEASURES OF PROPERTY MARKET

On October 22, 2008, the Ministry of Finance and the State Administration of Taxation jointly issued a Notice on Adjusting the Taxation Policies with Regard to Real Estate Transaction (《關於調整房地產交易環節稅收政策的通知》), effective as of November 1, 2008, which aims to reduce the personal taxation burdens on housing transaction and encourage first-time buyers in purchasing ordinary residential properties. The taxation policies stipulated by the notice are as follows:

- for first time home buyers of ordinary residential property with a unit floor area of less than 90 sq.m., the deed tax is lowered to 1%, and the certification for the first home buying will be issued by the local housing and construction authorities at county or district level;
- the stamp duty is exempted for individual residential property purchase or sale; and
- the LAT is exempted for individual residential property sale.

On October 22, 2008, the PBOC announced the Measures to Lower House Mortgage Rates and Encourage the First Home Purchase of Ordinary Residential Properties (《擴大商業性個人住房貸款利率下浮幅度 支持居民首次購買普通住房》). According to the measures, effective as of October 27, 2008, the minimum mortgage loan rates can be as low as 70% of the benchmark lending rates for house mortgage loans and the minimum down payment ratio is lowered to 20%. Financial institutions shall determine the lending interest rates and the down payment ratios taking into consideration factors including, without limitation, whether the buyer is a first-time buyer, whether the property is to be self-used by the buyer, whether the property is ordinary residential property and the home buyer’s credit records and repayment capability. For buyers purchasing their first self-use home of ordinary residential property or buying self-use ordinary residential property for improvement, financial institutions shall support the buyers’ loan demands at the favorable lending interest rates and down payment ratios; and shall appropriately raise the standards of lending for purchase of properties not for self-use or other than ordinary residential properties.

On December 6, 2008, the CBRC issued the Guidelines on Risk Management of M&A Loans of Commercial Banks (《商業銀行並購貸款風險管理指引》), allowing commercial banks to provide loans to enterprises conducting acquisitions within China and abroad.

The State Council issued the Opinions on Finance to Boost the Economic Development (《關於當前金融促進經濟發展的若干意見》) on December 8, 2008, which provides that relevant credit policies and measures shall be stipulated and performed to support first-time home buyers’ purchases of ordinary residential properties and second-time home buyers’ purchases of ordinary residential properties for improvement, experiments of real estate investment trusts may be carried out, and the financing channels for real estate developers shall be broadened.

On December 20, 2008, the General Office of the State Council promulgated the Several Opinions Concerning Boosting Healthy Development of the Real Estate Market (《關於促進房地產市場健康發展的若干意見》), which provides incentives to build more houses for low-income urban families, encourage purchasing of ordinary residential properties, support real estate

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developers to actively deal with the changing market, enhance the responsibility of local governments in stabilizing the real estate market, and improve surveillance on the real estate market. The relevant policies include:

- providing favorable loan terms similar to those for first-time home buyers to the second-time home buyers whose existing ordinary residence is smaller than the average size in the locality of such home buyers;
- giving business tax exemptions under certain conditions before December 31, 2009;
- supporting developers reasonable financing needs and increasing credit help for developers of low-price units catering to low-income groups; and
- abolishing the urban real estate tax (城市房地產稅), applying to all domestic enterprises, foreign-invested enterprises and individuals the Interim Regulations of the People’s Republic of China on Real Estate Tax (《中華人民共和國房產稅暫行條例》).

As of December 23, 2008, the PBOC lowered the one-year benchmark lending rate to 5.31%. In addition, effective December 25, 2008, the reserve requirement ratio is lowered by 0.5%.

On December 29, 2008, the Ministry of Finance and the State Administration of Taxation jointly issued the Circular Concerning Business Tax on Personal Real Estate Transfer (《關於個人住房轉讓營業稅政策的通知》), according to which, from January 1, 2009 to December 31, 2009, business tax shall be levied on the entire sale price of any non-ordinary house sold within two years of its purchase or on the difference between the transfer price and the original price for any transfer of non-ordinary house after two or more years of its purchase or ordinary house within two years of its purchase, while business tax would be exempted for the transfer of an ordinary residential property after two years from the date of purchase.

On December 31, 2008, the State Council announced that as of January 1, 2009, the Provisional Regulations on Urban Real Estate Tax (《城市房地產稅暫行條例》) is repealed and the Interim Regulations of the People’s Republic of China on Real Estate Tax (《中華人民共和國房產稅暫行條例》) is to be applied to all domestic enterprises, foreign-invested enterprises and individuals.

On May 25, 2009, the State Council issued the Circular of the State Council Concerning the Adjustment of Capital Ratio of Fixed Assets Investment Projects (《關於調整固定資產投資項目資本金比例的通知》), decreasing the minimum percentage of capital funding for any affordable housing projects and ordinary commodity residential properties from 35% to 20%. The minimum percentage of capital funding for other real estate development projects is decreased from 35% to 30%.

According to the Opinions on Promoting the Sound Development of the Real Estate Market of Fuzhou (for One Year Trial Implementation) (《關於促進福州市房地產市場健康穩定發展的若干意見》(試行一年)) issued by Fuzhou city government and effective as of November 1, 2008, the following measures have been taken by the Fuzhou city government:

- Ordinary residential properties should meet the following conditions to be qualified to enjoy preferential policies: (i) the plot ratio of the residential community is more than 1.0,

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(ii) the unit floor area is 144 sq.m. or less, and (iii) the actual transaction price is less than 1.44 times of the average price in the same section. The maximum limit of the actual transaction price, calculated jointly by the Fuzhou housing authorities and other relevant authorities, shall be publicly published annually.

- The stamp duty shall be temporarily exempted for individual residential property purchase or sale, and the LAT shall be temporarily exempted for individual residential property sale. Individuals who sell their ordinary residential properties held for more than two years shall be temporarily exempted from business tax and individuals who sell their self-used residential properties for more than two years shall be temporarily exempted from individual income tax.
- The land premium shall be paid in three installments in the amount of 40%, 30% and 30%, respectively, of the total land premium within 60 days, 120 days and 180 days, respectively, from the date of the land grant contract.

On October 22, 2008, the General Office of Shanghai People's Government issued the Opinions on Promoting the Sound Development of the Real Estate Market of Shanghai (《關於促進本市房地產市場健康發展的若干意見》), under which, effective from November 1, 2008 to December 31, 2009: (i) individuals who sell their ordinary residential properties held for more than 2 years shall be exempted from business tax, (ii) individuals who sell their sole self-used residential property that they have owned for more than two years shall be exempted from individual income tax, (iii) the registration fee for individual ordinary residential property purchase and the transfer fee for individual stock ordinary residential property sale or purchase shall be exempted, and (iv) the general land use planning and annual land use schedule shall be strictly implemented, land supply shall be strengthened, and the land supply for commodity property projects shall be strictly controlled.

The Municipal Finance Bureau and other relevant authorities of Shanghai have adjusted the standards of ordinary residential properties of Shanghai enjoying preferential policies as of November 1, 2008 as follows: (i) high-rise buildings of at least five floors with single unit floor area of less than 140 sq.m., (ii) the total price is less than 2.45 million RMB per unit for houses within the inner ring, the total price is less than 1.4 million RMB per unit for houses between the inner and outer rings, and the total price is less than 0.98 million RMB per unit for houses outside the outer ring, and (iii) old apartments, new-fashioned or old-fashioned lanes and alleys of less than five floors.

Grant

PRC law distinguishes between the ownership of land and the right to use land. Land use rights can be granted by the State to a person to entitle him 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. A premium is payable on the grant of land use rights. The maximum term that can be granted for the right to use a piece of land depends on the purpose for which the land is used. As described above, the maximum limits specified in the relevant regulations vary from 40 to 70 years depending on the purpose for which the land is used.

Under the Urban Land Regulations, there are three methods by which land use rights may be granted, namely by agreement, tender or auction.

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In Shanghai, on May 21, 2001, the Shanghai Municipal Government (上海市人民政府) updated The Shanghai Land Use Rights Grant Measures (《上海市土地使用權出讓辦法》) (the “**Shanghai Measures**”), which took effect from July 1, 2001. On November 27, 2008, the Shanghai Municipal government further amended the Shanghai Measures as effective on January 1, 2009. According to provisions of the Shanghai Measures, the land use rights to be used for the projects relating to commercial, tourism, entertainment, financial, service and commodity residential properties shall be obtained by way of public tender or auction. However, if the grant of land use rights is approved by Shanghai Municipal Government (上海市人民政府), grant by way of agreement is also allowed as an exception. However, upon the effectiveness of 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 “**Land Use Grant Rules**”) as of July 1, 2002, land use rights for the purposes of commercial use, tourism, entertainment and commodity residential properties can only be granted through tender, auction or listing-for-sale. A number of measures are provided by the Land Use Grant Rules to require that (i) such grant of land for commercial use is conducted openly and fairly, for instance, the local land bureau, when deciding on land use purpose of a certain piece of land, must take into account various social, economic and planning considerations, and its decision of land use designation is subject to approval by the city or provincial government; (ii) the announcement of tender, auction or putting up for bidding be made 20 days prior to the date of beginning the tender, auction or putting up for bidding; and (iii) for putting up of bidding, the time period of accepting bidding not to be less than ten days.

In accordance with the Regulations on the Grant of State-owned Land Use Rights for Construction through Competitive Bidding, Auction and Listing-for-Sale (《招標拍賣掛牌出讓國有建設用地使用權規定》) issued by the Ministry of Land and Resources on September 28, 2007 and effective November 1, 2007, land for industrial use, commercial use, tourism, entertainment, and commodity housing development shall be granted by means of competitive bidding, auction or listing-for-sale. No land use rights certificates shall be issued before all the land premium has been fully paid up pursuant to the land grant contract and the land use rights certificates shall not be issued separately according to the proportion of the payment of the land premium.

Where land use rights are granted by way of tender, invitations to tender will be issued by the local land bureau. The invitation will set out the terms and conditions upon which the land use rights are proposed to be granted. A committee will be established by the relevant local land bureau to consider tenders which have been submitted. The successful bidder will then be asked to sign the grant contract with the local land bureau and pay the relevant land premium within a prescribed period. The land bureau will consider the following factors: the successful bidder shall be either the bidder who can to the utmost extent satisfy the comprehensive evaluation criteria of the tender, or who can satisfy the substantial requirements of the tender and also offers the highest bid.

Where land use rights are granted by way of auction, a public auction will be held by the relevant local land bureau. The land use rights are granted to the bidder with the highest bid. The successful bidder will be asked to enter into a grant contract with the local land bureau.

Where land use rights are granted by way of listing-for-sale, a public notice will be issued by the local land bureau to specify the location, area and purpose of use of land and the initial bidding price, period for receiving bidding 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 and which satisfies the terms and conditions. The successful bidder will then enter into a grant contract with the local land bureau.

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On March 16, 2007, the National People’s Congress promulgated the Properties Rights Law of the People’s Republic of China (《中華人民共和國物權法》) (the “**Properties Rights Law**”) effective October 1, 2007, which stipulates that the construction land use rights may be created through grant or allotment, etc. As regards the land used for purposes of industry, business, entertainment or commercial residential, etc. as well as the land with two or more intended users, the land thereof shall be granted through such means as tender, auction or listing-for-sale. It is severely restrained to create the construction land rights through allotment.

