

Legislation relating to the access to the Chinese financial markets

**State Secretariat for Economic Affairs
Division: Policy and Trade in Services
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Legislation relating to the access to the Chinese financial markets

- Chinese banking sector
- Foreign operators
- Regulatory Framework
- Commitments on Trade (GATS)
- CEPA (China Mainland and Hong Kong)
- Laws and regulations
- Important issues

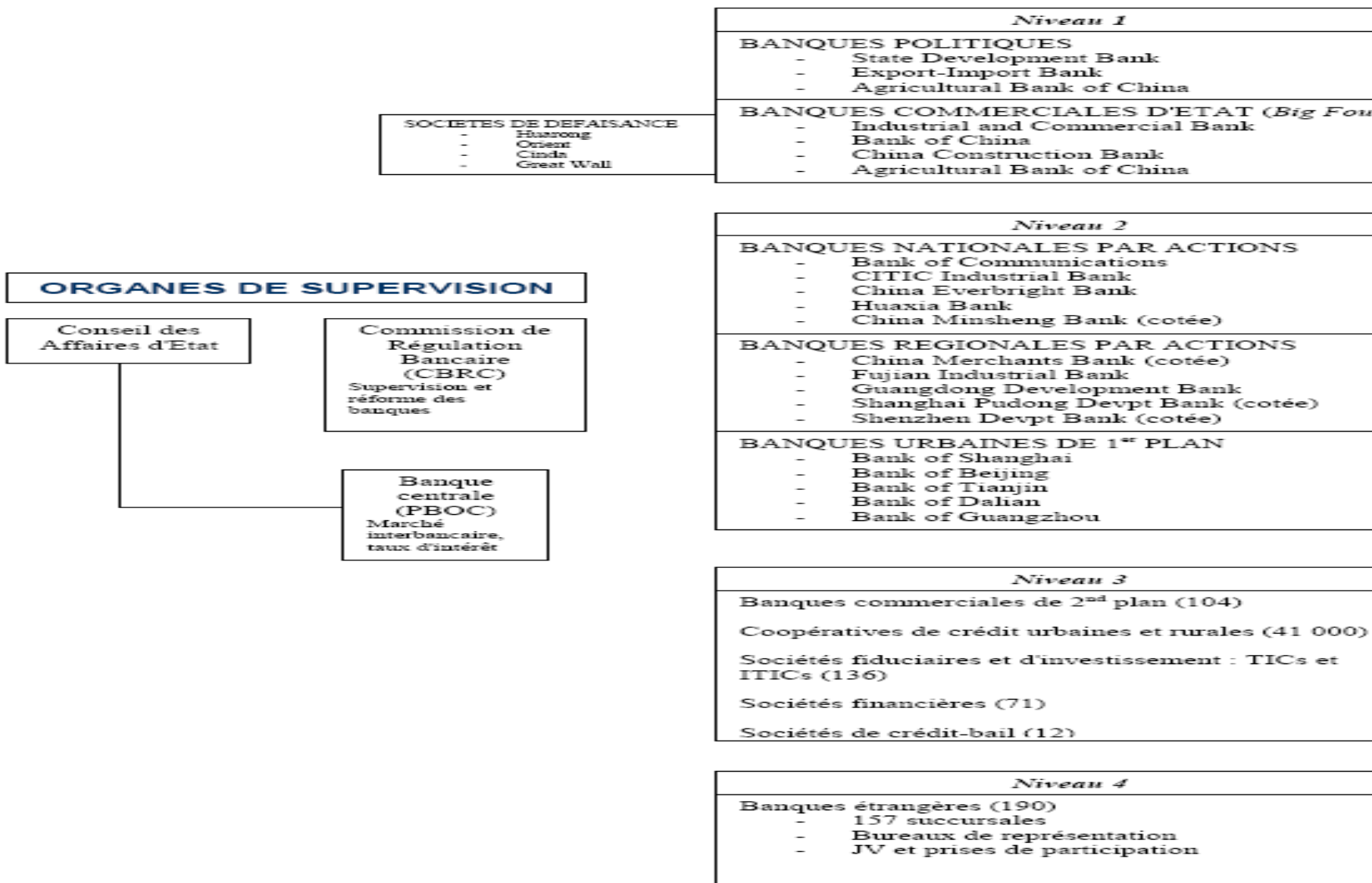


Chinese banking sector

- Chinese banking structure (see next page)
- Reform of the sector



Chineses banking sector





Foreign operators

- **Situation**
 - 204 operational entities (163 branches, 14 foreign-funded corporate bodies)
 - 223 representative offices
 - 116 operate RMB (61 for chinese enterprises)(Jan.2005)
 - 13 online banking services
 - 27 QFII (Qualified Foreign Institutional Investors)
 - 23 carry out derivative products transactions in China
 - 5 offer custodian services for QFII in China
 - Assets of foreign-funded banks: 66.77 billion USD, 45.28% up
 - Assets of foreign-funded banks: 91.14 billion RMB, 38.87% up
- **Critical issues**
 - Capital requirement for foreign bank entry
 - Participation in financial institutions
 - Foreign ownership in investment companies
- **Recent development**



- Chinese Communist Party
- National Popular Parliament
- Central Government
 - State Council
 - National Development and Reform Commission
 - Ministry of Finance
 - People's Bank of China
 - Commissions (CBRS, CIRC, CSRC, see next page)
 - State Administration of Foreign Exchange



Regulatory Framework: Structure

Mai 2004

LE CONSEIL DES AFFAIRES D'ETAT

Conseil des Affaires de l'Etat	Premier Ministre <i>WEN Jiabao</i>	Vice-Premier Ministre <i>HUANG Ju</i> <i>Finances, Affaires générales</i>	Vice-Premier Ministre <i>Mme WU Yi</i> <i>Commerce, Marchés</i>	Vice-Premier Ministre <i>ZENG Peiyan</i> <i>Macroéconomie, Développement et réformes</i>	Vice-Premier Ministre <i>HUI Liangyu</i> <i>Agriculture</i>	Secrétaire Général <i>HUA Jianmin</i>	5 Conseillers d'Etat <i>ZHOU Yongkang,</i> <i>CAO Gangchuan,</i> <i>TANG Jiaxuan,</i> <i>HUA Jianmin,</i> <i>Mme CHEN Zhili</i>
