

## REGULATORY OVERVIEW

Set below is the summary of the PRC laws and regulations in relation to the business and operation of our Company, including the establishment of real estate enterprises, acquisition of land use rights, property development, sales/pre-sales of commodity buildings, and environment protection, etc.

### ESTABLISHMENT OF REAL ESTATE DEVELOPMENT ENTERPRISES

#### General provisions

In accordance with the Law of the People's Republic of China on Urban Real Estate Administration (《中華人民共和國城市房地產管理法》) (the “**Urban Real Estate Law**”) (promulgated on July 5, 1994, revised on August 30, 2007 and amended on August 27, 2009), real estate development enterprises are defined as the enterprises that engage in real estate development and operation for the purpose of seeking profits. In accordance with the Regulations on Administration of Development and Operation of Urban Real Estate (《城市房地產開發經營管理條例》) (the “**Development Regulations**”) (promulgated and implemented on July 20, 1998 by the State Council, and amended on January 8, 2011), the establishment of a real estate development enterprise shall, in addition to the conditions for the enterprise establishment prescribed by relevant laws and administrative regulations, fulfill the following conditions: (i) The registered capital shall be RMB1 million or above; (ii) The enterprise shall have not less than 4 full-time technical personnel with certificates of qualifications of real estate specialty and construction engineering specialty and not less than 2 full-time accountants with certificates of qualifications.

#### Foreign investment in real estate development

Under the Catalogue of Industries for Guiding Foreign Investment (《外商投資產業指導目錄》) (the “**Catalogue**”) promulgated by MOFCOM and NDRC on March 10, 2015 and becoming effective on April 10, 2015, the construction of golf courses and villas falls within the category of industries in which foreign investment is prohibited; and any other real estate development falls within the category of industries in which foreign investment is permitted. Pursuant to the amended Catalogue which was promulgated by MOFCOM and NDRC on June 28, 2017 and becoming effective on July 28, 2017, real estate development does not fall within the prohibited list for access of foreign investments and the restrictive measures for construction of golf courses and villas are applicable equally to domestic and foreign investments.

On July 11, 2006, the Ministry of Construction, the MOFCOM, the NDRC, the PBOC, the SAIC and the SAFE jointly issued the Opinions on Regulating the Entry and Administration of Foreign Investment into the Real Estate Market (《關於規範房地產市場外資准入和管理的意見》) which provides that: (i) foreign organizations and individuals who have established foreign-invested enterprises are allowed to invest in and purchase non-owner-occupied real estate in China; while branches of foreign organizations established in China are eligible to purchase commercial houses which match their actual needs for self-use under their names; (ii) the registered capital of foreign-invested real estate enterprises with the total investment amount exceeding or equal to US\$10 million shall be no less than 50% of their total investment; (iii) foreign-invested real estate enterprises can apply for renewing the official foreign-invested enterprise approval certificate and business license with an operation term of one year only after they have paid back all the land premium and obtained the state-owned land use rights certificate; (iv) with respect to equity transfer and project transfer of a foreign-invested real estate enterprise and the merger and acquisition of a domestic real estate enterprise by an overseas investor, the department in charge of commerce and other departments shall conduct examination and approval in strict compliance

## REGULATORY OVERVIEW

with the provisions of the relevant laws, regulations, and policies. The investor concerned shall submit a letter of guarantee on its promise to perform the State Land Use Right Grant Contract (《國有土地使用權出讓合同》), the Planning Permit on Land for Construction Use (《建設用地規劃許可證》), the Planning Permit on Construction Projects (《建設工程規劃許可證》) etc., and shall submit the Certificate for Use of State Land (《國有土地使用證》), the documents certifying that the change of registration has been filed with the relevant department in charge of construction (real estate) for record, and the certification materials issued by the relevant taxation authority on the tax payment in relevance; foreign investors shall pay off all considerations for the transfer in a lump sum with their own funds if they acquire Chinese real estate enterprises or any equity interest held by Chinese parties in Sino-foreign joint venture engaged in real estate industry.

On August 19, 2015, MOHURD, MOFCOM, NDRC, PBOC, SAIC and SAFE jointly promulgated the Circular on Amending the Policies Concerning Access by and Administration of Foreign Investment in the Real Estate Market (《關於調整房地產市場外資准入和管理有關政策的通知》) (the “**Circular**”), which amended certain policies on foreign-invested real estate enterprises and property purchase by overseas organizations and individuals as stated in the Opinions on Regulating the Entry and Administration of Foreign Capital in the Real Estate Market (《關於規範房地產市場外資准入和管理的意見》) as follows, the requirements for the registered capital of foreign-invested real estate enterprises shall follow the provisions in the Provisional Regulations of the State Administration for Industry and Commerce on the Proportion of Registered Capital to Total Amount of Investment of a Sino-Foreign Equity Joint Ventures (《國家工商行政管理局關於中外合資經營企業註冊資本與投資總額比例的暫行規定》) promulgated and effective on February 17, 1987; the requirement on full payment of registered capital of the foreign-invested real estate enterprises before applying for domestic or foreign loans or foreign exchange loan settlement is cancelled.