On June 11, 2003, the Ministry of Land and Resources promulgated the Regulation on Grant of State-owned Land Use Rights by Agreement (《協議出讓國有土地使用權規定》). According to such regulation, if there is only one intended user on a piece of land, the land use rights (excluding land use rights used for business purposes, such as commercial, tourism, entertainment and commodity residential properties) may be granted by way of agreement. The local land bureau, together with other relevant government departments including the city planning authority, will formulate the plan concerning issues including the specific location, boundary, purpose of use, area, term of grant, conditions of use, conditions for planning and design as well as the proposed land premium, which shall not be lower than the minimum price regulated by the State, and submit such plan to the relevant government for approval. The local land bureau and the person who is interested will negotiate and enter into the grant contract based on such plan. If two or more entities are interested in the land use rights proposed to be granted, such land use rights shall be granted by way of tender, auction or putting up for bidding.

To implement the Properties Rights Law and the Notice on Promoting the Saving and Intensification of Use of Land, on April 29, 2008, the Ministry of Land and Resources and the SAIC jointly issued the “Model Text of the State-owned Construction Land Use Rights Grant Contract” (《國有建設用地使用權出讓合同示範文本》) effective July 1, 2008. The model text of the land grant contracts stipulates and emphasizes that the assignee could not register the right to use the state-owned construction land unless it has paid off all land premium in accordance with the land use rights grant contract, and that the area of land not used for production should not exceed 7% of the total area of the industrial land. The model text ascertains the planning requirements for residential property construction with unit floor area of 90 sq.m. or below as well. All these should also be set forth in the Land Use Rights Grant Contract. Moreover, the process of commodity residential property developments shall take no longer than three years in principle. Such process can be postponed for one year if such extension is permitted by the assignor.

Withdrawal of Land

According to the PRC Urban Real Estate Administration Law (《中華人民共和國城市房地產管理法》) (the “**Urban Real Property Law**”) as promulgated and amended by the Standing Committee of the National People’s Congress on July 5, 1994 and August 30, 2007 respectively, where a real property development is carried out on land for which the land use rights are acquired by means of grant, the land must be developed in line with the specified use for the land and the deadline for commencement of development set out in the land grant contract. Where the development does not commence within one year from the specified date set out in the land grant contract, an idle land fee may be charged at a rate equivalent to not more than 20 per cent of the relevant land premium. Where the development does not commence within two years from the specified date, the relevant land use rights may be withdrawn without compensation, except where the

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commencement of construction is delayed due to force majeure, an act of the government or relevant government departments, or delays in preliminary work necessary for the commencement of development. According to the Measures on Disposal of Idle Land (《閒置土地處置辦法》) promulgated by the Ministry of Land and Resources on April 28, 1999, a parcel of land can be defined as idle land under any of the following circumstances:

- (i) after obtaining the land-use rights, the development and construction of the land has not begun within the time limit for commencement of the development as stipulated without the consent of the people’s government that originally approved the use of the land;
- (ii) the “Contract on Lease of the Right to Use State-Owned Land” does not stipulate or the “Approval Letter on Land Used for Construction” does not prescribe the date of starting the development and construction, and the development and construction of the land has not begun at the expiry of one year from the day when the “Contract on Lease of the Right to Use State-owned Land” became effective or when the administrative department of land issued the “Approval Letter on Land Used for Construction”;
- (iii) the development and construction of the land has begun, but the area of and construction is less than one third of the total area to be developed and the invested amount is less than 25% of the total amount of investment, in addition, development and construction has been continuously suspended for one year without approval; or
- (iv) other circumstances prescribed by laws and administrative regulations.

Where the land is deemed “idle land”, relevant municipal or county land administrative departments (“**Land Administrative Authorities**”) shall inform the land user and prepare a plan for the disposal of the idle land. Where the land is mortgaged, the mortgagee shall be informed to participate in the preparation of the disposal plan. The Land Administrative Authorities are responsible for implementing the disposal plan after such plan has been approved by the government which originally approved the use of the land.

The methods of disposal of idle land include, among others, the following:

- i. extending the development and construction period by no more than one year;
- ii. changing the use of the land, and continuing development and construction upon handling certain procedures; and
- iii. arranging for temporary use of the land and re-approving the development after the original project satisfies the construction conditions, where the land has appreciated in value, the government will increase the land premium in accordance with the appreciated value.

Where the land is idle due to acts of government or relevant government departments and the land user has partly paid the compensation or requisition fee for the land, in addition to the methods provided above, the government may acknowledge the relevant land can be continuously used by the original land user for the part of land which the land user has paid the compensation or requisition fee; while the remaining part of the land will be withdrawn by the government.

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Transfer

After land use rights relating to a particular area of land have been granted by the State, unless any restriction is imposed, the party to whom such land use rights are granted may transfer, lease or mortgage such land use rights for a term not exceeding the term which has been granted by the State. Land use rights cannot be transferred, leased or mortgaged if the provisions of the grant contract, with respect to the prescribed period and conditions of investment, development and use of the land, have not been complied with. In addition, different areas in the PRC have different conditions which must be fulfilled before the respective land use rights can be transferred, leased or mortgaged.

All transfers, mortgages and leases of land use rights must be evidenced by a written contract between the parties which must be registered with the relevant local land bureau at municipality or country level. 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, depending on the nature of the transaction.

Under the Urban Real Property Law, real property that has not been registered and of which a title certificate has not been obtained in accordance with the law may not be assigned. Also, under the Urban Real Property Law, if land use rights are acquired by means of grant, the real property shall not be assigned before the following conditions have been met: (i) the premium for the grant of land use rights must have been paid in full in accordance with the land grant contract and a land use right certificate must have been obtained; (ii) investment or development must have been made or carried out in accordance with terms of the land grant contract; (iii) more than 25% of the total amount of investment or development must have been made or completed; and (iv) where the investment or development involves a large tract of land, conditions for use of the land for industrial or other construction purposes have been satisfied.

Termination

A land use right terminates upon the expiration of the term of the grant specified in the land grant contract and the resumption of that right. Upon expiry, the land use right and ownership of the related buildings erected thereon and other attachments may be acquired by the State without compensation. The land user will take steps to surrender the land use right certificate and cancel the registration of the certificate in accordance with relevant regulations. 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 renewed right.

The State generally will not withdraw a land use right before the expiration of its term of grant and for special reasons (such as in the public interests). If the State needs to withdraw a land use right for special reasons, it must offer proper compensation to the land user, having regard to the surrounding circumstances and the period for which the land use right has been enjoyed by the user.

Document of Title

In the PRC, there are two registers for property interests. Land registration is achieved by the issue of a land use right certificate by the relevant authority to the land user. It is evidence that the land

user has obtained land use rights which can be assigned, mortgaged or leased. The building registration is achieved by the issue of a building ownership certificate (房屋所有權證) or a real estate ownership certificate (房地產權證) (“**Real Estate Ownership Certificate**”) to the owner. It is evidence that the owner has obtained building ownership rights in respect of the building erected on a piece of land. According to the Properties Rights Law (《物權法》), the Land Registration Measures (《土地登記辦法》) promulgated by the Ministry of Land and Resources on December 30, 2007 and effective on February 1, 2008, and the Building Registration Measures (《房屋登記辦法》) promulgated by the MOUHURD on February 15, 2008 and effective on July 1, 2008, all land use rights and building ownership rights which are duly registered are protected by the law.

In connection with these registration systems, real estate and land registries have been established in the PRC. In most cities in the PRC, the above systems are separate systems. However, in Xiamen, Shanghai, Shenzhen and some other major cities, the two systems have been consolidated and a single composite real estate ownership certificate (房地產權證) will be issued evidencing the ownerships of both land use rights and the building erected thereon.

Mortgage and Guarantee

The grant of mortgages in the PRC is governed by the Security Law of the PRC (《中華人民共和國擔保法》) (the “**Security Law**”), promulgated by the Standing Committee of the National People’s Congress on June 30, 1995 and effective October 1, 1995, and by relevant laws regulating real estate. Under the Security Law, any mortgage contract must be in writing and must contain specified provisions including (i) the type and amount of the indebtedness secured; (ii) the period of the obligation by the debtor; (iii) the name, quantity, and ownership of the land use rights of the mortgaged property; and (iv) the scope of the mortgage. For mortgages of urban real properties, new buildings on a piece of land after a mortgage has been entered into will not be subject to the mortgage.

The validity of a mortgage depends on the validity of the mortgage contract, possession of the real estate certificate and/or land use right certificate of the mortgagor and registration of the mortgage with authorities. If the loan in respect of which the mortgage was given is not duly repaid, the mortgagee may sell the property to settle the outstanding amount and return the balance of the proceeds from the sale or auction of the mortgaged property to the mortgagor. If the proceeds from the sale of such property are not sufficient to cover the outstanding amount, the mortgagee may bring proceedings before a competent court or arbitration tribunal (where there is an agreement to recover the amount still outstanding through arbitration) in the PRC.

Leasing

Both the Urban Land Regulations and the Urban Real Property Law permit leasing of granted land use rights and buildings thereon. However, leasing of land use rights obtained by allocation (劃撥) and of buildings on such allocated land is regulated by the Urban Land Regulations.

Leasing of urban real properties is also governed by the Measures for Administration of Leasing of Urban Buildings (《城市房屋租賃管理辦法》) (the “**Measures**”) promulgated by the MOHURD on May 9, 1995 and enforced on June 1, 1995, which was formulated in accordance with the Urban

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Real Property Law. Under the Measures, owners of buildings in the PRC are entitled to lease their buildings, and landlord and tenants are required to enter into a written lease contract which must contain certain specified provisions. The contract has to be registered with the relevant property administrative authority at municipality or country level within 30 days after its execution. A contract cannot be longer than the remainder of the term under the land grant contract. The tenant may, upon obtaining consent from the landlord, sublease the premises.

According to the Urban Real Property Law, where the owner of a house built on state owned land leases his/her property and that the land use rights were obtained through allocation for the purpose of profit making, any proceeds derived from the land in the form of rent must be paid to the State.

Resettlement

Pursuant to the City Housing Resettlement Administration Regulations (《城市房屋拆遷管理條例》) promulgated by the State Council on June 13, 2001, the party responsible for resettlement (the “**Resettling Party**”) should apply for a resettlement permit and provide monetary compensation or alternative residence for the residents to be resettled. The real estate administration authority will issue a resettlement notice after granting the resettlement permit, detailing the parties concerned, the properties affected and the period of the resettlement. The Resettling Party will then enter into written agreements with the relevant residents detailing, among other things, the compensation to be provided to the residents, which will be determined on the basis of, among other things, the property’s location, permitted use and GFA. If the Resettling Party and the residents fail to reach agreement, either party may apply to the relevant authority for a ruling. A ruling will be given within 30 days of the application, following which either party may initiate proceedings in the people’s court within three months from the ruling if they contest the ruling.

In order to prevent illegal demolition and removal, and overheating investment in some areas, the General Office of the State Council issued the Notice on Controlling the Scale of Demolition and Removal and Strengthening Administration of Demolition and Removal (《關於控制城鎮房屋拆遷規模嚴格拆遷管理的通知》) on June 6, 2004. The notice addresses issues including, but not limited to, the following: (i) strictly controlling the area of demolition and removal to ensure that the total area of demolition and removal is less than that of the previous year; (ii) strictly administering the procedures of demolition and removal, such procedures to be carried out in an open, fair and just manner; (iii) strengthening the supervision and administration of the compensation costs incurred for the demolition and removal, and ensuring the completion of the relocation; and (iv) strictly punishing certain illegal actions in relation to the demolition and removal.

Property Development

Property development projects in the PRC are generally divided into single projects and large tract development projects. A single project refers to the construction of buildings on a plot of land and the subsequent sale of units. A large tract development project consists of comprehensive development of an area to be suitable for industrial, leveling of the land and construction of necessary infrastructure such as water, electricity, road and communications facilities. The developer may either assign the land use rights of the developed area, or construct buildings on the land itself and sell or lease the buildings thereon.

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Once the developer identifies a piece of land for development, it has to apply for a construction land planning permit (建設用地規劃許可證) from the relevant planning commission. Once this certificate is obtained, the developer will have to submit a detailed plan for the design of buildings and construction in order to obtain construction works planning permit (建設工程規劃許可證) and work commencement permit (建築工程施工許可證).