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4 Commissions d'Etat appartenant au Conseil des Affaires d'Etat (sans primauté hiérarchique par rapport aux ministères)

NDRC Commission d'Etat au Développement et à la Réforme <i>MA Kai</i>	COSTIND Commission des Sciences, de la Technologie et l'Industrie pour la Défense Nationale <i>ZHANG Yunchuan</i>	Commission d'Etat pour les Nationalités <i>LI Dezhu</i> <i>(coréen)</i>	Commission d'Etat à la Démographie et au Planning familial <i>ZHANG Weiqing</i>	Rang occupé au sein de l'ens. des 28 min & CE : NDRC au 3 ^e rang COSTIND au 6 ^e rang CE Nationalités 7 ^e rg CE Dém&Pla. 26 ^e rg
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24 Ministères appartenant au Conseil des Affaires d'Etat

Affaires étrangères <i>LI Zhaoxing</i> 1↑	Défense Nationale <i>CAO Gangchuan</i> 2↑	Education <i>ZHOU Ji</i> 4↑	Science et Technologies <i>XU Guanhua</i> 5↑	Sécurité publique <i>ZHOU Yongkang</i> 8	Sécurité d'Etat <i>XU Yongyue</i> 9	Supervision <i>LI Zhilun</i> 10	Affaires civiles <i>LI Xueju</i> 11	Justice <i>ZHANG Fusen</i> 12	Finances <i>JIN Renqing</i> 13
Fonction Publique <i>ZHANG Bolin</i> 14↑ / ↓24	Travail et Sécurité Sociale <i>ZHENG Zilin</i> 15↑ / ↓25	Territoire et ressources <i>SUN Wensheng</i> 16↑ / ↓27	Construction <i>WANG Guangtao</i> 17↑ / ↓28	Chemins de Fer <i>LIU Zhijun</i> 18	Transports <i>ZHANG Chunxian</i> 19	Technologies de l'information <i>WANG Xudong</i> 20	Ressources hydrauliques <i>WANG Shucheng</i> 21	Agriculture <i>DU Qinglin</i> 22	Affaires commerciales <i>BO Xilai</i> 23
Culture <i>SUN Jiazheng</i>	Santé Publique <i>Mme WU Yi</i>	Banque du Peuple de Chine <i>ZHOU Xiaochuan</i>	Cour des Comptes <i>LI Jinhua</i>						

