

# China Law Update

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## **China Issues the New Audit Regulation**

China's State Council has recently released the amended Regulations for the Implementation of the Audit Law of the People's Republic of China (hereafter, the "New Audit Regulation") applicable starting May 1, 2010. Compared with the amended Audit Law of the People's Republic of China (hereafter, the "New Audit Law"), the New Audit Regulation sets forth the power of auditing authorities more specifically.

### **Withdraws The Limitations on Publishing Audit Results to The Public**

According to the existing audit regulation, auditing authorities may only publish audit results to the public on the following audit matters: (i) those required to be published to the public by the people's government at the corresponding level or the auditing authorities at the next highest level; (ii) those which attract the public concern of society; and (iii) those results from other audit matters where publication has been prescribed by laws and regulations. The New Audit Regulation withdrew these aforesaid limitations. Meanwhile, considering the specialties of listed companies, the New Audit Regulation provides that listed companies shall be notified 5 days before the audit result goes public.

### **Define The Power of Auditing Authorities**

With regard to audit procedures, the New Audit Regulation refines the limits to authority of the auditing authorities in coordination with the New Audit Law. For instance, the New Audit Law states that in the case of any special circumstances, the auditing authorities may, upon approval of the people's government at the same level, directly carry out the audit with the audit notice. Accordingly, the New Audit Regulation defines "special circumstances", which include: (i) in the case of an urgent situation; (ii) where the entity under audit is suspected of committing any serious violation of the laws and regulations; and (iii) where there are other special circumstances.

### **Special Audits and Liabilities of Social Auditing Institutions**

The New Audit Regulation also sets forth the specific scope of special audit investigations, namely, "auditing authorities may perform special audits with competent local authorities, departments and units for particular matters in connection with state financial revenues and expenditures including budget management or state-owned asset management and use in

accordance with Audit Law, audit procedures and manners set forth herein and other related state rules and regulations.”. On the other hand, in addition to the article stated in New Audit Law --- “auditing authorities shall be entitled to check the relevant audit reports as issued by social auditing institutions”--- the New Audit Regulation further clarifies that “[i]f social auditing institutions are found to have violated laws, regulations or professional code, etc., when auditing authorities are examining such audit reports, they should transfer the case to competent authorities for investigation of legal liabilities.”

In sum, the New Audit Regulation is another significant law in Chinese audit law system after the promulgation of the New Audit Law. Its implementation will have a great impact on auditing authorities, the entities under audit, and other relevant parties.

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