According to the City and Countryside Planning Law of the People’s Republic of China (《中華人民共和國城鄉規劃法》), promulgated on October 28, 2007 and effective on January 1, 2008 by the Standing Committee of the National People’s Congress, the competent planning authorities of a city or county shall, before granting state-owned land use rights in planning area, set down such planning requirements as location, usage, extent of development, which shall be included in the land use right grant contracts. Land use rights shall not be granted if the planning requirements have not been set. After executing the state-owned land grant contract, a real estate developer shall submit approval, verification or registration documents of a construction project to and apply for Construction Land Planning Permit from competent planning authorities of a city or county. The competent planning authorities of a city or county shall not, at their discretion, alter the planning requirements which are included in the state-owned land grant contract. If the planning requirements are not incorporated into a state-owned land grant contract, such contract is invalid. If any land has been occupied, such land shall be returned promptly.

According to the Regulation on the Quality Management of Construction Projects (《建設工程質量管理條例》) promulgated and implemented by 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 MOHURD 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 and enforced by the MOHURD on June 30, 2000, after completion of construction of a project, a property developer shall apply for the acceptance examination upon completion to the property development authority under the people’s government at the county level or above and report details of the acceptance examination, upon which a “Record of Acceptance Examination upon Project Completion” (工程竣工驗收備案表) will be issued.

Environmental Protection

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

Pre-sale and Sale

Pursuant to the Urban Real Property Law and the Administrative Measures Governing the Pre-sale of Urban Real Estate (《城市商品房預售管理辦法》) (the “**Administrative Measures**”) promulgated by the MOHURD on November 15, 1994 and as amended on August 15, 2001 and July 20, 2004, respectively, commodity properties which have not been completed may be sold when certain conditions and/or requirements are satisfied.

Pre-sale of commodity properties is regulated by an approval system. Developers who intend to pre-sell their commodity properties shall apply to the relevant Real Estate Administration Department of the People’s Government at city or county level (市、縣人民政府房地產管理部門) and obtain a pre-sale permit.

When commodity properties are pre-sold, the following requirements shall be satisfied according to the Urban Real Property Law and the Administrative Measures:

- i. the land premium in respect of the land use rights must be paid in full and the land use right certificate must have been obtained;
- ii. the construction works planning permit and the work commencement permit must have been obtained;
- iii. funds contributed to the development of the project shall amount to at least 25% of the total amount of the project investment, and project progress and the date of completion of the project for use must have been ascertained; and
- iv. the pre-sale permit must have been obtained.

Pursuant to the Administrative Measures Governing the Sale of Commodity Properties (《商品房銷售管理辦法》) promulgated by the MOHURD on April 4, 2001 and effective on June 1, 2001, the MOHURD and its local branches supervise the sale of commodity properties, including both sale of completed commodity properties and pre-sale of underlying commodity properties.

When completed commodity properties are sold, the following requirements shall be satisfied according to the Administrative Measures Governing the Sale of Commodity Properties: the property developer shall have obtained the qualification certificate for real estate developers, land use rights certificates, the construction works planning permit, the work commencement permit and acceptance examination upon project completion; resettlement must have been implemented; municipal infrastructure, such as water, power, heating and gas supply and communication facilities must have been deliverable, and other municipal infrastructure and public facilities must have been deliverable or the progress of works and the delivery date have been ascertained; and property management scheme must have been carried out.

Property developers shall not sell the commodity properties while promising to return the principal of the purchase price to the purchasers, or pre-sell the commodity properties while promising to lease back the commodity properties. Given the violation of the rules aforesaid, the property developers may be issued a warning, ordered to correct within a specified time, and be subject to a fine of not less than RMB10,000 and not more than RMB30,000.

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Under the Regulations on Administration of Commodity Property Pre-sale of Xiamen (《廈門市商品房預售管理規定》) issued by the People's Government of Xiamen on September 30, 2001 and effective on January 1, 2002, property developers should fulfill the following requirements before pre-selling commodity properties:

1. the land premium has been paid in full and the land use rights certificates have been obtained;
2. the construction works planning permit and work commencement permit have been obtained;
3. the construction agreements have come into effect and the progress of works and the completion and delivery dates have been ascertained;
4. the funds invested in the development of the commodity properties put to pre-sale represent 25% or more of the total investment in the project;
5. for commodity property consisting of three storeys or less, the basic foundation work and the structural construction of the building must have been completed, for commodity property consisting of four storeys or more with basement, the basic foundation work and at least the first floor of the structural construction must have been completed, while for commodity property consisting of four storeys or more without basement, the basic foundation work and at least four storeys must have been completed; and
6. the pre-sale must have been registered and the pre-sale permits have been obtained.

Under the Regulations on the Property Transfer of Shanghai (《上海市房地產轉讓辦法》) issued by the People's Government of Shanghai on April 30, 1997 and as amended on September 20, 2000 and April 21, 2004 respectively, and the Approval Concerning the Adjustment of the Standard of Project Progress for the Pre-sale of Commodity Properties (《關於同意調整商品房預售應達到的工程進度標準的批復》) issued by the People's Government of Shanghai on September 18, 2000, the following requirements shall be fulfilled for pre-sale of commodity properties by the property developer:

1. the land premium in respect of the land use rights acquired by way of grant must be paid in full;
2. the land use rights must be properly registered and the land use rights certificates must have been obtained;
3. the construction works planning permit must have been obtained;
4. the work commencement permit must have been obtained;
5. for commodity property consisting of seven storeys or less, the basic foundation work and the main structural construction of the building must have been completed, while for commodity property consisting of eight storeys or more, the basic foundation work and at least two-thirds of the main structural construction must have been completed and at least seven storeys must have been completed in any event;

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6. the date of completion of the project for use must have been ascertained and the corollary construction planning of municipal works, public works and public architectural facilities have been ascertained;
7. the agreement of pre-sale payment escrow must have been entered into with the local institutions engaging in property project capital supervision; and
8. the property use convention must have been formulated and the prophase property management agreements must have been reached with property management enterprises.

According to the Provisional Regulations on Administration of Commodity Property Pre-sale of Fujian (《福建省商品房預售管理暫行辦法》) issued by the People's Government of Fujian on December 14, 2005 and effective on January 1, 2006, uncompleted commodity properties may not be pre-sold only until the following conditions has been satisfied:

1. the land premium has been paid in full and the land use rights certificates have been obtained;
2. the construction works planning permit and work commencement permit have been obtained;
3. the funds invested in the development of the commodity properties put to pre-sale represent 25% or more of the total investment in the project, and in respect of project progress, at least one-fifth of the total storeys of the building have been completed; and
4. the progress of works and the completion and delivery dates have been ascertained.

In accordance with the Development Regulations (as defined below) (《城市房地產開發經營管理條例》) and the Notice on Facilitating Sustained and Healthy Development of Property Market (《關於促進房地產市場持續健康發展的通知》) issued by the People's Government of Anhui on March 8, 2004, commodity properties may be sold before completion only if:

1. the land premium has been paid in full and the land use rights certificates have been obtained;
2. the construction works planning permit and work commencement permit have been obtained;
3. the funds invested in the development of the commodity properties 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 ascertained;
4. in respect of the project progress, at lease the first floor has have been completed; and
5. the pre-sale must have been registered and the pre-sale permits have been obtained.

Real Estate Loans

On June 5, 2003, the PBOC promulgated the Notice on Further Strengthening the Administration of Real Estate Loans (《關於進一步加強房地產信貸業務管理的通知》). According to the notice, the commercial banks shall focus their business towards supporting real estate projects targeted at mid to lower-income households and appropriately restrict the granting of real estate loans to projects involving spacious apartments, luxurious apartments and villas. The notice strictly prohibits banks from advancing working capital loans to real estate developers. When applying for a real estate loan, the real estate developer’s own capital in any proposed real estate project should not be less than 30% of the total investment of the project. The notice also prohibits loans advanced for the payment of land premium for land use rights.

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

On September 2, 2004, the CBRC issued a Guideline for Commercial Banks of Risks of Real Estate Loans (《商業銀行房地產貸款風險管理指引》). According to the guideline, no loan shall be granted to projects which have not obtained the land use right certificate, construction land planning permit, construction works planning permit and work commencement permit. The guideline also stipulated that not less than 35% of the total investment in a property development project must come from the real estate developer’s own capital for the project (項目資本金) in order for banks to extend loans to the real estate developer. In addition, the guideline requires commercial banks to set up strict approval systems for loan grants.

On March 16, 2005, PBOC promulgated a Notice on Adjusting the Housing Loan Policy and Deposit Rate of Excess Reserves for Commercial Banks (《關於調整商業銀行住房信貸政策和超額準備金存款利率的通知》) which canceled the preferential mortgage lending interest rate for individuals and restricted the minimum mortgage loan rate at 0.9 times of the benchmark rate. The PBOC also increased the public housing fund rate (公積金貸款利率) by 0.18% and permitted commercial banks to decrease mortgage loan rate from 80% to 70% of the value of the property if it is located in a city where the property prices are increasing too rapidly. In June 2005, the PBOC Shanghai Branch also categorized real estate loans as loans which should be granted with “caution” in its Guideline for Credit Loans of 2005 (《上海市信貸投向指引》(2005)). The PBOC further raised its benchmark lending interest rate by 0.27% to 5.58% for one-year Renminbi loans with effect from April 28, 2006. The lending interest rates for other various terms were also raised accordingly. The PBOC announced on June 16, 2006 to increase the reserve ratio of commercial banks by 0.5%. Agricultural credit organizations including agricultural cooperative banks can remain the current reserve ratio.

In accordance with the Circular on Strengthening Commercial Real Estate Loan Administration (《關於加強商業性房地產信貸管理的通知》) jointly issued by the PBOC and CBRC on September 27, 2007,

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when a borrower applies for individual home loans for his first self-used residential unit with gross floor area more than 90 square meters, the first installment is still subject to 30%; in respect to his loan application for additional purchase of residential unit(s), the first installment should not be less than 40%, the loan interest should not be lower than 1.1 times of the benchmark lending rate published by the PBOC in the same period and at the same level and the amount of the first installment and interest of the loan should be increased largely based on the number of the purchased apartments. The detailed level of increase should be decided by commercial banks according to the loan risk management principals. The first installment of the commercial flat loans should not be less than 50% with a maximum loan period of 10 years, and the loan interest should be no less than 1.1 times of the benchmark lending rate published by the PBOC at the same period and level. The detailed level of first installment, period of loan and interest level should be decided by commercial banks according to the loan risk management principals. To the loan application for commercial-resident apartment, the first installment should be no less than 45% and the loan period and interest should be decided according to the commercial flat loan management rules.

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

On July 29, 2008, the PBOC and CBRC jointly issued the Notice Relating to the Financial Promotion of Economized and Intensive Land Use (《關於金融促進節約集約用地的通知》). The major provisions of the notice are as follows:

- Land funded by a loan shall be obtained legally, in compliance with general land use planning, urban and rural planning, and the relevant industry planning. In the case of new land for development, such land must also fit into the annual land use schedule. It is forbidden to extend a loan to a project which does not comply with the relevant planning requirements, or to a project not in compliance with relevant PRC land laws and regulations. It is strictly forbidden to extend loans to any project listed on the National Forbidden Land Use Projects List (《禁止用地項目目錄》). In the case that a loan has already been extended to such a project, the bank in question must take necessary remedial measures, and gradually withdraw said loan. With regard to projects listed on the National Restricted Land Use Projects List (《限制用地項目目錄》), loans should be extended with due caution.
- It is forbidden to extend loans to real estate development enterprises to be used exclusively for the payment of land premiums. For land reserve loans in which a mortgage has been taken out, legal land use rights certification must be obtained. In such cases, the mortgage rate shall not exceed 70% of the overall estimated value of the mortgaged property, and the terms of such loans shall, in principle, not exceed two years. Due caution should be taken in extending loans to enterprises which have exceeded the construction period as stipulated in the land grant contract by more than one year, have developed less than one third of the land in question, or have invested less than one fourth of the agreed capital. In addition, strict controls should be employed when extending the terms of loans or rolling over credit to such enterprises. It is forbidden to extend loans to, or accept construction

land which has been classified as idle by the land authorities for two years or more as collateral from real estate projects.