On June 18, 2008, the MOFCOM issued the Notice Regarding the Registration of Foreign-Invested Real Estate Industry (《商務部關於做好外商投資房地產業備案工作的通知》) (the “**Circular 23**”), which provides that the Ministry of Commerce authorizes the provincial departments in charge of commerce to verify record-filing materials for foreign investment in the real estate sector.

On November 6, 2015, the MOFCOM and SAFE jointly issued the Circular on Further Improving the Record-filing of Foreign Investments in Real Estate (《關於進一步改進外商投資房地產業備案工作的通知》), which simplifies the administrative procedures for, and improves the management of, foreign-invested real estate companies. In accordance with such circular, the local competent commerce departments in charge shall approve the establishment and any corporate changes of foreign-invested real estate enterprises in accordance with the laws and statutes regarding foreign investment, and furnish information on property development projects that they developed in the foreign investment information system of the MOFCOM. In addition, the public registration on the website of MOFCOM is cancelled. Furthermore, the MOFCOM will randomly select foreign-invested real estate enterprises for examinations on a quarterly basis.

### QUALIFICATIONS OF PROPERTY DEVELOPERS

In accordance with the Development Regulations, a property development enterprise shall, within 30 days starting from the date of obtainment of the business license, file the relevant documents with the competent department of property development of the place where the registration authority is located. The competent department of property development shall, on the basis of the assets, specialized

## REGULATORY OVERVIEW

technical personnel and development and management achievements, verify the level of qualification of the real estate development enterprise in question. The real estate development enterprise shall, in accordance with the verified level of qualification, undertake corresponding property development projects. Relevant specific rules may be formulated by the competent administrative department of construction of the State Council.

Pursuant to the Regulations on Administration of Qualification of Real Estate Development Enterprises (《房地產開發企業資質管理規定》) (the “**Circular 77**”) which was promulgated on March 29, 2000 and amended on May 4, 2015, an enterprises engaged in real estate development shall be approved in accordance with the provisions of application for the enterprise qualification level. Enterprises that fail to obtain certificates of real estate investments shall not engage in the real estate development business.

Enterprises engaged in real estate development are classified into four qualification levels: Level I, Level II, Level III and Level IV in accordance with their financial conditions, experience of real estate development business, construction quality, the professional personnel they employ, and quality control system etc.

Pursuant to the Circular 77, enterprises of various qualification levels shall engage in real estate development and management within the prescribed scope of business and shall not undertake tasks bypassing their own levels.

### LAND USE RIGHTS FOR REAL ESTATE DEVELOPMENT

All land in the PRC is either state-owned or collectively-owned. Land in the urban areas of cities is owned by the State. Land in rural and suburban areas is owned by peasant collectives, except for those portions of land which belong to the State as provided for by law; house sites and private plots of cropland and hilly land are owned by peasant collectives. The State may, in the interest of the public, lawfully expropriate or requisition land and give compensation accordingly.

Although all land in the PRC is either state-owned or collectively-owned, individuals and entities may obtain land use rights and hold such land use rights for development purposes. Individuals and entities may acquire land use rights in different ways, the two most important being land grants from local land authorities and land transfers from land users who have already obtained land use rights.

#### Land grants

##### *National Legislation*

In April 1988, the National People’s Congress (the “**NPC**”) passed an amendment to the Constitution of the PRC (《中華人民共和國憲法》). The amendment allowed the transfer of land use rights for value to prepare for reforms of the legal regime governing the use of land and transfer of land use rights. In December 1988, the Standing Committee of the NPC also amended the Land Administration Law of the People’s Republic of China (《中華人民共和國土地管理法》) to permit the transfer of land use rights for value.

## REGULATORY OVERVIEW

In May 1990, the State Council enacted the Provisional Regulations of the People's Republic of China 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》). These regulations, generally referred to as the Urban Land Regulations, formalized the process of grant and transfer of land use rights for value.

Upon paying in full the land premium pursuant to the terms of the contract, a land-grantee may apply to the relevant land bureau for the land use rights certificate. In accordance with the Property Rights Law of the People's Republic of China (《中華人民共和國物權法》), which was issued on March 16, 2007 and effective on October 1, 2007, the term of land use rights for land of residential use will automatically be renewed upon expiry. The renewal of the term of land use rights for other uses shall be dealt with according to the then-current relevant laws. In addition, if the State resumes the possession of land for public interest during the term of the relevant land use rights, compensation shall be paid to the owners of residential properties and other real estate on the land and the relevant land premium shall be refunded to them by the State.

### Ways of land grant

Pursuant to PRC laws and the stipulations of the State Council, except for land use rights which may be obtained through allocation, land use rights for property development are obtained through the grant from government for value. There are two ways by which land use rights may be granted, namely by private agreement or competitive processes (i.e., tender, auction or listing at a land exchange administered by the local government).