8 Commissions et Bureaux à autorité renforcée, sous tutelle directe du Conseil des Affaires d'Etat, et dont 7 ont un Président ayant rang de ministre :

(SASAC, CBRC, CIRC, CSRC, AQSIQ, SFDA, SEPA)

SASAC State-owned Assets Superv° & Adm° Commission <i>LI Rongrong</i>	CBRC China Banking Regulatory Commission <i>LIU Mingkang</i>	CIRC China Insurance Regulatory Commission <i>WU Dingfu</i>	CSRC China Securities Regulatory Commission <i>SHANG Fulin</i>	AQSIQ Adm° of Quality Supervis°, Inspect° & Quarantine <i>LI Changjiang</i>	SFDA State Food & Drugs Administration <i>ZHENG Xiaoyu</i>	SEPA State Environment Protection Administration <i>CHAI Songyue</i>	SAWS State Administration of Work Safety <i>WANG Xianzheng</i>
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Commitments on Trade (GATS)

- Commitments on Financial Services (see next page)
- Implementation
 - Geographic coverage
 - Clients
 - Licensing



GATS Commitments

Banking and Other Financial Services (excluding insurance and securities)

(1) Unbound except for the following:

- Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- Advisory, intermediation and other auxiliary financial services on all activities listed in subparagraphs (a) through (k), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

(2) None

(3) A. Geographic coverage

For foreign currency business, there will be no geographic restriction upon accession. For local currency business, the geographic restriction will be phased out as follows: Upon accession, Shanghai, Shenzhen, Tianjin and Dalian; Within one year after accession, Guangzhou, Zhuhai, Qingdao, Nanjing and Wuhan; within two years after accession, Jinan, Fuzhou, Chengdu and Chongqing; within three years after accession, Kunming, Beijing and Xiamen; Within four years after accession, Shantou, Ningbo, Shenyang and Xi'an.

Within five years after accession, all geographic restrictions will be removed.

B. Clients

For foreign currency business, foreign financial institutions will be permitted to provide services in China without restriction as to clients upon accession.

For local currency business, within two years after accession, foreign financial institutions will be permitted to provide services to Chinese enterprises. Within five years after accession, foreign financial institutions will be permitted to provide services to all Chinese clients. Foreign financial institutions licensed for local currency business in one region of China may service clients in any other region that has been opened for such business.

C. Licensing

Criteria for authorization to deal in China's financial services sector are solely prudential (i.e., contain no economic needs test or quantitative limits on licenses). Within five years after accession, any existing non-prudential measures restricting ownership, operation, and juridical form of foreign financial institutions, including on internal branching and licenses shall be eliminated.

Foreign financial institutions who meet the following condition are permitted to establish a subsidiary of a foreign bank or a foreign finance company in China:

- total assets of more than US \$10 billion at the end of the year prior to filing the application.

Foreign financial institutions who meet the following condition are permitted to establish a branch of a foreign bank in China:

- total assets of more than US \$20 billion at the end of the year prior to filing the application.

Foreign financial institutions who meet the following condition are permitted to establish a Chinese-foreign joint bank or a Chinese-foreign joint finance company in China:

- total assets of more than US \$10 billion at the end of the year prior to filing the application.

Qualifications for foreign financial institutions to engage in local currency business are as follows:

- three years business operation in China and being profitable for two consecutive years prior to the application, otherwise, none.

(4) Unbound except as indicated in Horizontal Commitments.

- Securities

(1) Unbound except for the following:

- Foreign securities institutions may engage directly (without Chinese intermediary) in B share business.

(2) None

(3) a. Unbound, except for the following:

- Upon accession, representative offices in China of foreign securities institutions may become Special Members of all Chinese stock exchanges.