Insurance of a Property Project

There are no mandatory provisions in the PRC laws, regulations and government rules which require a property developer to take out insurance policies for its property projects.

ESTABLISHMENT OF A PROPERTY DEVELOPMENT ENTERPRISE

According to the Urban Real Property Law, a property developer is defined as an enterprise which engages in the development and sale of property for the purpose of making profits. Under the Regulations on Administration of Development of Urban Property (《城市房地產開發經營管理條例》) (the “**Development Regulations**”) promulgated and implemented by the State Council on July 20, 1998, a property developer shall satisfy the following requirements: (i) its registered capital shall be RMB1 million or more; and (ii) have four or more full-time professional property/construction technicians and two or more full-time 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, based on local circumstances, impose more stringent requirements on the registered capital and the professional personnel of a property developer. Pursuant to the Development Regulations, a developer who aims to establish a property development enterprise should apply for registration with the administration authority for industry and commerce. The property developer must also report its establishment to the property development authority in the location of the registration authority within 30 days of the receipt of its business license.

Under the Notice on Adjusting the Portion of Capital Fund for Fixed Assets Investment of Certain Industries (《國務院關於調整部分行業固定資產投資項目資本金比例的通知》) issued by the State Council on April 26, 2004, the portion of capital funding for property projects (excluding economical housing projects) has been increased from 20% or above to 35% or above.

On May 25, 2009, the State Council issued the Circular of the State Council Concerning the Adjustment of Capital Ratio of Fixed Assets Investment Projects (《關於調整固定資產投資項目資本金比例的通知》), decreasing the minimum percentage of capital funding for any affordable housing projects and ordinary commodity residential properties from 35% to 20%. The minimum percentage of capital funding for other real estate development projects is decreased from 35% to 30%.

FOREIGN INVESTMENT IN PROPERTY DEVELOPMENT

The Urban Land Regulations state that foreign entities may acquire land use rights in China unless the law otherwise provides. However, in order to develop the land acquired, foreign investment enterprises in the form of equity or co-operative joint ventures or wholly foreign-owned enterprises must be established.

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According to the Foreign Investment Industrial Guidance Catalogue (《外商投資產業指導目錄》) promulgated by the Ministry of Commerce (the “MOFCOM”) and the National Development and Reform Commission (the “NDRC”) on November 30, 2004, effective on January 1, 2005 (the “Catalogue”), (i) the development and construction of ordinary residential properties falls within the category of industries in which foreign investment is encouraged, (ii) the development of a whole land lot (limited to equity joint ventures and cooperative joint ventures) as well as the construction and management of high-class hotels, villas, premium office buildings, international conference centers and large theme parks and golf courses falls within the category of industries in which foreign investment is subject to restrictions, and (iii) other property development falls within the category of industry in which foreign investment is permitted.

On October 31, 2007, the MOFCOM and the NDRC jointly issued the new Foreign Investment Industrial Guidance Catalogue effective December 1, 2007, under which the development and construction of ordinary residential properties is removed from the category of industry that foreign investment is encouraged, whereas the secondary market transactions in property sector, by property intermediaries or agents fall under the category of industry that foreign investment is subject to restrictions and the construction and management of golf courses is forbidden from foreign investment. A foreign-invested property enterprise can be established in the form of Sino-foreign equity joint venture, Sino-foreign cooperative joint venture or wholly owned enterprise by foreign investors. Prior to its registration, the enterprise must be approved by the commerce authorities, upon which an Approval Certificate for a Foreign-Invested Enterprise will be issued.

On July 11, 2006, the MOHURD, the MOFCOM, the NDRC, the PBOC, the SAIC and the State Administration of Foreign Exchange (the “SAFE”) jointly promulgated the Opinion on Regulating the Admittance and Administration of Foreign Capital in the Property Market (《關於規範房地產市場外資准入和管理的意見》). According to this Opinion, the admittance and administration of foreign capital in the property market must comply with the following requirements:

- (i) Foreign institutions or individuals who buy property not for their own use in China should follow the principle of “commerce existence” and apply for the establishment of foreign-invested enterprises pursuant to the regulations of foreign investment in property. After obtaining the approvals from relevant authorities and upon completion of the relevant registrations, foreign institutions and individuals can then carry on their business pursuant to their approved business scope.
- (ii) Foreign investors may not carry out property development and operation business until they obtain the Approval Certificates for a Foreign-invested Enterprise and business licenses from relevant authorities.
- (iii) Where the total investment amount of a foreign-invested property enterprise is US\$10 million or more, its registered capital shall be no less than 50 percent of the total investment amount; where the total investment amount is less than US\$10 million, its registered capital shall follow the requirements of the existing regulations.
- (iv) For establishment of a foreign-invested property enterprise, the commerce authorities and the administration for industry and commerce authorities shall be responsible of the approval and registration of the foreign-invested property enterprise and the issuance of a

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temporary approval certificate for a foreign-invested enterprise (which is only effective for one year) and a temporary business license. Upon full payment of the land grant fee for the land-use rights, the foreign-invested property enterprise should apply for the land use rights certificates. With such land use rights certificates, it can obtain a formal Approval Certificate for a Foreign-Invested Enterprise from the commerce authorities and a formal business license with the same approved business term as the formal Approval Certificate for Foreign-Invested Enterprise.

- (v) Transfers of projects or equity interests in foreign-invested property enterprises or acquisitions of domestic property enterprises by foreign investors should strictly follow the relevant laws, regulations and policies and obtain the relevant approvals. The investor should submit: a) a written undertaking of fulfillment of the contract for State-owned land use rights grant contract, construction land planning permit and construction works planning permit; b) land use rights certificates; c) documents evidencing the filing for modification with the construction authorities; and d) documents evidencing the payment of tax from the relevant tax authorities.
- (vi) When acquiring domestic property enterprises by way of shares transfer or otherwise or purchasing shares from Chinese parties in Sino-foreign equity joint ventures, foreign investors should make proper arrangements for the employees, handle the debts of the banks and pay the consideration in one single payment with its own capital. Foreign investors with records showing that they have not complied with relevant employment laws, with unsound financial track records, or who have not fully satisfied any previous acquisition consideration shall not be allowed to undertake the aforementioned activities.
- (vii) Offshore entities without an onshore branch or representative agency, or foreign individuals who have studied or worked in the PRC for less than one year, are not allowed to purchase commercial properties and commercial properties.

On August 14, 2006, the General Office of MOFCOM enacted the Notice on Relevant Issues Concerning the Carrying out Circular on Standardizing the Admittance and Administration of Foreign Capital in the Property 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》). According to the Notice, if the total investment of a foreign-invested property development enterprise exceeds US\$3 million, the registered capital must not be less than 50% of the total estimated investment; if the total investment is less than or equal to US\$3 million, the registered capital must not be less than 70% of the total estimated investment. When a foreign investor who merges with a domestic property development enterprise by way of, among others, transferring equity or purchasing equity from other Chinese shareholders of a foreign-invested property development enterprise, the original employees of the merged companies must be arranged properly, bank debts must be settled and the entire consideration for the transfer must be paid off within three months respectively after the earlier of the issue of the business license or the effective day of the equity transfer agreement.

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On May 23, 2007 the MOFCOM and the SAFE jointly issued the Notice on Further Strengthening and Regulating the Approval and Supervision on Foreign Investment in Real Estate Sector in the PRC (《關於進一步加強、規範外商直接投資房地產業審批和監管的通知》) which made the following requirements for approval and supervision of foreign investment in real estate:

- (i) foreign investment in the real estate sector in the PRC relating to high-grade properties should be strictly controlled;
- (ii) before obtaining approval for the setup of real estate entities with foreign investment, (i) both the land use rights certificates and housing ownership right certificates should be obtained or, (ii) contracts for obtaining land use rights or housing ownership rights should be entered into;
- (iii) entities which have been set up with foreign investment need to obtain approval before they expand their business operations into the real estate sector and entities which have been set up for real estate development operation need to obtain new approval in case they expand their real estate business operations;
- (iv) acquisitions of real estate entities and foreign investment in real estate sector in a way of round trip investment should be strictly regulated. Foreign investors should not avoid approval procedures by changing actual controlling persons;
- (v) parties to real estate entities with foreign investment should not in any way guarantee a fixed investment return;
- (vi) registration shall be immediately effected according to applicable laws with the MOFCOM regarding to the setup of real estate entities with foreign investment approved by local PRC governmental authorities;
- (vii) foreign exchange administration authorities and banks authorized to conduct foreign exchange business should not effectuate foreign exchange settlements regarding capital account items to those which fail to file with the MOFCOM or fail to pass the annual reviews; and
- (viii) for those real estate entities, which are wrongfully approved by local authorities for their setups, (i) the MOFCOM should carry out investigation, order punishment and corrections, and (ii) foreign exchange administrative authorities should not carry out for them foreign exchange registrations.

On July 10, 2007, the SAFE issued the Notice Regarding the Publication of the First Group of Property Development Projects with Foreign Investment that have Properly Registered with the MOFCOM (《關於下發第一批通過商務部備案的外商投資房地產項目名單的通知》). This new regulation restricts the ability of foreign invested real estate companies to raise funds offshore and then inject funds into the companies either through capital increase or by way of shareholder loans. The notice stipulates, among other things:

- (i) that the SAFE will no longer process foreign debt registration or foreign debt application for settlement of foreign exchange for real estate enterprises with foreign investment that obtained authorization certificate from and registered with the MOFCOM on or after June 1, 2007; and

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- (ii) that the SAFE will no longer process foreign exchange registration (or change of such registration) or application for settlement and sale of foreign exchange for real estate enterprises with foreign investment that obtained approval certificates from local government’s commerce department on or after June 1, 2007 but have not registered with the MOFCOM.

Following promulgation of the Verification and Approval of Foreign-invested Projects Tentative Administrative Procedures (《外商投資項目核准暫行管理辦法》) on October 9, 2004, the NDRC, on July 8, 2008, issued the Circular on Further Strengthening and Regulating the Administration of Foreign-invested Projects (《關於進一步加強和規範外商投資項目管理的通知》), restating that, projects in the encouraged category and permitted category with a total investment (including capital increase) of US\$100 million or above and projects in the restricted category with a total investment of US\$50 million or above shall be verified and approved by the NDRC while projects in the encouraged category and permitted category with a total investment of less than US\$100 million and projects in the restricted category with a total investment of less than US\$50 million shall be verified and approved by local development and reform departments. Such Circular expands its application to reinvestments made by foreign-invested enterprises.