As of July 1, 2002, the grant of land use rights by way of competitive processes is governed by the Regulations on the Grant of Use Right of State-Owned Land by Invitation of Tender, Auction or Listing-for-Bidding (《招標拍賣掛牌出讓國有土地使用權規定》), issued by the Ministry of Land and Resources of the PRC on May 9, 2002 and revised as of September 28, 2007 with the name of Regulations on Granting State-Owned Construction Land Use Right through Tenders, Auction and Listing-for-Bidding (《招標拍賣掛牌出讓國有建設用地使用權規定》) (the “**Land Grant Regulations**”) which became effective on November 1, 2007. The Land Grant Regulations specifically provide that land to be used for industrial, commercial, tourism, entertainment or commodity residential purposes, or where there are two or more intended users for the certain piece of land, shall be granted by way of competitive processes. A number of measures are provided by the Land Grant Regulations to ensure such grant of land use rights for commercial purposes is conducted openly and fairly.

On May 11, 2011, the Ministry of Land and Resources promulgated the Opinions on Upholding and Improving the System for the Transfer of Land by Tender, Auction and Listing-for-Bidding (《關於堅持和完善土地招標拍賣掛牌出讓制度的意見》), which provides stipulations to improve policies on the supply of land through public bidding, auction and listing, and strengthen the active role of land transfer policy in the control of the real estate market.

In June 2003, the Ministry of Land and Resources promulgated the Regulations on Grant of State-Owned Land Use Rights by Agreement (《協議出讓國有土地使用權規定》) (the “**2003 Regulations**”), to regulate granting of land use rights by agreement when there is only one party interested in the land, the designated uses of which are other than for commercial purposes as described above.

## REGULATORY OVERVIEW

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 (《關於加強城市建設用地審查報批工作有關問題的通知》) enacted by the Ministry of Land and Resources on September 4, 2003, from the date of promulgation, land use for luxurious commodity houses shall be stringently controlled, and applications for land use rights to build villas shall be stopped. According to the Circular on the Distribution of the Catalog for Restricted Land Use Projects (2012 Edition) and the Catalog for Prohibited Land Use Projects (2012 Edition) (《關於印發〈限制用地項目目錄(2012年本)〉和〈禁止用地項目目錄(2012年本)〉的通知》) promulgated by the Ministry of Land and Resources and NDRC in May 2012, the granted area of the residential housing projects should not exceed (i) seven hectares for small cities and towns, (ii) 14 hectares for medium-sized cities, or (iii) and 20 hectares for large cities and plot ratio which is not lower than 1.0.

### **Land transfer from current land users**

In addition to a direct grant from the government, an investor may also acquire land use rights from land users that have already obtained the land use rights by entering into an assignment contract with such land user.

For property development projects, the Urban Real Estate Law requires that at least 25% of total amount of investment or development must have been made or completed before assignment can take place. All rights and obligations of the current holder under a land grant contract will be transferred contemporaneously to the assignee of the land use rights. Relevant local governments may acquire the land use rights from a land user in the event of a readjustment of the use of land for renovating the old urban area according to city planning. The land user will then be compensated for the loss of land use rights.

## **DEVELOPMENT OF REAL ESTATE PROJECTS**

### **Commencement of real estate development projects**

According to the Urban Real Estate Law, those who have obtained the right of land use by way of grant for real estate development must develop the land in accordance with the land use and the construction period as prescribed in the grant contract. When the development has not started one year later than the date for starting the development as prescribed by the grant contract, an idle land fee no more than 20% of the land grant premium may be collected and when the development has not started two years later, the right to use the land may be confiscated without any compensation, except that the delays are caused by force majeure, the activities of government, or the necessary preparatory work for starting the development.

Pursuant to the Measures on Disposal of Idle Land (《閒置土地處置辦法》), which was promulgated on April 28, 1999 by the Ministry of Land and Resources and revised on June 1, 2012, land can be defined as idle land under any of the following circumstances:

- development and construction of the state-owned land is not commenced after one year of the prescribed time limit in the land use right grant contract or allocation decision; or

## REGULATORY OVERVIEW

- the development and construction of the state-owned land has been commenced but the area of the development and construction that has been commenced is less than one-third of the total area to be developed and constructed or the invested amount is less than 25% of the total amount of investment, and the development and construction have been continuously suspended for one year or more without an approval.

Where the delay of commencement of development is caused by the government's behavior or due to the force majeure of natural disasters, the land administrative authorities shall discuss with the holder of state-owned construction land use rights and choose the methods for disposal in accordance with the Measures on Disposal of Idle Land.

### **Planning of property development projects**

Under the Regulations on Planning Administration regarding Granting and Transfer of State-Owned Land Use Right in Urban Area (《城市國有土地使用權出讓轉讓規劃管理辦法》) promulgated by the Ministry of Construction in December 1992 and amended in January 2011, a property developer shall apply for a construction land planning permit (《建設用地規劃許可證》) from the municipal planning authority. After obtaining the construction land planning permit, the property developer shall conduct all necessary planning and design works in accordance with relevant planning and design requirements. A planning and design proposal in respect of the property development project shall be submitted to the municipal planning authority in compliance with the requirements and procedures under the Urban and Rural Planning Law of the People's Republic of China (《中華人民共和國城鄉規劃法》), which was issued on October 28, 2007 and amended on April 24, 2015, and a construction work planning permit (《建設工程規劃許可證》) from the municipal planning authority should be obtained.