- Upon accession, foreign service suppliers will be permitted to establish joint ventures with foreign investment up to 33 per cent to conduct domestic securities investment fund management business. Within three years after China's accession, foreign investment shall be increased to 49 per cent. Within three years after accession, foreign securities institutions will be permitted to establish joint ventures, with foreign minority ownership not exceeding 1/3, to engage (without Chinese intermediary) in underwriting A shares and in underwriting and trading of B and H shares as well as government and corporate debts, launching of funds.

b. Criteria for authorization to deal in China's financial industry are solely prudential (i.e., contain no economic needs test or quantitative limits on licenses).

(4) Unbound except as indicated in Horizontal Commitments.



CEPA (China Mainland and Hong Kong)

- CEPA: China Mainland and Hong Kong Closer Economic Partnership Arrangement
- Summary
 - Effect for Foreign banks (see next page)



CEPA (I)

- The Mainland's Specific Commitments on Liberalization of Trade in Services for Hong Kong
- *Financial services*
- B. Banking and other financial services (excluding insurance and securities)
- a. Acceptance of deposits and other repayable funds from the public;
- b. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- c. Financial leasing;
- d. All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bank drafts (including import and export settlement);
- e. Guarantees and commitments;
- f. Trading for own account or for account of customers: foreign exchange.
- **Specific commitments**
- 1. For Hong Kong banks to set up branches or body corporates in the Mainland, the total asset requirement at the end of the year preceding application is not less than US\$ 6 billion; for finance companies to set up body corporates, the total asset requirement at the end of the year preceding application is not less than US\$ 6 billion.
- 2. There will be no requirement for setting up a representative office in the Mainland before a Hong Kong bank establishes a joint venture bank or joint venture finance company in the Mainland, or before a Hong Kong finance company establishes a joint venture finance company in the Mainland.
- 3. For Mainland branches of Hong Kong banks to apply to conduct RMB business:
 - 1). they should have been operating in the Mainland for more than 2 years;
 - 2). in conducting profitability assessment, the relevant authorities will base their assessment on the overall profitability position of all branches of the bank in the Mainland instead of the profitability position of its individual branches.



CEPA (II)

- *Securities*
- **Specific commitments:**
- 1. To allow the Hong Kong Exchanges and Clearing Limited to set up a representative office in Beijing.
- 2. To simplify the relevant procedures for Hong Kong professionals^[1] applying in the Mainland for securities and futures industry qualifications. Hong Kong professionals applying to obtain securities and futures industry qualifications of the Mainland need only to undertake training and pass examination on Mainland laws and regulations; and examination on professional knowledge is not required.
^[1] In this sector, professionals refer to Hong Kong permanent residents who have been licensed by the Securities and Futures Commission of Hong Kong.

(Supplements and Amendments signed on 27 October 2004)

- Banking and other financial services (excluding insurance and securities):
 - To allow Mainland branches of Hong Kong banks to conduct insurance agents business after obtaining approval with effect from 1 November 2004.
- Securities Futures:
 - To allow intermediaries which are licensed with the Securities and Futures Commission of Hong Kong and which satisfy the requirements of the CIRC to set up joint venture futures brokerage companies in the Mainland. The percentage of shareholding owned by Hong Kong licensed intermediaries should not exceed 49% (including shareholding of related parties). Requirements in respect of the scope of business and amount of capital etc. of the joint venture futures brokerage companies shall be the same as those for Mainland enterprises.



Laws and regulations

- **Characteristic**
 - Several levels
 - Problem of coordination
 - Great quantity
 - Complexity of legal acts
 - Lack of Communication
 - Delays in translation
- **List of the major legislations**



List of the major legislations (I)

- Loi sur la Banque populaire de la Chine (banque centrale)
- Law of the People's Bank of China

- Loi sur la surveillance des banques commerciales du 27 décembre 2003, entrée en vigueur le 1^{er} février 2004.
- Banking Supervision Law of the People's Republic of China

- Loi sur la banque commerciale du 10 mai 1995 modifiée le 27 décembre 2003.
- Commercial Banks Law

- Règle sur la provision des banques commerciales (1^{er} mars 2004)
- Regulation Governing Capital sufficiency of Commercial Banks

- Règle sur les produits dérivés
- Rules on Derivatives activities of financial institutions
- Interim Measures for the Management of the Dealings of Derivative Products of Financial Institutions

- Règle sur la provision des banques commerciales
- Rules on capital adequacy of commercial banks