On June 18, 2008, the MOFCOM issued the Circular on Duly Filing of Foreign Investment in Property Sector (《關於做好外商投資房地產業備案工作的通知》) effective July 1, 2008. The circular stipulates, among other things:

- (i) The MOFCOM authorizes commercial authorities at provincial level to check and examine the filing materials for foreign investment in real estate sector. After properly approving the establishment, capital increase, equity transfer or acquisitions of foreign-invested property enterprises, the local commercial authorities shall file relevant materials to commercial authorities at provincial level for examinations.
- (ii) Commercial authorities at provincial level shall comply with the following requirements to check the legality, authenticity and accuracy of relevant materials pursuant to the Opinion on Regulating the Admittance and Administration of Foreign Capital in the Property Market (《關於規範房地產市場外資注入和管理的意見》), the Notice on Further Strengthening and Regulating the Approval and Supervision on Foreign Investment in Real Estate Sector (《關於進一步加強、規範外商直接投資房地產業審批和監管的通知》) and other relevant regulations:
- The land use rights, housing ownership, land grant contracts or housing purchase agreements provided by the foreign-invested property enterprises have been legally obtained, real and effective;
 - The establishment or capital increase of foreign-invested property enterprises shall follow the principle of “commerce existence” and the foreign investment (including capital increase) is limited to the approved single property project;
 - The registered capital of a foreign-invested property enterprise shall be no less than 50% of its total investment amount;
 - Materials provided by the foreign-invested property enterprise shall evidence that its enterprise foreign shareholders are not established by domestic companies or

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individuals, and the companies shall not be related parties or controlled by the same entity or individual;

- Parties to foreign-invested property enterprises should not in any way guarantee a fixed investment return; and
 - The foreign-invested property enterprise shall make its investment according to the project progress in phases, and it shall provide its use of funds and the commitments to invest in phases.
- (iii) Commercial authorities at provincial level shall, together with other provincial authorities check and examine the above-mentioned filing materials pursuant to foreign investment laws and regulations and relevant property macro control measures, and shall fill the “foreign-invested property sector filing form” (外商投資房地產業備案表) and file it to the MOFCOM affixing official seals of the provincial people’s government general office and the provincial commercial authorities.
- (iv) The MOFCOM in principle will conduct spot checks on five to ten foreign-invested property enterprises together with other departments under the State Council on a quarterly and random basis.
- (v) The MOFCOM may inform the SAFE or its branches to cancel the registration of foreign exchange and foreign investment statistics of the foreign-invested property enterprise verified not in compliance with the existing PRC laws and regulations.

On August 29, 2008, the General Affairs Department of SAFE issued a Notice With Regard to the Issue of Administration of Settlement of Foreign Currency Capital of Foreign Investment Enterprises (《國家外匯管理局綜合司關於完善外商投資企業外匯資本金支付結匯管理有關業務操作問題的通知》). This notice further regulates the administration of settlement of foreign currency capital of foreign investment enterprises within the PRC.

According to the notice, prior to applying for settlement of foreign currency capital with designated banks, foreign investment enterprises must undergo capital verification by an accountancy firm. The designated banks should not engage in settlement of foreign currency capital for enterprises that have not completed the process of capital verification. Furthermore, the total amount of foreign exchange settled by a designated bank for a foreign investment enterprise should not exceed the total capital audited. The designated banks must comply with the SAFE administration rules of settlement based on actual payment when engaging in foreign currency capital settlement with foreign investment enterprises.

Funds in Renminbi obtained by foreign investment enterprises through foreign currency capital settlement may only be used within the business scope approved by the government authorities. Furthermore, such funds shall not be used for equity investments within the PRC unless otherwise stipulated. Except for foreign-invested real estate enterprises, foreign investment enterprises may not use funds in Renminbi obtained through foreign currency capital settlement to purchase real estate for any purposes other than its own occupancy. Should a foreign investment enterprise wish to use funds in Renminbi obtained through foreign currency capital settlement to purchase securities, it must act in

compliance with the relevant PRC regulations. Any transfer of funds for the sake of equity investment in the PRC by foreign-invested investment enterprises approved by the MOFCOM must first undergo examination and approval by the SAFE, or its local branches. Any profits obtained by PRC entities or individuals through the sale of equities or interests in PRC enterprises to foreign investors must be conducted through an account reserved exclusively for foreign exchange. The opening of such account, and any related transferal of funds, must undergo examination and approval by the local branches of SAFE as provided by the relevant regulations.

QUALIFICATIONS OF A PROPERTY DEVELOPER

Classifications of a Property Enterprises’ Qualification

Under the Development Regulations, a property developer must record its establishment to the governing property development authorities in the location of the registration authority within 30 days after receiving its business license. The property development authorities shall examine applications for classification of a property developer’s qualification by considering its assets, professional personnel and industrial achievements. A property enterprise shall only engage in property development projects in compliance with its approved qualification.

Under the Provisions on Administration of Qualifications of Property Developers (《房地產開發企業資質管理規定》) (the “**Provisions on Administration of Qualifications**”) promulgated by the MOHURD and implemented on March 29, 2000, a property developer shall apply for registration of its qualifications according to such Provisions on Administration of Qualifications. An enterprise may not engage in the development and sale of property without a qualification classification certificate for property development.

In accordance with the Provisions on Administration of Qualifications, qualifications of a property enterprise are classified into four classes: class 1, class 2, class 3 and class 4. Different classes of qualification should be examined and approved by corresponding authorities. The class 1 qualification shall be subject to preliminary examination by the construction authority under the government of the relevant province, autonomous region or municipality directly under the central government and then final approval of the construction authority under the State Council. Procedures for approval of developers of class 2 or lower qualification shall be formulated by the construction authority under the people’s government of the relevant province, autonomous region or municipality directly under the central government. A developer that passes the qualification examination will be issued a qualification certificate of the relevant class by the qualification examination authority. For a newly established property developer, after it reports its establishment to the property development authority, the latter shall issue a Provisional Qualification Certificate to the eligible developer within 30 days. The Provisional Qualification Certificate shall be effective for one year from its issuance while the property development authority may extend the validity to a period of no longer than 2 years considering the actual business situation of the enterprise. The property developer shall apply for qualification classification by the property development authority within one month before expiry of the Provisional Qualification Certificate.

The Business Scope of a Property Developer

Under the Provisions on Administration of Qualifications, a developer of any qualification classification may only engage in the development and sale of the property within its approved scope of business and may not engage in business which falls outside the approved scope of its qualification classification. A class 1 property developer may undertake a property development project anywhere in the country without any limit on the scale of property project. A property developer of class 2 or lower may undertake a project with a gross floor area of less than 250,000 square meters and the specific scopes of business shall be as formulated by the construction authority under the people’s government of the relevant province, autonomous region or municipality.

The Annual Inspection of a Property Developer’s Qualification

Pursuant to the Provisions on Administration of Qualifications, the qualification of a property developer should be subject to annual inspection. The construction authority under the State Council or the entrusted institution is responsible for carrying out the annual inspection of a class 1 real estate developer’s qualification. Procedures for annual inspection of developers of a class 2 or lower qualification shall be formulated by the construction authority under the people’s government of the relevant province, autonomous region or municipality.

FOREIGN EXCHANGE CONTROLS

The lawful currency of the PRC is the Renminbi, which is subject to foreign exchange controls and is not freely convertible into foreign exchange at this time. The State Administration of Foreign Exchange (國家外匯管理局) (“SAFE”), under the authority of the PBOC, is empowered with the functions of administering all matters relating to foreign exchange, including the enforcement of foreign exchange control regulations.

Prior to December 31, 1993, a quota system was used for the management of foreign currency. Any enterprise requiring foreign currency was required to obtain a quota from the local SAFE office before it could convert Renminbi into foreign currency through the Bank of China (中國銀行) or other designated banks. Such conversion had to be effected at the official rate prescribed by SAFE on a daily basis. Renminbi could also be converted into foreign currency at swap centers. The exchange rates used by swap centers were largely determined by the demand for, and supply of, the foreign currency and the Renminbi requirements of enterprises in the PRC. Any enterprise that wished to buy or sell foreign currency at a swap center had to obtain the prior approval of the SAFE (國家外匯管理局).

On December 28, 1993, PBOC, under the authority of the State Council (國務院), promulgated the Notice of the People’s Bank of China Concerning Further Reform of the Foreign Currency Control System (《中國人民銀行關於進一步改革外匯管理體制的公告》), effective from January 1, 1994. The notice announced the abolition of the foreign exchange quota system, the implementation of conditional convertibility of Renminbi in current account items, the establishment of the system of settlement and payment of foreign exchange by banks, and the unification of the official Renminbi exchange rate and the market rate for Renminbi established at swap centers. On March 26, 1994, the PBOC promulgated the Provisional Regulations for the Administration of Settlement, Sale and Payment of Foreign

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Exchange (《結匯、售匯及付匯暫行管理規定》) (the “**Provisional Regulations**”), which set out detailed provisions regulating the trading of foreign exchange by enterprises, economic organizations and social organizations in the PRC.

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

On January 29, 1996, the State Council promulgated Regulations for the Control of Foreign Exchange (《中華人民共和國外匯管理條例》) (“**Control of Foreign Exchange Regulations**”) which became effective from April 1, 1996. The Control of Foreign Exchange Regulations classify all international payments and transfers into current account items and capital account items. Current account items are no longer subject to SAFE approval while capital account items still are. The Control of Foreign Exchange Regulations were subsequently amended on January 14, 1997. Such amendment affirms that the State shall not restrict international current account payments and transfers.

On June 20, 1996, PBOC promulgated the Regulations for Administration of Settlement, Sale and Payment of Foreign Exchange (《結匯、售匯及付匯管理規定》) (the “**Settlement Regulations**”) which became effective on July 1, 1996. The Settlement Regulations superseded the Provisional Regulations and abolished the remaining restrictions on convertibility of foreign exchange in respect of current account items while retaining the existing restrictions on foreign exchange transactions in respect of capital account items. On the basis of the Settlement Regulations, the PBOC published the Announcement on the Implementation of Foreign Exchange Settlement and Sale Banks by Foreign-invested Enterprises (《外商投資企業實行銀行結售匯工作實施方案》). The announcement permits foreign invested enterprises to open, on the basis of their needs, foreign exchange settlement accounts for current account receipts and payments of foreign exchange, and specialized accounts for capital account receipts and payments at designated foreign exchange banks.

On October 25, 1998, PBOC and SAFE promulgated the Notice Concerning the Discontinuance of Foreign Exchange Swapping Business (《關於停辦外匯調劑服務的通知》) pursuant to which and with effect from December 1, 1998, all foreign exchange swapping business in the PRC for foreign-invested enterprises shall be discontinued, while the trading of foreign exchange by foreign-invested enterprises shall be regulated under the system for the settlement and sale of foreign exchange applicable to banks.

On July 21, 2005, the PBOC announced that, beginning from July 21, 2005, China will implement a regulated and managed floating exchange rate system based on market supply and demand and by reference to a basket of currencies. The Renminbi exchange rate is no longer pegged to the US dollar. The PBOC will announce the closing price of a foreign currency such as the US dollar

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traded against the Renminbi in the inter-bank foreign exchange market after the closing of the market on each business day, setting the central parity for trading of the Renminbi on the following business day.

Save for foreign-invested enterprises or other enterprises which are specially exempted by relevant regulations, all entities in China (except for foreign trading companies and production enterprises having import and export rights, which are entitled to retain part of foreign exchange income generated from their current account transactions and to make payments using such retained foreign exchanges in their current account transactions or approved capital account transactions) must sell their foreign exchange income to designated foreign exchange banks. Foreign exchange income from loans issued by organizations outside the territory or from the issuance of bonds and shares is not required to be sold to designated banks, but may be deposited in foreign exchange accounts with designated banks.

Enterprises in China (including foreign-invested enterprises) which require foreign exchange for transactions relating to current account items, may, without the approval of SAFE, effect payment from their foreign exchange account or convert and pay at the designated foreign exchange banks, upon presentation of valid receipts and proof. Foreign invested enterprises which need foreign currencies for the distribution of profits to their shareholders, and Chinese enterprises which, in accordance with regulations, are required to pay dividends to shareholders in foreign currencies, may with the approval of board resolutions on the distribution of profits, effect payment from their foreign exchange account or convert and pay at the designated foreign exchange banks.

Convertibility of foreign exchange in respect of capital account items, like direct investment and capital contribution, is still subject to restriction, and prior approval from SAFE or its competent branch.