### **Construction work commencement permit**

The property developer shall apply for a construction work commencement permit (建築工程施工許可證) from the relevant construction authority in accordance with the Regulations on Administration Regarding Permission for Commencement of Construction Works (《建築工程施工許可管理辦法》) promulgated by the Ministry of Construction on October 15, 1999 and amended on July 4, 2001 and further amended on June 25, 2014 by MOHURD.

### **Acceptance and examination upon completion of property development projects**

Pursuant to the Regulations on Administration of Development and Operation of Urban Real Estate (《城市房地產開發經營管理條例》) promulgated by the State Council on July 20, 1998 and amended on January 8, 2011, the Administrative Measures for Reporting Details Regarding Acceptance Examination upon Completion of Buildings and Municipal Infrastructure (《房屋建築和市政基礎設施工程竣工驗收備案管理辦法》) promulgated by the Ministry of Construction on April 4, 2000 and amended on October 19, 2009 and the Provisions on Acceptance Examination upon Completion of Buildings and Municipal Infrastructure (《房屋建築和市政基礎設施工程竣工驗收規定》) promulgated and implemented by the MOHURD on December 2, 2013, upon the completion of property development project, the real estate development enterprise shall submit an application to the competent department of real estate development of local people's government at or above county level, where the project is located, for examination upon completion of building and for filing purposes; and to obtain the Filing Form for Acceptance and Examination upon Completion of Construction Project. A property development project shall not be delivered before passing the acceptance examination.

### INSURANCE OF PROPERTY DEVELOPMENT PROJECTS

There are no nationwide mandatory requirements in the PRC laws, regulations and government rules requiring a property developer to maintain insurance for its property development projects. According to the Construction Law of the People's Republic of China (《中華人民共和國建築法》) promulgated by the Standing Committee of the NPC on November 1, 1997 and effective on March 1, 1998 and amended on April 22, 2011, construction enterprises shall maintain accident and casualty insurance for workers engaged in dangerous operations and pay the insurance premium. In the Opinions of the Ministry of Construction on Strengthening the Insurance of Accidental Injury in the Construction Work (《建設部關於加強建築意外傷害保險工作的指導意見》) promulgated by the Ministry of Construction on May 23, 2003, the Ministry of Construction further emphasized the importance of the insurance of accidental injury in the construction work and put forward the detailed opinions of guidance.

### REAL ESTATE TRANSACTIONS

#### Sale of commodity properties

Under the Measures for Administration of Sale of Commodity Properties (《商品房銷售管理辦法》) (the “**Sale Measures**”) promulgated by the Ministry of Construction on April 4, 2001 and became effective on June 1, 2001, the sale of commodity properties can include both sales prior to and after the completion of the properties.

#### Pre-sale of commodity properties

Any pre-sales of commodity properties must be conducted in accordance with the Measures for Administration of Pre-sales of Commodity Properties (《城市商品房預售管理辦法》) promulgated by the Ministry of Construction on November 15, 1994, as amended on August 15, 2001 and July 20, 2004 (the “**Pre-sales Measures**”).

The Pre-sales Measures provide that any pre-sales of commodity properties is subject to specified procedures. If a property developer intends to sell commodity properties in advance, it shall apply to the real estate administrative authority to obtain a pre-sales permit.

Under the Pre-sales Measures and the Urban Real Estate Law, the pre-sales proceeds of commodity buildings may only be used to fund the property development costs of the relevant projects.

#### Sales after completion of commodity properties

Under the Sale Measures, commodity properties may be put to post-completion sale only when the following preconditions have been satisfied: (1) the real estate development enterprise offering to sell the post-completion buildings shall have an enterprise legal person business license and a qualification certificate of a property developer; (2) the enterprise has obtained a land use rights certificate or other approval documents of land use; (3) the enterprise has obtained the construction project planning permit and the construction work commencement permits; (4) the commodity properties have been completed and been inspected and accepted as qualified; (5) the relocation of the original residents has been well settled; (6) the supplementary essential facilities for supplying water, electricity, heating, gas and

## REGULATORY OVERVIEW

communication have been made ready for use, and other supplementary essential facilities and public facilities have been made ready for use, or the schedule of construction and delivery date have been specified; and (7) the property management plan has been completed.

The Provisions on Sales of Commodity Properties at Clearly Marked Price (《商品房銷售明碼標價規定》) was promulgated by the NDRC on March 16, 2011 and became effective on May 1, 2011. According to the provisions, any property developer or real estate agency is required to mark the selling price explicitly and clearly for both newly-built and second-hand commodity properties.

On February 26, 2013, the General Office of the State Council issued the Notice on Continuing the Regulation of Real Estate Market (《關於繼續做好房地產市場調控工作的通知》) which is intended to cool down the property market and emphasize the government's determination to strictly enforce regulatory and macro-economic measures, which include, among other things, (i) home purchase restrictions, (ii) increased down payment requirement for second residential properties purchase, (iii) suspending mortgage financing for third or more residential-properties purchase and (iv) 20% individual income tax rate applied to the gain from the sale of properties.