- Règle sur le système d'évaluation des risques des banques commerciales
- Provisional risk assessment system for joint-stock commercial banks

- Règle sur la licence des institutions financières
- Measures of Financial License Control

- Règle administrative sur l'échange interne entre la banque commerciale et leur personnel interne et leur actionnaires, entrée en vigueur le 1^{er} mai 2004
- Methods for Administration of Related Transactions Between Commercial Banks and Insiders and Shareholders

- Règle sur la révélations des informations des banques commerciales
- Measures on Information Disclosure of Commercial Banks

- Ajustement de modèle et de procédé de gestion d'accès du marché d'opérations bancaires
- Adjustment of Banking Market Access Management Style and Procedure

- Règle sur la fermeture des institutions financières
- Regulations on Closure of Financial Institutions



List of the major legislations (II)

- Règlement sur l'administration des établissements financiers étrangers du 20 décembre 2001
- Regulations on the Administration of Foreign-Funded Financial Institutions

- Règles détaillées du Règlement sur l'administration des établissements financiers étrangers du 1^{er} sep. 2004
- Detailed Rules for the Implementation of the Regulations on the Administration of Foreign-funded Financial Institutions

- Mesures sur des bureaux de représentation d'établissements financiers à capital étranger en Chine du 13 juin 2002, Measures on the Administration of Foreign-capital Financial Institutions

- Règle sur l'investissement des capitaux étrangers aux institutions financières
- Measures for the Administration of the Investment and Shareholding in Chinese-funded Financial Institutions by Overseas Financial Institutions

- Mesures aux investissements en valeurs mobilières nationales effectués par des investisseurs étrangers qualifiés (QFII)
- Interim Measures on the Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors

- Mesures sur la surveillance de l'audit des banques étrangères (1^{er} avril 2004)
- Rules on Consolidated Supervision of Foreign Banks

- Mesures sur la dette des banques étrangères établies en Chine (27 juin 2004)
- Rules on debt of the foreign banks



List of the major legislations (III)

- Loi fiduciaire
- Trust Law of the People's Republic of China

- Règle sur le holding des sociétés financières
- Rules on financial holding companies

- Règle sur la société de fiduciaire et investissement
- Rules on Trust and Investment Companies



List of the major legislations (IV)

- Circular of the State Administration of Foreign Exchange on Relevant Issues of the Standardized Administration of the Foreign Exchange Settlement Business of Individual Residents
- Circular of State Administration of Foreign Exchange on Issues concerning Improving Annual Inspection of Foreign Exchange of Foreign-funded Enterprises
- Circular of the State Administration of Foreign Exchange on Issues Concerning Deepening the Reform of Foreign Exchange Administration on Foreign Investment
- Notice of the State Administration of Foreign Exchange on Relevant Issues Concerning the Regulation of Foreign Exchange Control over Non-resident Individuals
- Circular on the Relevant Issues Concerning the Refund of the Security Deposit for Remitted-Back Overseas Investment Profits
- Interim Measures for Joint Annual Inspection of Overseas Investment
- Law on the currency



List of the major legislations (V)

- Loi sur les valeurs mobilières // *Securities Law of the People's Republic of China/1998-12-29*
- Loi sur le fonds de placement de valeurs mobilières // *Law of the People's Republic of China on Securities Investment Fund /2003-10-28*
- Règles sur l'agence de contrat à terme // *Administrative rules of futures Brokerage Company (for trial implement)/2004-03-15*
- Règles sur la gestion des fonds de placement de valeurs mobilières // *Rules on the management on Securities Investment Fund/2004-06-29*
- Règles sur la négociation des fonds de placement de valeurs mobilières // *Rules on the negotiation on Securities Investment Fund/2004-06-25*
- Règles sur l'information des fonds d'investissement de valeurs mobilières // *Rules on the information on Securities Investment Fund/2004-06-08*
- Règle provisoire sur la surveillance des sociétés de valeurs mobilières // *Rules for governance of securities companies (For Trial Implementation)/2003-12-15*
- Règle provisoire sur la recommandation et garantie de la cotation en bourse // *The Interim Measures for the Stock Issuance and Listing Recommendation System/2003-12-28*
- Règle sur la gestion des avoirs des clients // *Rules on the management of the assets of the customers/2003-12-18*
- Règle provisoire sur la gestion d'obligations // *Interim Measures for the Administration of Bonds of Securities Companies/2003-08-29*
- Circulaire de la SAFE concernant l'administration des devises étrangères des sociétés de gestion de fonds de placement // *Circular of the State Administration of Foreign Exchange Concerning Administration of Foreign Exchange of Fund Management Companies with Foreign Shares/2003-03-12*