In January and April 2005, SAFE issued two regulations that require PRC residents to register with and receive approvals from SAFE in connection with their offshore investment activities. SAFE also announced that the purpose of these regulations is to achieve the proper balance of foreign exchange and the standardization of all cross-border flows of funds.

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

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On September 1, 2006, SAFE and MOHURD jointly issued a Notice on Regulating Issues Relevant to Administration of Foreign Exchange in Real Estate Market (《關於規範房地產市場外匯管理有關問題的通知》). The notice provides: (i) where a foreign-invested property enterprise fails to pay the registered capital in full or to acquire a state-owned land use rights certificate or to make its capital fund for a development project reach 35% of the total investment to the project, the foreign exchange bureau will not handle its foreign debt registration or approve its settlement of foreign currencies; (ii) where a foreign institution or individual acquires a domestic property enterprise, if it (he) fails to pay the transfer price in a lump sum by its (his) own fund, the foreign exchange bureau will not handle the registration of foreign exchange income from transfer of equities; (iii) the domestic and foreign investors of a foreign-invested property enterprise shall not reach an agreement including any clause which promises a fixed return or fixed revenue in any disguised form to any party, otherwise the foreign exchange bureau will not handle the foreign exchange registration or registration modification of foreign-invested enterprise; and (iv) the fund in the foreign exchange account exclusive for foreign investor opened by a foreign institution or individual in a domestic bank shall not be used for property development or operation. The notice also provides for foreign exchange working process related to branches of overseas institutions established within the PRC, overseas individuals, Hong Kong, Macao or Taiwan residents and overseas Chinese purchasing or selling commodity properties within the PRC.

On December 25, 2006, PBOC promulgated the Measures for the Administration of Individual Foreign Exchange (《個人外匯管理辦法》) (the “**Measures for the Administration of Foreign Exchange**”). The Measures for the Administration of Foreign Exchange use category administration to classify the individual foreign exchange operations as domestic and overseas by participants of transaction, and current accounts and capital accounts by nature of transaction. The Measures for the Administration of Foreign Exchange set the annual total amount of foreign exchange for settlement of individuals and for purchase of domestic individuals, and provide different procedures for individuals who set foreign exchange over the annual total amount and domestic individuals who purchase foreign exchange over the annual total amount according to current accounts items and capital accounts items.

On January 5, 2007, the SAFE promulgated the Detailed Rules for the Implementation of the Measures for the Administration of Individual Foreign Exchange (《個人外匯管理辦法實施細則》) (the “**Detailed Rules**”) effective February 1, 2007. The Detailed Rules provide, amongst others, that (i) the annual total amount of foreign exchange for settlement of individuals and for purchase of domestic individuals is USD50,000; (ii) domestic individuals who engage in external direct investment satisfying the relevant rules shall not only get approval from the foreign exchange bureau, but also complete the overseas investment foreign exchange registration procedures before they can purchase foreign exchange or remit with their own foreign exchange. (iii) domestic individuals can engage in financial investment such as overseas fixed-revenue equity-interest, etc through qualified domestic institutional investors such as banks and fund management companies; and (iv) in case domestic individuals engage in such foreign exchange operations as a employee stock ownership plan or subscription option program of an overseas listed company, they can only deal with such options after completing the registration with the foreign exchange bureau through their company or domestic agency institutions.

The Control of Foreign Exchange Regulations were amended by the State Council on August 1, 2008 and came effective on August 5, 2008. Under the revised Control of Foreign Exchange

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Regulations, the compulsory settlement of foreign exchange is dropped. As long as the capital inflow and outflow under the current accounts are based upon real and legal transactions, individuals and entities may keep their income in foreign currencies inside or outside China according to the provisions and terms to be set forth by the SAFE. The foreign exchange income generated from current account transactions may be retained or sold to financial institutions engaged in foreign currency settlement and exchange. Whether to retain or sell the foreign exchange income generated from capital account transactions to financial institutions is subject to approvals from the SAFE or its branches, except for otherwise stipulated by the State. Foreign exchange or settled Renminbi of capital account must be used in the way as approved by the SAFE or its branches, and the SAFE or its branches are empowered to supervise the utility of the foreign exchange or settled Renminbi of capital account and the alterations of the capital accounts. The Renminbi follows a managed floating exchange rate in line with the market demand and supply. A domestic individual or entity who conducts the overseas direct investment or overseas issue and transaction of negotiable securities and derivative financial products shall file with competent authorities of the PRC. Furthermore, such individual or entity shall apply for the approval on such investment, issue or transaction from relevant authorities prior to the filing if otherwise required by relevant PRC laws and regulations.

TAXATION IN CHINA

Income Tax

According to the Income Tax Law of The People’s Republic of China for Foreign-invested Enterprises and Foreign Enterprises (《中華人民共和國外商投資企業和外國企業所得稅法》) which was promulgated by People’s National Congress (the “NPC”) on April 9, 1991 and implemented on July 1, 1991 and its detailed rules promulgated by State Council on June 30, 1991, the income tax on enterprises with foreign investment should be computed on the taxable income at the rate of 30%, and local income tax should be computed on the taxable income at the rate of 3%, whereas foreign-invested productive enterprises established in economic special zones (including the Xiamen Economic Special Zone) should be applicable to a preferential income tax rate of 15%. Pursuant to the Provisional Regulations of the People’s Republic of China on Enterprise Income Tax (《中華人民共和國企業所得稅暫行條例》) issued by the State Council on December 13, 1993 and enforced on January 1, 1994 and the Detailed Implementation Rules on the Provisional Regulations of The People’s Republic of China on Enterprise Income Tax (《中華人民共和國企業所得稅暫行條例實施細則》) issued by the PRC Ministry of Finance on February 4, 1994, the income tax rate applicable to Chinese enterprises other than foreign-invested enterprises and foreign enterprises was 33%.

Under the Approval on Construction of Xiamen Economic Special Zone (《對福建省關於建設廈門經濟特區的批復》), enterprises established within the Xiamen Economic Special Zone should be applicable to a preferential income tax rate of 15%.

According to the New PRC Enterprise Income Tax Law (《中華人民共和國企業所得稅法》), or the EIT Law, enacted by the NPC on March 16, 2007 and effective since January 1, 2008, a uniform income tax rate of 25% should be applied to foreign investment and foreign enterprises which have set up institutions or facilities in the PRC as well as PRC enterprises. This new tax law supersedes the Income Tax Law of the PRC for Foreign Invested Enterprises and Foreign Enterprises and the Provisional Regulation of the PRC on Enterprise Income Tax. Furthermore, unlike the Income Tax

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Law of the People’s Republic of China for Foreign-invested Enterprises and Foreign Enterprises, which specifically exempted withholding tax on any dividends payable to non-PRC enterprise investors, the EIT Law provides that an income tax rate of 20% will normally be applicable to dividends payable to non-PRC enterprise investors which are derived from sources within the PRC, unless there exists a tax treaty between the PRC and the relevant jurisdictions in which such non-PRC enterprise shareholders reside whereupon the relevant tax may be reduced or exempted. In accordance with the EIT Law and the Implementation Rules of the People’s Republic of China on the Enterprise Income Tax Law (《中華人民共和國企業所得稅法實施條例》) promulgated by the State Council on December 6, 2007 and effective January 1, 2008, a reduced income tax rate of 10% shall be applicable to any dividends payable to non-PRC enterprise investors from foreign invested enterprises.

The EIT Law also provides a five-year transition period starting from its effective date for those enterprises which were established before the promulgation date of the new tax law and which were entitled to a preferential lower income tax rate under the then effective tax laws or regulations. The income tax rate of such enterprises will gradually transition to the uniform tax rate within the transition period in accordance with implementing rules issued by the State Council. On December 26, 2007, the State Council issued the Circular to Implement the Transition Preferential Policies for the Enterprise Income Tax (《關於實施企業所得稅過渡優惠政策的通知》), under which, for those enterprises then entitled to a preferential income tax rate of 15% and established before March 16, 2007, the transition income tax rate should be 18%, 20%, 22%, 24% and 25% respectively in 2008, 2009, 2010, 2011 and 2012.

Business Tax

Business tax is payable in respect of certain business activities in China as set out in the Provisional Regulations Concerning Business Tax (《中華人民共和國營業稅暫行條例》) promulgated by the State Council on December 13, 1993 and implemented on January 1, 1994 and the Detailed Implementation Rules on the Provisional Regulations of The People’s Republic of China on Business Tax (《中華人民共和國營業稅暫行條例實施細則》) issued by the Ministry of Finance on December 25, 1993. The activities to which the business tax applies include construction, leases and sales of real estate properties in China. The tax is a turnover tax charged on gross revenue. No deduction of the tax incurred on purchased services or materials is allowed. However, deductions from gross revenue are allowed for subcontracting fees paid among the transportation, tourism and construction industries. The rate of business tax payable for property sale and leasing transactions is 5% of the proceeds from the sale or leasing of real estate/immovable properties in China. On November 10, 2008, the State Council amended the Provisional Regulations Concerning Business Tax which will come effective as of January 1, 2009.

Land Appreciation Tax

According to the requirements of the Provisional Regulations of The People’s Republic of China on Land Appreciation Tax (《中華人民共和國土地增值稅暫行條例》) (the “**Land Appreciation Tax Provisional Regulations**”) which was promulgated by the State Council on December 13, 1993 and effected on January 1, 1994, and the Detailed Implementation Rules on the Provisional Regulations of the People’s Republic of China on Land Appreciation Tax (《中華人民共和國土地增值稅暫行條例實施細則》) (the “**Land Appreciation Tax Detailed Implementation Rules**”) which was promulgated by the

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Ministry of Finance and came into effect on January 27, 1995, any appreciation gain from a transfer of property shall be subject to LAT. LAT shall be charged at four levels of progressive rates: 30% for the appreciation amount not exceeding 50% of the sum of deductible items; 40% for the appreciation amount exceeding 50% but not exceeding 100% of the sum of deductible items; 50% for the appreciation amount exceeding 100% but not exceeding 200% of the sum of deductible items; and 60% for the appreciation amount exceeding 200% of the sum of deductible items. The related deductible items aforesaid include the following:

- (i) land acquisition costs;
- (ii) costs related to the development of land, new buildings and related facilities;
- (iii) expenses, including finance costs and selling and general administrative expenses, of the land development and project construction, the total of which is capped at 10% of the aggregate of (i) and (ii) above;
- (iv) the appraised price of any existing buildings and structures above ground;
- (v) taxes related to the assignment of the real property; and
- (vi) for taxpayers that are real property developers, a further deduction which is equal to 20% of the aggregate of (i) and (ii) above.

According to the requirements of the Land Appreciation Tax Provisional Regulations, the Land Appreciation Tax Detailed Implementation Rules and the Notice on the Levy and Exemption of Land Appreciation Tax for Development and Transfer Contracts signed before January 1, 1994 (《關於對1994年1月1日前簽訂開發及轉讓合同的房地產徵免土地增值稅的通知》) issued by the Ministry of Finance and the State Administration of Taxation on January 27, 1995, LAT shall be exempted under any of the following circumstances:

- (i) taxpayers construct ordinary standard residences for sale (i.e. the residences built in accordance with the local standard for general civilian used residential properties. Deluxe apartments, villas, resorts etc. are not under the category of ordinary standard residences) and the appreciation amount does not exceed 20% of the sum of deductible items;
- (ii) property is taken back and repossessed according to laws due to the construction requirements of the State;
- (iii) due to redeployment of work or improvement of living standard, individuals transfer self-used residential property, in which they have been living for 5 years or more, subject to tax authorities' approval;
- (iv) transfers of real properties under property transfer contracts signed before January 1, 1994, regardless of when the properties are transferred;
- (v) if the property development contracts were signed before January 1, 1994 or the project proposal has been approved and that capital was injected for development in accordance with the conditions agreed before January 1, 1994, the LAT shall be exempted if the properties are transferred within 5 years after January 1, 1994 for the first time. The date of signing the contract shall be the date of signing the Sale and Purchase Agreement. Particular properties projects which are approved by the government for the development

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of the whole lot of land and long-term development, of which the properties are transferred for the first time after the 5-year tax-free period, the tax-free period may be appropriately prolonged subject to the approval of the Ministry of Finance and the State Administration of Taxation.