### **Mortgage of properties**

The mortgage of real estate in the PRC is mainly governed by the Property Rights Law of the People's Republic of China (《中華人民共和國物權法》), the Guarantee Law of the PRC (《中華人民共和國擔保法》), and the Measures for Administration of Mortgages of Urban Real Estate (《城市房地產抵押管理辦法》). According to these laws and regulations, land use rights, the buildings and other attachments on the ground may be mortgaged. When a mortgage is created on the ownership of a building legally obtained, a mortgage shall be simultaneously created on the land use right of the land on which the building is situated. The mortgagor and the mortgagee shall sign a mortgage contract in writing. A system has been adopted to register the mortgages of real estate. After a real estate mortgage contract has been signed, the parties to the mortgage shall register the mortgage with the real estate administration authority at the location where the real estate is situated. If a mortgage is created on the real estate in respect of which a property ownership certificate has been obtained legally, the registration authority shall make an entry under the "third party rights" item on the original property ownership certificate and issue a Certificate of Third Party Rights to a Building (《房屋他項權證》) to the mortgagee.

### **Lease of properties**

Both the Urban Land Regulations and the Urban Real Estate Law permit the leasing of granted land use rights and of the buildings or houses erected on the land. On December 1, 2010, MOHURD promulgated the Administrative Measures for Commodity House Leasing (《商品房屋租賃管理辦法》) (the "**New Lease Measures**"), which become effective on February 1, 2011, and replaces the Administrative Measures for Urban House Leasing (《城市房屋租賃管理辦法》). Pursuant to the New Lease Measures, parties thereto shall register and file with the local property administration authority within thirty days after the execution of lease contract. Non-compliance with such registration and filing requirements shall be subject to fines up to RMB10,000. According to the Urban Real Estate Law, rental income derived from allocated land or any building situated on allocated land, shall be turned over to the State.



## REGULATORY OVERVIEW

Under the Contract Law of the People's Republic of China (《中華人民共和國合同法》) promulgated by the NPC on March 15, 1999, the term of a leasing contract shall not exceed 20 years.

### REAL ESTATE REGISTRATION

The Interim Regulations on Real Estate Registration (《不動產登記暫行條例》), promulgated by the State Council on November 24, 2014 and effective on March 1, 2015, and the Implementing Rules of the Interim Regulations on Real Estate Registration (《不動產登記暫行條例實施細則》) promulgated by the Ministry of Land and Resources on January 1, 2016, provide that, among other things, the State implements a uniform real estate registration system and the registration of real estate shall be strictly managed and shall be carried out in a stable and continuous manner that provides convenience for the people.

### REAL ESTATE FINANCING

#### Loans to real estate development enterprises

On August 30, 2004, the CBRC issued a Guideline for Commercial Banks on Risks of Real Estate Loans (《商業銀行房地產貸款風險管理指引》). According to this guideline, no loans shall be granted to projects which have not obtained requisite land use rights certificates, construction land planning permits, construction works planning permits and construction work commencement permits. The guideline also stipulated that bank loans shall only be extended to property developer who applied for loans and contributed not less than 35% of the total investment of the property development project by its own capital. In addition, the guideline provides that commercial banks shall set up strict approval systems for granting loans.

On July 29, 2008, the PBOC and the CBRC issued the Notice on Financially Promoting the Land Saving and Efficient Use (《關於金融促進節約集約用地的通知》), which, among other things,

- restricts from granting loans to property developers for the purpose of paying land grant premiums;
- provides that, for secured loans for land reserve, legal land use rights certificates shall be obtained and the loan mortgage shall not exceed 70% of the appraised value of the collateral, and the term of loan shall be no more than two years in principle;
- provides that for the property developer who (i) delays the commencement of development date specified in the land grant agreement for more than one year, (ii) has not completed one-third of the intended project, or (iii) has not invested one-fourth of the intended total project investment, loans shall be granted or extended prudently;
- prohibits granting loans to the property developer whose land has been idle for more than two years; and
- prohibits taking idle land as a security for loans.

## REGULATORY OVERVIEW

On September 29, 2010, the PBOC and the CBRC jointly issued the Notice on Relevant Issues Regarding the Improvement of Differential Mortgage Loan Policies (《關於完善差別化住房信貸政策有關問題的通知》), which prohibits the grant of new project bank loans or extension of credit facilities for all property companies with non-compliance records regarding, among other things, holding idle land, changing the land use to that outside the scope of the designated purpose, postponing construction commencement or completion, or hoarding properties.

### **Trust financing**

On March 1, 2007, The Measures for Administration of Trust Companies (《信託公司管理辦法》), which was promulgated by the CBRC on January 23, 2007, came into effect. For the purposes of these measures, “**Trust Financing Company**” shall mean any financial institution established pursuant to the PRC Company Law and these measures, and that primarily engages in trust activities.

From October 2008 to November 2010, the CBRC issued several regulatory notices in relation to real estate activities conducted by Trust Financing Companies, including a Circular on Relevant Matters Regarding Strengthening the Supervision of the Real Estate and Securities Businesses of Trust Companies (《關於加強信託公司房地產、證券業務監管有關問題的通知》), promulgated by the CBRC on October 28, 2008 and effective beginning the same date, pursuant to which Trust Financing Companies are prohibited from providing trust loans, in form or in nature, to property development projects that have not obtained land use rights certificates, construction land planning permits, construction work planning permits and construction work commencement permits and the property development projects of which less than 35% of the total investment is funded by the property developers’ own capital (the 35% requirement was changed to 20% for affordable housing and ordinary commodity apartments, and to 30% for other property development projects as provided by the Notice on Adjusting the 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》) issued by the State Council on May 25, 2009).