List of the major legislations (VI)

- Circulaire de la SAFE concernant l'administration des devises étrangères des sociétés de gestion de fonds de placement//*Circular of the State Administration of Foreign Exchange Concerning Administration of Foreign Exchange of Fund Management Companies with Foreign Shares/2003-03-28*
- Annonce de la SAFE concernant la promulgation des dispositions provisoires sur l'administration de devises étrangères dans l'investissement domestique de valeurs par les QFIIs du 28 novembre 2002
- *Announcement of the State Administration of Foreign Exchange (SAFE) on the Promulgation of the Interim Provisions on Foreign Exchange Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors/2002-11-28*
- Mesures provisoires sur l'administration de l'investissement domestique de valeurs par les investisseurs institutionnels étrangers qualifiés (QFII) du 5 novembre 2002
- *Interim Measures on the Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors/2002-11-05*
- Mesures pour l'administration de la publication des changements de capitaux propres d'actionnaire des compagnies listées du 28 septembre 2002
- *Measures for the Administration of Disclosure of Shareholder Equity Changes of Listed Companies/2002-09-28*
- Mesures sur le changement des compagnies listées du 28 septembre 2002
- *Measures on the Takeover of Listed Companies/2002-09-28*
- Circulaire conjointe de la SAFE et de la CSRC sur l'amélioration de l'administration de devises étrangères de sociétés étrangères du 5 août 2002
- *Circular jointly issued by the State Administration of Foreign Exchange (SAFE) and China Securities Regulation Commission (CSRC) on Further Improving Foreign Exchange Administration of Overseas Listing/2002-08-05*
- Règles pour l'établissement des sociétés de valeurs mobilières avec participation des capitaux étrangers du 1 juin 2002
- *Rules for the Establishment of Foreign-shared Securities Companies/2002-06-01*
- Règles sur l'établissement des sociétés de gestion de fonds avec participation des capitaux étrangers du 1 juin 2002
- *Rules on the Establishment of Foreign-shared Fund Management Companies/2002-06-01*
- Mesures sur l'administration des nouvelles émissions des sociétés cotées en bourse du 28 mars 2002
- *Measures for the Administration of the Listed Company Issuing New Shares/2002-03-28*



Important Issues: outline

- Basics laws
- Commercial banks
- Foreign operators
- Investment Funds and Derivative Products
- Trust Company
- Securities
- Currency (Foreign Exchange Control)
- Anti-Money laundering
- Private banking



Basics laws

- **Law on the People's Bank of China**
- **Banking Supervision Law**
- **Law on Commercial Banks**
- **Trust Law**
- **Securities Law**
- **Law on Securities investment Fund**
- **Law on the foreign exchange control**



Commercial banks

- **Règlement sur la provision de banque commerciale**
- Rules on capital adequacy of commercial banks

- **Règlement sur les produits dérivés**
- Interim Measures for the Management of the Dealings of Derivative Products of Financial Institutions

- **Règle sur la statistique financier**
- Rules on the statistics financier

- **Règle sur la gestion de risques de la banque commerciale**
- Rules on the management of risks of commercial bank

- **Règle sur l'information concernant la banque commerciale**
- Measures on Information Disclosure of Commercial Banks

- **Règle administrative sur l'échange interne entre la banque commerciale et leur personnel interne et leur actionnaires**
- Methods for Administration of Related Transactions Between Commercial Banks and Insiders and Shareholders

- **Règle sur le système d'évaluation des risques des banques commerciales**
- Provisional risk assesement system for joint-stock commercial banks

- **Règle sur la fermeture des institutions financières**
- Regulations on Closure of Financial Institutions



Foreign operators (I)