On December 24, 1999, the Ministry of Finance and the State Administration of Taxation issued the Notice in respect of the extension of the period for the Land Appreciation Tax Exemption Policy (《關於土地增值稅優惠政策延期的通知》) that extended the period for the Land Appreciation Tax exemption policy as mentioned in paragraph (v) above to the end of 2000.

After the issuance of the Land Appreciation Tax Provisional Regulations and the Land Appreciation Tax Detailed Implementation Rules, due to the longer period for property development and transfer, many districts, while they were implementing the regulations and rules, did not force the property development enterprises to declare and pay the LAT. Therefore, the Ministry of Finance, State Administration of Taxation, MOHURD and the Ministry of Land and Resources had separately and jointly issued several notices to restate the following: after the assignments are signed, the taxpayers should declare the tax to the local tax authorities where the property is located, and pay LAT in accordance with the amount as calculated by the tax authority and the time as required. For those who fail to acquire proof of payment or exemption from LAT from the tax authorities, the property administration authority shall not process the relevant title change procedures, and shall not issue the property title certificate.

The State Administration of Taxation also issued the Notice on Serious Handling of Administration of the Collection of Land Appreciation Tax (《國家稅務總局關於認真做好土地增值稅徵收管理工作的通知》) on July 10, 2002 to request local tax authorities to modify the management system of LAT collection and operation details, to build up a sound taxpaying declaration system for LAT, to modify the methods of pre-levying. The notice also pointed out that either for the properties development contract which were signed before January 1, 1994 or where the project proposal has been approved and capital was injected for development before January 1, 1994, the privilege policy for LAT exemption for the properties that are transferred for the first time is expired, and such tax shall be levied again. This requirement is restated in the Notice of State on Further Strengthening of Administration Work in relation to the Collection of Land Appreciation Tax and Land Use Tax in Cities and Towns (《國家稅務總局關於進一步加強城鎮土地使用稅和土地增值稅徵收管理工作的通知》) issued on August 5, 2004 by State Administration of Taxation. This notice as well as the Notice on Strengthening of Administration of the Collection of Land Appreciation Tax (《國家稅務總局關於加強土地增值稅管理工作的通知》) required that the system of tax declaration and tax sources registration in relation to the LAT should be further established and perfected.

On March 2, 2006, the Ministry of Finance and State Administration of Taxation issued the Notice on Several Points on Land Appreciation Tax (《關於土地增值稅若干問題的通知》) to clarify the relevant issues regarding LAT as follows:

- (i) As to the tax collection and exemption in the sale of ordinary standard residential housing as built by taxpayers as well as in the transfer of ordinary residential houses by individual residents.

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The notice sets out the standards for ordinary standard residential houses. Where any developers build ordinary residential houses as well as other commercial houses, the appreciation amount of land shall be verified respectively. Before the day when this notice is publicized, as to any application for tax exemption for ordinary standard residential houses that has been filed to the tax authority at the locality of the property, especially any ordinary standard residential houses which have been given the treatment of exemption from LAT upon examination according to the standards for ordinary standard residential houses as determined by the people’s government of a province, autonomous region or municipality directly under the Central Government, no adjustment shall be retroactively made.

(ii) As to the advance collection and settlement of LAT

- i) All regions shall decide the advance collection rate in a scientific and reasonable manner, and adjust it at a proper time according to the value addition level of the property as well as the market development level within the region and on the basis of the specific housing categories, namely, ordinary standard residential houses, non-ordinary standard residential houses and commercial houses. After a project is completed, the relevant settlement shall be handled in a timely manner, with any overpayment refunded or any underpayment being made up;
- ii) As to any tax that fails to be collected in advance within the advance collection term, the overdue fines shall be collected as of the day following the expiration of the prescribed advance collection term according to the relevant provisions of the Tax Collection and Administration Law as well as its detailed rules for implementation;
- iii) As to any property project that has been completed and has gone through the acceptance procedure, where the floor area of the property as transferred makes up 85% or more of the saleable floor area, the tax authority may require the relevant taxpayer to conduct the settlement of LAT on the transferred property according to the matching principles regarding the proportion between the income as generated from the transfer of property and the amount under the item of deduction. The specific method of settlement shall be prescribed by the local tax authority of a province, autonomous region or municipality directly under the Central Government, or a city under separate state planning; and
- iv) As to the tax collection and exemption for investment or association by means of the property. As to any investment or association by using land (property) as payment for the purchase of shares, where an enterprise involved in the investment or association engages in the property development or where any other property development enterprise makes investment or conducts association with the commercial houses it itself builds, it shall not be governed by the regulation of the interim exemption of LAT when the property (land) is transferred to the enterprise by means of investment or association.

On December 28, 2006, the State Administration of Taxation issued the Circular on the Administration of the Settlement of Land Appreciation Tax of Property Development Enterprises (《關於房地產開發企業土地增值稅清算管理有關問題的通知》) which came into effect on February 1, 2007. Pursuant to the circular, a property developer shall settle and clear the LAT payment of its

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development projects that meet certain criteria with the tax authorities in accordance with the applicable LAT tax rates. The LAT shall be settled for projects approved by the competent authorities; and for projects developed in different stages, the LAT shall be settled in stages. LAT must be settled if (i) the property development project has been completed and fully sold; (ii) the property developer transfers the whole incomplete development project; or (iii) the land-use rights with respect to the project is transferred. In addition, the relevant tax authorities may require the developer to settle the LAT if either of the following criteria is met: (i) for completed property development projects, the transferred GFA represents more than 85% of total saleable GFA, or where the proportion represented is less than 85%, the remaining saleable GFA has been leased out or used by the developer; (ii) the project has not been sold out for more than three years after obtaining the sale or pre-sale permit; (iii) the developer applies for cancellation of the tax registration without having settled the relevant LAT; or (iv) other conditions stipulated by the tax authorities at provincial levels.

The Notice also indicated that if a property developer satisfies any of the following circumstances, the tax authorities shall levy and collect LAT as per the levying rate no lower than the pre-payment rate with reference to the bearing rate of LAT of local enterprises with a similar development scale and income level: (i) failure to maintain account book required by law or administrative regulation; (ii) destroying the account book without authorization or refusing to provide taxation information; (iii) the accounts are in a state of mess or cost materials, income vouchers and cost vouchers are damaged and incomplete, making it difficult to determine transferred income or amount of deductible items; (iv) failure to go through LAT settlement within the prescribed period, and such failure is not cured within the period required by the relevant tax authorities; or (v) the basis for tax calculation as submitted is obviously low without justifiable cause. Local provincial tax authorities at provincial levels can formulate their own implementation rules according to the notice and local situation.

On May 12, 2009, the State Administration of Taxation issued the Administrative Rules on the Settlement of Land Appreciation Tax effective as of June 1, 2009, which further clarifies the specific conditions and procedures for settlement of the LAT.

On December 18, 2005, the People’s Government of Xiamen issued the Approval on Starting Imposing Land Appreciation Tax of Xiamen (《廈門市人民政府關於開徵我市土地增值稅的批復》), under which LAT shall be applicable to any entity or individual engaging in development, sale and transfer of properties to gain appreciation in Xiamen as of January 1, 2006 in accordance with the Land Appreciation Tax Provisional Regulations. According to this Approval, a prepaid LAT rate of 0.5% shall be applicable to the gains from the sale of ordinary standard residences, and a rate of 1% shall apply to the gains from the sale of properties other than ordinary standard residences. Pursuant to the Notice on Adjusting the Prepaid Land Appreciation Tax Rate of Xiamen (《關於調整我市土地增值稅預徵率的通知》) issued by the local taxation bureau of Xiamen on April 15, 2008, for property projects conducted on the land acquired by means other than public tender, auction, or listing-for-sale, prepaid LAT rate of 3% and 5% shall be applicable to residential properties and villas respectively, while commercial business housings, office buildings, and other property projects shall be subject to the rate of 4% since April 1, 2008; for property projects of which 85% or more of the total saleable GFA has been sold before January 1, 2006, prepaid LAT rate of 3%, 4% and 5% shall be applicable to the remaining residential, commercial and villa part respectively, and the settlement of LAT may not be required; for property projects of which sold GFA before January 1, 2006 is less than

85% of the total saleable GFA, the gains from the sale of the remaining part shall be settled in accordance with the Circular on the Administration of the Settlement of Land Appreciation Tax of Property Development Enterprises.

Real Estate Tax

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

Stamp Duty

Persons who have executed or received dutiable documents within China are subject to stamp tax according to the Interim Regulations of the People’s Republic of China on Stamp Duty (《中華人民共和國印花稅暫行條例》) promulgated by the State Council on August 6, 1988 and implemented on October 1. Dutiable documents include contracts or documents of a contractual nature for the sale of goods, the undertaking of processing work, the contracting of construction and engineering projects, the lease of property and technology, as well as transfer of property. A stamp tax by each party to the stampable documents at the rate of 0.05% is payable in respect of transfer of properties based on the contractual price of the property transferred and at the rate of 0.1% of the total amount of rent in respect of the leasing of properties.

Urban land use tax

Pursuant to the Provisional Regulations of the People’s Republic of China Governing Land Use Tax in Urban Areas (《中華人民共和國城鎮土地使用稅暫行條例》) promulgated by the State Council on September 27, 1988 and implemented on November 1, 1988, the land use tax in respect of urban land is levied according to the area of relevant land. The annual tax on every square meter of urban land shall be between RMB0.2 and RMB10 and be collected according to the tax rate determined by the local tax authority. According to the Notice on Land Use Tax Exemption of Foreign-Invested Enterprises and Institutions of Foreign Enterprises in China (《關於對外商投資企業和外國企業在華機構的用地不徵收土地使用稅的通知》) promulgated by the Ministry of Finance on November 2, 1988 and the Approval on Land Use Tax Exemption of Foreign-Invested Enterprises (《關於外商投資企業徵免土地使用稅問題的批復》) issued by State Administration of Taxation on March 27, 1997, land use fees should be collected instead of land use tax in a foreign-invested enterprise.

However, the Provisional Regulations of the People’s Republic of China Governing Land Use Tax in Urban Areas were revised by the State Council on December 31, 2006. As of January 1, 2007, land use tax shall be collected from foreign-invested enterprises. The annual tax on every square meter of urban land shall be between RMB0.6 and RMB30.0.

Municipal maintenance tax

Under the Interim Regulations of the People’s Republic of China on Municipal Maintenance Tax (《中華人民共和國城市維護建設稅暫行條例》) promulgated by the State Council on February 8, 1985, any taxpayer, whether an individual or otherwise, of product tax, value-added tax or business tax shall be required to pay municipal maintenance tax. The tax rate shall be 7% for a taxpayer whose domicile is in an urban area, 5% for a taxpayer whose domicile is in a county and a town, and 1% for a taxpayer whose domicile is not in any urban area or county or town. Under the Circular Concerning Temporary Exemption from Municipal Maintenance Tax and Education Surcharge for Foreign-invested Enterprises and Foreign Enterprises (《關於外商投資企業和外國企業暫不徵收城市維護建設稅和教育費附加的通知》), and the Approval on Exemption of Municipal Maintenance Tax and Education Surcharge in Foreign-invested Freightage Enterprises (《關於外商投資貨物運輸企業徵免城市維護建設稅和教育費附加問題的批復》) issued by State Administration of Taxation on February 25, 1994 and on September 14, 2005 respectively, the municipal maintenance tax shall not be applicable to foreign-invested enterprises with foreign investment for the time being, until further explicit stipulations are issued by the State Council.