### **Housing loans to individual buyers**

On April 17, 2010, the State Council issued the Notice on Strictly Restraining the Excessive Growth of the Property Prices in Some Cities (《關於堅決遏制部分城市房價過快上漲的通知》), pursuant to which, a stricter differential housing credit policy shall be enforced. It provides that, among other things, (i) for a family member who is a first-time home buyer (including the debtors, their spouses and their juvenile children, similarly hereinafter) of the apartment with a GFA more than 90 sq.m., a minimum 30% down payment shall be paid; (ii) for a family who applies loans for its second house, the down payment requirement is raised to at least 50% from 40% and also provides that the applicable mortgage rate must be at least 1.1 times of that of the corresponding benchmark interest rate over the same corresponding period published by the PBOC; and (iii) for those who purchase three or more houses, even higher requirements on both down payments and interest rates shall be levied. In addition, the banks may suspend housing loans to third or more home buyers in places where house prices are excessively high, rise excessively rapidly and housing supply is insufficient.

The Notice on Certain Matters Concerning Individual Housing Loan Policies (《關於個人住房貸款政策有關問題的通知》) promulgated by PBOC, MOHURD and CBRC on March 30, 2015 and effective on the same date provides that where a household, which has already owned a house and has not paid off the relevant housing loan, applies for another commercial personal housing loan to purchase another ordinary housing property for the purpose of improving living conditions, the minimum down payment

## REGULATORY OVERVIEW

is adjusted to 40% of the property price. The actual down payment ratio and loan interest rate should be determined by the banking financial institution concerned based on the borrower's credit record and financial condition. For working households that have contributed to the housing provident fund, when they use the housing provident fund loans to purchase an ordinary residential house as their first home, the minimum down payment shall be 20% of the house price; for working households that have contributed to the housing provident fund and that have already owned a home and have paid off the corresponding home loans, when they apply for the housing provident fund loans for the purchase of an ordinary residential house as their second property to improve their housing conditions, the minimum down payment shall be 30% of the property price.

The Notice of the People's Bank of China and the China Banking Regulatory Commission on Further Improving Differentiated Housing Credit Lending Policies (《關於進一步完善差別化住房信貸政策有關問題的通知》) issued by PBOC and CBRC on September 24, 2015, provides that in cities that control measures on property purchase are not imposed, where a household applies for the commercial personal housing loan to purchase its first ordinary housing property, the minimum down payment shall be adjusted to 25% of the house price. The minimum down payment ratio for the commercial personal housing loan of each city will be independently determined by each provincial pricing self-disciplinary mechanism of market interest based on the actual situation of each city under the guidance of PBOC and the CBRC local office.

The Notice on Adjustments in Respect of Certain Matters Concerning Individual Housing Loan Policies (《關於調整個人住房貸款政策有關問題的通知》), promulgated by PBOC and CBRC on February 1, 2016, provides that in the cities that control measures on property purchase are not imposed, where a household applies for the commercial personal housing loan to purchase its first ordinary housing property, the minimum down payment, in principle, shall be 25% of the property price and each city could adjust such ratio downwards by 5%; and where a household which has already owned a house and has not paid off the relevant housing loan, applies for another commercial personal housing loan to purchase another ordinary housing property for the purpose of improving living conditions, the minimum down payment is adjusted to 30% of the property price. In the cities that control measures on property purchase are imposed, the individual housing loan policies shall be adopted in accordance with the original regulations, and the actual down payment ratio and loan interest rate shall be determined reasonably by the banking financial institutions based on the requirements of minimum down payment ratio determined by provincial pricing self-disciplinary mechanism of market interest, the loan-issuance policies and the risk control for commercial personal housing loan adopted by such banking financial institutions and other factors such as the borrower's credit record and capacity of repayment.

The Notice of the Ministry of Finance and the State Administration of Taxation on Overall Implementation of the Pilot Program of Replacing Business Tax with Value-added Tax (《財政部、國家稅務總局關於全面推開營業稅改徵增值稅試點的通知》), promulgated by Ministry of Finance and State Administration of Taxation on March 23, 2016 and effective on May 1, 2016, provides that upon approval by the State Council, the pilot program of replacing business tax with value-added tax shall be implemented nationwide effective from May 1, 2016 and all business tax payers in construction industry, real estate industry, finance industry and consumer service industry, etc. shall be included in the scope of the pilot program and pay value-added tax instead of business tax. According to the appendix of this notice, entities and individuals engaging in the sale of services, intangible assets or real property within the territory of the People's Republic of China shall be the taxpayers of value-added tax ("VAT") and

## REGULATORY OVERVIEW

shall, instead of business tax, pay VAT in accordance with Measures for Implementation of the Pilot Program of Replacing Business Tax with Value-added Tax (《營業稅改徵增值稅試點實施辦法》). The sale of real property and the secondhand housing transaction shall adopt this notice.