- **Règlement sur l'administration des établissements financiers étrangers**
 - Regulations on the Administration of Foreign-Funded Financial Institutions
- **Règles détaillées du Règlement sur l'administration des établissements financiers étrangers du 1^{er} sep. 2004**
 - Detailed Rules for the Implementation of the Regulations on the Administration of Foreign-funded Financial Institutions
- **Mesures sur des bureaux de représentation d'établissements financiers à capital étranger en Chine**
 - Measures on the Administration of Foreign-capital Financial Institutions
- **Règle sur l'investissement des capitaux étrangers aux institutions financières**
 - Measures for the Administration of the Investment and Shareholding in Chinese-funded Financial Institutions by Overseas Financial Institutions
- **Règle sur le contrôle consolidé des banques étrangères**
 - Rules on Consolidated Supervision of Foreign Banks
- **Règle sur l'investissement étrangers aux société de bourse Mesures aux investissements en valeurs mobilières nationales effectués par des investisseurs étrangers qualifiés (QFII)**
 - Interim Measures on the Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors
- **Mesures sur la dette des banques étrangères établies en Chine/Rules on debt of the foreign banks**
- **Règle sur l'investissement étrangers aux sociétés en valeurs mobilières /Rules for Establishment of Foreign-shared Securities Companies**
- **Règle sur l'investissement étrangers aux sociétés de fonds de placement /Rules for Establishment of Foreign-shared Fund Management Companies**



Foreign operator (II)

REGLEMENTATION SUR LES INSTITUTIONS FINANCIERES ETRANGERES EN CHINE (01.02.2002)

CAPITAL MINIMUM REQUIS EN FONCTION DU STATUT JURIDIQUE, DE LA GAMME D'ACTIVITE ET DE LA CLIENTELE VISEE

Gamme d'activité: opérations en devises, opérations en monnaie locale.

Gamme de clientèle: Etrangers, entreprises chinoises (deux ans après l'accession pour le RMB), particuliers chinois (cinq ans après l'accession pour le RMB). Les opérations en devises avec la clientèle chinoise sont possibles dès l'accession (entreprises et particuliers).

Le croisement entre les deux catégories ci-dessus permet de définir 5 niveaux de capital minimum, avec des montants différents selon le statut juridique.

Statut Juridique :	Succursale	Filiale ou société mixte	Etablissement financier
Niveau I de capital : Opérations en devises avec clientèle étrangère	100 millions RMB (en devises)	300 M. RMB (en devises)	200 M. RMB (en devises)
Niveau II de capital : Opérations en devises avec tout type de clientèle (étrangère et chinoise, entreprises et particuliers)	200 M. RMB (en devises)	400M. RMB (en devises)	300 M. RMB (en devises)
Niveau III de capital : Opérations en devises avec clientèle tout type de clientèle et opérations en RMB avec clientèle étrangère	300 M. RMB (dt 200 en devises)	500 M. RMB (dt 400 en devises)	400 M. RMB (dt 300 en devises)
Niveau IV de capital : Opérations en devises avec tout type de clientèle et opérations en RMB avec clientèle étrangère et entreprises chinoises	400 M. RMB (dt 200 en devises)	600 M. RMB (dt 400 en devises)	500 M. RMB (dt 300 en devises)
Niveau V de capital : Opérations en devises et en RMB avec tout type de clientèle	600 M. RMB (dt 200 en devises)	1000 M. RMB (dt 400 en devises)	700 M. RMB (dt 300 en devises)



Foreign operator (III)

CONDITIONS APPLICABLES AUX INSTITUTIONS FINANCIERES CANDIDATES A LA PRATIQUE D'OPERATIONS COMMERCIALES

Filiale : Bureau de représentation en Chine depuis au moins deux ans, Actifs maison mère supérieur à 10 milliards USD

Succursale : Bureau de représentation en Chine depuis au moins deux ans, Actifs de la maison mère supérieurs à 20 milliards USD

Société mixte : Représentation en Chine, Actifs maison mère supérieurs à 10 milliards USD

Etablissement financier : Bureau de représentation en Chine depuis au moins deux ans, Actifs maison mère supérieur à 10 milliards USD

Opérations en RMB : Trois ans de présence en Chine, deux années bénéficiaires avant le dépôt de la demande de licence.