Education surcharge

Under the Interim Provisions on Imposition of Education Surcharge (《徵收教育費附加的暫行規定》) promulgated by the State Council on April 28, 1986 and as amended on June 7, 1990 and August 20, 2005 respectively, a taxpayer, whether an individual or otherwise, of product tax, value-added tax or business tax shall pay an education surcharge, unless such obliged taxpayer is instead required to pay a rural area education surcharge as provided by the Notice of the State Council on Raising Funds for Schools in Rural Areas (《國務院關於籌措農村學校辦學經費的通知》). Under the Supplementary Notice Concerning Imposition of Education Surcharge (《關於教育費附加徵收問題的補充通知》) issued by the State Council on October 12, 1994, the Circular Concerning Temporary Exemption from Municipal Maintenance Tax and Education Surcharge for Foreign-invested Enterprises and Foreign Enterprises and the Reply on Exemption of Municipal Maintenance Tax and Education Surcharge in Foreign-invested Freightage Enterprises issued by State Administration of Taxation on February 25, 1994 and on September 14, 2005 respectively, the education surcharge shall not be applicable to enterprises with foreign investment for the time being, until further explicit stipulations are issued by the State Council.

Tax Administration Between Affiliated Enterprises

Pursuant to the Administration Rules of Tax on Business Transactions Between Affiliated Enterprises (《關聯企業間業務往來稅務管理規程》), or the Administration Rules, which was promulgated by the State Administration of Taxation on April 23, 1998 and was amended on October 22, 2004, foreign-owned or foreign-invested enterprises in the PRC which have transactions with their affiliated enterprise shall submit to the competent tax authorities the Annual Declaration on Business Transactions with Affiliated Enterprises for Foreign-owned and Foreign-invested Enterprises (“外商投資企業和外國企業與其關聯企業往來情況年度申報表”). The competent tax authorities, based on the submitted Annual Declarations and other relevant documents, will make reasonable adjustments on such enterprises’ taxable profits and order the enterprises to pay an adjusted tax.

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However, the State Administration of Taxation promulgated the Implementation Measures for Special Taxation Adjustments (For Trial Implementation) (《特別納稅調整實施辦法(試行)》), or the Implementation Measures, on January 8, 2009, which came into effect retroactively on January 1, 2008 and replaces the Administration Rules. The Implementation Measures shall apply to the administration by competent tax authorities over special tax adjustments including the transfer pricing. Any resident enterprise subject to the audit taxation (查賬徵收) and any non-resident enterprise with establishments or offices in the PRC that file and pay the enterprise income tax shall, when filing its annual enterprise income tax return with the competent tax authorities, attach thereto a Statement Form of Enterprises on Annual Affiliated Transactions (“企業年度關聯業務往來報告表”). Meanwhile, it is required for an enterprise to prepare, preserve and submit at the request of tax authorities the contemporaneous documents based on its taxable years, unless otherwise provided in the Implementation Measures. Tax authorities shall be duly entitled to identify enterprises to be investigated and make investigations and adjustments for the transfer pricing. For transactions between domestic affiliated enterprises being actually subject to identical tax burdens, as long as such transactions do not directly or indirectly result in any decline in the national total tax revenue, no transfer pricing investigation or adjustment shall be made in principle. If the tax authorities deliver the notice of investigation and adjustment for special taxation to an enterprise, the enterprise shall pay its tax and interest thereon within the specified period.

LEGAL SUPERVISION RELATING TO PROPERTY MANAGEMENT SECTOR IN THE PRC

According to the Regulation on Property Management (《物業管理條例》) enacted by the State Council on June 8, 2003, enforced on September 1, 2003, and as amended on August 26, 2007, the state implements a qualification scheme system in monitoring the property management enterprises. According to the ‘Measures for Administration of Qualifications of Property Service Enterprises (《物業服務企業資質管理辦法》) enacted by the MOHURD on March 17, 2004, as amended on October 30, 2007, a newly established property service enterprise shall, within 30 days from the date of receiving its business license, apply to the relevant local bureau in charge of the property management under the local government or to the municipalities directly under the Central Government for a provisional qualification. The departments of qualification examination and approval will check and issue a “property service qualification certificate” corresponding to their grading assessment results.

According to the Measures for the Administration on Qualifications of Property Service Enterprises, the qualifications of a property service enterprise shall be classified as class one, class two and class three. The competent construction department of the State Council shall be responsible for issuance and administration of the qualification certificate of the class one property service enterprises. The competent construction departments of the people’s governments of provinces and autonomous regions shall be responsible for issuance and administration of the qualification certificate of the class two property service enterprises, and the competent realty departments of the people’s governments of municipalities directly under the Central Government shall be responsible for issuance and administration of the qualification certificate of the classes two and three property service enterprises. The competent realty departments of the people’s governments of the cities divided into districts shall be responsible for the issuance and administration of the qualification certificate of the class three property service enterprises.

The property service enterprises with the class one qualification may undertake various real estate management projects. The property service enterprises with the class two qualification may

undertake the property management business of residential management projects of less than 300,000 sq.m. and the non-residential management projects of less than 80,000 sq.m. The property service enterprises with the class three qualification may undertake the property management business of residence projects of less than 200,000 sq.m. and non-residence projects under 50,000 sq.m.

In accordance with the Regulation on Property Management and the Properties Rights Law, owners may engage or dismiss a property service company with the consent of more than half of the owners who in the aggregate hold more than 50% of the total non-communal area of the building.

LEGAL SUPERVISION RELATING TO HOTEL SECTOR IN THE PRC

Foreign-invested Hotel Project

According to the Foreign Investment Industrial Guidance Catalogue, construction and operation of high-end hotels fall within the category of restricted foreign investment industry. Construction and operation of common and economic hotels other than high-end hotels fall within the category of permitted foreign investment industry. A foreign investment enterprise investing in the hotel business can set up an enterprise in the form of sino-foreign equity joint venture, sino-foreign co-operative joint venture or wholly foreign-owned enterprise according to the Foreign Investment Industrial Guidance Catalogue and the requirements of the relevant laws and the administrative regulations on foreign investment enterprises. The foreign investment enterprise in hotel business should apply for an approval with the relevant department of commerce, and obtain an Approval Certification for a Foreign Investment Enterprise before registering to the administration of industry and commerce.

Hotel Management

The procedures involved in hotel construction in China including obtaining approval for land use, project planning and project construction shall also be subject to the aforementioned regulations relating to property development.

There is currently no special authority in China responsible for the daily management of hotel business. The supervision of daily management of hotel business belongs to different authorities in accordance with the respective business scopes of different hotels. The supervision mainly includes the following:

- (i) Legal supervision on security and fire control

Pursuant to the Measures for the Control of Security in the Hotel Industry (《旅館業治安管理辦法》) issued by the Ministry of Public Security of the People’s Republic of China and enforced on November 10, 1987, a hotel can operate only after obtaining an approval from the local public security bureau and a business license has been granted. The hotel enterprise should file to the local public security bureau and its branches in the county or city, if hotel enterprise has any change including closing, transferring or merging of business, changing place of business and name, etc. Pursuant to the Provisions on the Administration of Fire Control Safety of State Organs, Organizations, Enterprises

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and Institutions (《機關、團體、企業、事業單位消防安全管理規定》) enacted by the Ministry of Public Security on November 14, 2001 and enforced on May 1, 2002, hotels (or motel) are units which require special supervision on fire control and safety. When the hotels are under construction, renovation or re-construction, fire control examination procedure is required to carry out and when the construction, renovation or re-construction project is completed, the hotels can only open for business after passing a fire control inspection.

(ii) Supervision on public health

According to relevant regulations and rules in relation to public health, hotels fall in the scope of public health supervision. The operating enterprise should gain the sanitation license. The measures for granting and managing sanitation license are formulated by public health authority of province, autonomous region, and municipality directly under the central government. Sanitation license is signed by public health administration above county level and its grant is taken charge of by public health and epidemic prevention institutions. The sanitation license should be reviewed once every two years.

(iii) Supervision on food hygiene

According to the relevant regulations and rules in relation to food hygiene supervision, hotels operating catering services should obtain food hygiene licenses. The food hygiene licenses are grant by food hygiene administrative bodies above county level. Purchase, reserve and processing of food, tableware, and service should meet relevant requirements and standards of food hygiene.

(iv) Supervision on entertainment

According to the Regulation on the Administration of Entertainment Venues (《娛樂場所管理條例》) enacted by the State Council on January 29, 2006 and enforced on March 1, 2006, hotels that operate singing, dancing and game places for profits should apply to the local competent departments for culture administration under the people’s government at the county level or above for the entertainment commercial operation approval. The competent departments for entertainment administration shall issue a license for entertainment business operations, which verifies the number of consumers acceptable to the entertainment venue according to the prescriptions as set down by the competent department governing entertainment administration under the State Council if it approves the application. According to the regulations concerning broadcast, movie and TV, foreign-related hotels above three-star or the second rank of the national standards may apply to local broadcast and television administration of the county or above for setting ground equipment receiving satellite signal to receive entertainment programs from abroad. After finishing setting ground equipment and gain the approval from broadcast and television administration of the province, autonomous region, and municipality directly under the central government and the approval from state security administration, the permit of receiving foreign television program from satellite (接收衛星傳送的境外電視節目許可證) should be issued.

(v) Supervision on special equipment security

Elevators (lifts or escalators), boilers and pressure containers and so on are special equipment. According to the Regulations on Security Supervision of Special Equipment

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(《特種設備安全監察條例》) enacted by the State Council on March 11, 2003 and enforced on June 1, 2003, hotels should register with the special equipment security supervisal authority of municipality directly under the central government or city which has set up districts, and should apply for inspection regularly with the special equipment examination institution a month before the expiration of security examination according to the requirement of regular examination by technical security standard.

(vi) Supervision on sale of tobacco and alcohol

According to law and regulations in relation to sale of tobacco, hotels that operate retail of tobacco should apply to the tobacco monopoly administration for a Tobacco Monopoly Retail License. According to the Measures for the Administration on Foreign Investment in Commercial Fields (《外商投資商業領域管理辦法》) enacted by MOFCOM on April 16, 2004 and enforced on June 1, 2004, foreign investment enterprise that operates wholesale and retail is not allowed to operate in tobacco business. According to the Measures for the Administration of Alcohol Circulation (《酒類流通管理辦法》) enacted by MOFCOM on November 7, 2005 and enforced on January 1, 2006, the enterprise that engages in the retail of alcohol should handle the archival filing and registration in the administrative department of commerce at the same level as the administrative department for industry and commerce where the registration is handled. The licensing system shall be continued in those regions where the licensing administration of alcohol circulation has been already carried out according to law.

OVERSEAS LISTING

On August 8, 2006, six PRC regulatory agencies, including the CSRC, promulgated the Provisions on the Acquisitions of Domestic Enterprises by Foreign Investors (《關於外國投資者併購境內企業的規定》), which became effective on September 8, 2006 and was amended on June 22, 2009. This new regulation, among other things, has certain provisions that purport to require offshore SPVs formed for the purpose of acquiring PRC domestic companies and controlled directly or indirectly by PRC individuals or companies, to obtain the approval of the CSRC prior to listing their securities on an overseas stock exchange. The application of this new PRC regulation remains unclear with no consensus currently existing among the leading PRC law firms regarding the scope and applicability of the CSRC approval requirement. On September 21, 2006, the CSRC published on its official website a notice specifying the documents and materials that are required to be submitted for obtaining CSRC approval.