### ENVIRONMENTAL PROTECTION

The laws and regulations governing the environmental requirements for real estate development in the PRC include the Environmental Protection Law of the People's Republic of China (《中華人民共和國環境保護法》), the Prevention and Control of Noise Pollution Law of the People's Republic of China (《中華人民共和國環境噪聲污染防治法》), the Environmental Impact Assessment Law of the People's Republic of China (《中華人民共和國環境影響評價法》), the Administrative Regulations on Environmental Protection for Development Projects (《建設項目環境保護管理條例》) and the Administrative Regulations on Environmental Protection for Acceptance Examination Upon Completion of Buildings (《建設項目竣工環境保護驗收管理辦法》). 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 shall 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.

### CIVIL AIR DEFENSE PROPERTY

Pursuant to the PRC Law on National Defense (《中華人民共和國國防法》) promulgated by the NPC on March 14, 1997, as amended on August 27, 2009, national defense assets are owned by the state. Pursuant to the PRC Law on Civil Air Defense (《中華人民共和國人民防空法》) (the “**Civil Air Defense Law**”), promulgated by the NPC on October 29, 1996, as amended on August 27, 2009, civil air defense is an integral part of national defense. The Civil Air Defense Law encourages the public to invest in the construction of civil air defense property and investors in civil air defense are permitted to use, manage the civil air defense property in time of peace and profit therefrom. However, such use must not impair their functions as air defense property. The design, construction and quality of the civil air defense properties must conform to the protection and quality standards established by the State. On November 1, 2001, the National Civil Air Defense Office issued the Administrative Measures for Developing and Using the Civil Air Defense Property at Ordinary Times (《人民防空工程平時開發利用管理辦法》) and the Administrative Measures for Maintaining the Civil Air Defense Property (《人民防空工程維護管理辦法》), which specify how to use, manage and maintain the civil air defense property.

### MEASURES ON STABILIZING HOUSING PRICES

The Notice on Adjusting the Business Tax Policies Concerning Transfer of Individual Housing (《關於調整個人住房轉讓營業稅政策的通知》) promulgated by Ministry of Finance and SAT on March 30, 2015 and effective on March 31, 2015 provides that where an individual sells a property purchased within two years, business tax shall be levied on the full amount of the sales income; where an individual sells a non-ordinary property that was purchased more than two years ago, business tax shall be levied on the difference between the sales income and the original purchase price of the house; the sale of an ordinary residential property purchased by an individual more than two years ago is not subject to such business tax.

## REGULATORY OVERVIEW

The Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Housing and Urban-Rural Development on Adjusting the Preferential Policies on Deed Tax and Business Tax during Real Estate Transactions (《財政部、國家稅務總局、住房城鄉建設部關於調整房地產交易環節契稅、營業稅優惠政策的通知》) promulgated on February 17, 2016 and effective on February 22, 2016 provides that: (1) the purchase of a property by an individual as the only house for his/her family (covering the purchaser and the spouse and minor children thereof) is subject to deed tax at a reduced rate of 1% if the area of the house is 90 square meters or less, or 1.5% if the area is over 90 square meters; and (2) the purchase of a second house by an individual for making house improvements for his/her family is subject to deed tax at a reduced rate of 1% if the area of the house is 90 square meters or less, or 2% if the area is over 90 square meters. Meanwhile, the Notice specifies that the sale of a house that has been purchased by an individual for less than two years is subject to business tax at a full rate; and the sale of a house that has been purchased by an individual for two years or more is exempted from business tax. In addition, the Notice stresses that certain preferential business tax policies shall not apply to Beijing Municipality, Shanghai Municipality, Guangzhou City and Shenzhen City for the time being.

In accordance with Circular of the Ministry of Housing and Urban-Rural Development and the Ministry of Land and Resources on Tightening the Management and Control over Intermediate Residential Properties and Land Supply (《住房城鄉建設部、國土資源部關於加強近期住房及用地供應管理和調控有關工作的通知》) (promulgated and implemented on April 1, 2017 by Ministry of Land and Resources and Ministry of Housing and Urban-Rural Development), in cities experiencing serious demand over supply and facing overheating markets, the supply of housing land, in particular those lands for ordinary commercial houses, shall be increased reasonably. In cities with excessive housing supply, the supply of housing land shall be reduced or even suspended. All the local authorities shall build an inspection system to ensure that the property developers are using their own legal funds to purchase land.

### PROPERTY MANAGEMENT ENTERPRISES

Enterprises that engage in property management shall establish a qualification management system pursuant to relevant provisions under the Property Management Regulations (《物業管理條例》) (implemented on September 1, 2003, as amended on August 26, 2007 and February 6, 2016). Pursuant to relevant provisions under the Measures on Property Service Enterprises Qualification Management (《物業服務企業資質管理辦法》) which was implemented on May 1, 2004 and revised on November 26, 2007 and revised on May 4, 2015, a newly-established property service enterprise shall apply for the qualification by submitting the relevant documents to competent property departments of the people's government of the municipalities directly under the central government and cities with special development zones where its business has been registered within 30 days after the receipt of its business license. Qualification examination and legal authority shall approve and issue the qualification certificate of corresponding levels based on the actual conditions of enterprises.