RATIOS PRUDENTIELS

- Ratio BRI (Cooke) : capital \geq 8% des engagements. Applicable également pour l'activité RMB : capital RMB \leq 8% engagements RMB
- Ratio concentration des risques : pas plus de 25% du capital engagé sur le même client
- Ratios de liquidité : actifs immobiliers \leq 40% du capital, actifs CT \geq 25% dettes CT
- Dépôts en devises collectés en Chine $<$ 70% des actifs en devises



Investement Funds and Derivative Products

- **Règlement sur la vente des fonds**
 - Rules on the sale of the investement funds
- **Règlement sur la société de fonds de placement**
 - Rules for Investement Fund Companies
- **Règlement sur la qualification des patriciens**
 - Rules on the qualification of the patricians
- **Règlement sur l'opération de fonds de placement**
 - Rules on the operation of investment funds
- **Règlement sur la qualification de dépositaire**
 - Rules on the qualification of agent
- **Règlement sur l'information des fonds**
 - *Rules on the information on Securities Investment Fund*
- **Règlement sur les produits dérivés**
 - Interim Measures for the Management of the Dealings of Derivative Products of Financial Institutions



- **Loi sur la trust (fiduciaire)**
- Trust Law of the People's Republic of China

- **Règle sur la société fiduciaire**
- Rules on trustee companies

- **Règle sur le holding des sociétés financières**
- Rules on financial holding companies

- **Règle sur la société financier et investissement**
- Rules on Trust and Investment Companies

- **Règle sur le dépôt des capitaux de la société fiduciaire**
- Rules on deposit of the assets of the trustee company

- **Directive sur les activités en bourse effectuées par les sociétés fiduciaires**
- Rules on the activities in the stock of the trustee company

- **Directive sur les activités des capitaux cumulés de les sociétés fiduciaires**
- Rules on the activities of the cumulated capital

- **Directive sur l'information des activités des capitaux cumulés**



Securities

- **Directive sur le dépôt de QFII**
- Directive on the deposit of QFII

- **Règle sur la société de bourse**
- Rules for governance of securities companies

- **Règle sur le gestion de capital de client par la société de bourse**
- Rules for management of assets of customer by the securities companies

- **Règle sur la société de contrat à terme**
- Rules of futures Brokerage companies

- **Règle sur le fonds de retraite**
- Rules on the pension funds

- **Règle sur la qualification des praticiens**
- Rules on the qualification



Currency (Foreign Exchange Control)

- Directive du SAFE sur l'administration de devises relative aux investissements étrangers à la société de fonds de placement
- Directive du SAFE sur l'administration de devises des QFII
- Directive du SAFE sur l'administration de devises relative aux IPOs à l'étrangers
- Directive du SAFE sur les individuels investissent aux actions en devises cotées en Chine
- Directive du SAFE sur l'utilisation de devise pour assainir les mauvais crédit au sein des sociétés financières
- l'administration d'entrée et conversion des capitaux en devise
- Directive de la PBC sur la provision en devise des institutions financières
- Règlement sur la dette en devise des banques étrangers
- Circular of SAFE on Relevant Issues of the Standardized Administration of the Foreign Exchange Settlement Business of Individual Residents
- Circular of SAFE on Issues concerning Improving Annual Inspection of Foreign Exchange of Foreign-funded Enterprises
- Circular of SAFE on Issues Concerning Deepening the Reform of Foreign Exchange Administration on Foreign Investment
- Notice of SAFE on Relevant Issues Concerning the Regulation of Foreign Exchange Control over Non-resident Individuals
- Circular on the Relevant Issues Concerning the Refund of the Security Deposit for Remitted-Back Overseas Investment Profits
- Interim Measures for Joint Annual Inspection of Overseas Investment



Anti-Money laundering

China and Financial Action Task Force on Money Laundering (FATF)

Relevant legal acts:

- **Anti-blanchement d'argent pour les institutions financières**
- Rules for Anti-money Laundering by Financial Institutions

- **Règle sur le système du rapport concernant les paiements en RBP**
- Administrative Rules for the Reporting of Large-Value and Suspicious RMB Payment Transactions

- **Règle sur le anti-blanchement d'argent en devise**
- Administrative Rules for the Reporting by of Large-Value and Suspicious Foreign Exchange Transactions



Private banking

Legal structure

Foreign Exchange Control

Clients (individual, institutional)