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New Rules on Material Asset Reorganization by Listed Companies

By Wayne Chen and James Weng

The Measures for the Administration of Material Asset Reorganizations by Listed Companies (the "Measures"), promulgated by the China Securities Regulatory Commission (the "CSRC") on 16 April 2008, has taken into effect as of 18 May 2008. In addition, the CSRC also issued the *Guidelines on Filing for Material Asset Reorganizations by Listed Companies* (the "Guidelines"), while Shanghai Stock Exchange issued the Memorandum No.1 and No.2 for Information Disclosure of *Material Asset Reorganization by Listed Companies*, the following major changes adopted in the above new rules are noteworthy:

The Scope of Application

According to the Measures, material asset reorganizations include not only the qualified assets transactions conducted by a listed company but also those by companies under the control of a listed company. In particular, purchases of assets through issuing shares by a listed company, as defined in the Measure, shall also comply with the Measures.

The Approval Procedures

Comparing with the old rules, the Guidelines provide a much more detailed procedure, including the application, acceptance, examination and verification, and feedback, in order to establish a transparent and impartial approval mechanism.

Information Disclosure

The Measures contain a new chapter regarding management of information related to a material asset reorganization. Memorandum No.1 further requires that in case of a material asset reorganization a listed company should apply for suspension of its stocks' trading before releasing relevant board meeting materials to its directors and that such suspension of trading should last no more than 30 days. Such provisions are aimed to prevent insider tradings and market manipulations.

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The Responsibility of Independent Financial Advisors

The Measures emphasize the responsibility of independent financial advisors in material asset reorganizations. Memorandum No.2 further specifies the duty of due diligence of an independent financial advisor, which is similar to that of a sponsor for issuance of shares.

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