Pursuant to the Measures on Property Service Enterprises Qualification Management (《物業服務企業資質管理辦法》), qualification of property service enterprises shall be classified into Level I, Level II and Level III in accordance with their the professional personnel they employ, the scales and types of the property service they provide, performance and operating results, etc. Newly established property service enterprises shall be classified into the lowest level, the term of validity of which is one year. In accordance with the Reply on Relevant Issues Concerning Performing the Measures on Property Service Enterprises Qualification Management (《關於執行〈物業管理企業資質管理辦法〉有關問題的覆函》),

## REGULATORY OVERVIEW

in the event that the newly established property service enterprises fail to provide property service within one year, such qualification shall become invalid; otherwise, the property service enterprises may apply for assessment for Level III or higher level qualification. On March 8, 2018, the Measures for the Administration of Qualifications of Property Service Enterprises was abolished. On March 19, 2018, the Property Management Regulations was revised accordingly so that the qualification scheme system in monitoring the property service enterprises has been abolished.

Pursuant to the Catalogues of Industries for Guiding Foreign Investment (Amended in 2015) (《外商投資產業指導目錄》(2015年修訂)) and the Catalogues of Industries for Guiding Foreign Investment (Amended in 2017) (《外商投資產業指導目錄》(2017年修訂)), property management services do not fall into such categories which foreign investment is restricted or prohibited.

In accordance with the relevant regulations of Property Rights Law of the PRC (《中華人民共和國物權法》) and Property Management Regulations (《物業管理條例》), selection and engagement of property service enterprises shall have the consent of not less than half of the total number of owners while the gross floor area in the exclusive possession of such owners shall not be less than half of the total gross floor area of the property. In the event that the property service enterprise has been selected by the construction department prior to the engagement of property service enterprise by the owners at the meeting of owners, a preliminary property management contract shall be signed.

### Foreign Currency Exchange

The principal regulations governing foreign currency exchange in the PRC are the Foreign Exchange Administrative Regulations (《外匯管理條例》) (the “**SAFE Regulations**”) which was promulgated by the State Council and last amended on August 5, 2008. Under the SAFE Regulations, the RMB is generally freely convertible for current account items, including the distribution of dividends, trade and service related foreign exchange transactions, but not for capital account items, such as direct investment, loan, repatriation of investment and investment in securities outside the PRC, unless the prior approval of the State Administration of Foreign Exchange (the “**SAFE**”) is obtained.

Pursuant to the Circular of the State Administration of Foreign Exchange on Further Simplifying and Improving the Direct Investment-related Foreign Exchange Administration Policies (《國家外匯管理局關於進一步簡化和改進直接投資外匯管理政策的通知》) (the “**Circular 13**”), which was promulgated on February 13, 2015 and with effect from June 1, 2015, the foreign exchange registration under domestic direct investment and the foreign exchange registration under overseas direct investment is directly reviewed and handled by banks in accordance with the Circular 13, and the SAFE and its branches shall perform indirect regulation over the foreign exchange registration via banks.

## TAXES

### Corporate Income Tax

Pursuant to the Enterprises Income Tax Law of the PRC (《中華人民共和國企業所得稅法》) (the “**EIT Law**”) which was promulgated on March 16, 2007 and last amended on February 24, 2017, and the Regulation on the Implementation of the Enterprise Income Tax Law of the PRC (《中華人民共和國企業所得稅法實施條例》) which was promulgated on December 6, 2007 and with effect from January 1, 2008, the income tax for both domestic and foreign-invested enterprises is at the same rate of 25%. Furthermore, resident enterprises, which refer to enterprises that are set up in accordance with the PRC

## REGULATORY OVERVIEW

law, or that are set up in accordance with the law of the foreign country (region) but with its actual administration institution in the PRC, shall pay enterprise income tax originating both within and outside the PRC. While non-resident enterprises that have set up institutions or premises in the PRC shall pay enterprise income tax in relation to the income originating from the PRC and obtained by their institutions or establishments, and the income incurred outside the PRC but there is an actual relationship with the institutions or establishments set up by such enterprises. Where non-resident enterprises that have not set up institutions or establishments in the PRC, or where institutions or establishments are set up but there is no actual relationship with the income obtained by the institutions or establishments set up by such enterprises, they shall pay enterprise income tax in relation to the income originating from the PRC.

### **Value-added Tax**

Pursuant to the Provisional Regulations on Value-added Tax of the PRC (《中華人民共和國增值稅暫行條例》) promulgated on December 13, 1993 and last amended on November 19, 2017 and its implementation rules, all entities or individuals in the PRC engaging in the sale of goods, the provision of processing services, repairs and replacement services, the sale of services, intangible assets and real estate, and the importation of goods are required to pay value-added tax.

Pursuant to the Announcement of the SAT on Promulgating the Interim Administrative Measures for the Collection of Value-added Tax on the Sale of Self-developed Real Estate Projects by Real Estate Developers (《國家稅務總局關於發佈〈房地產開發企業銷售自行開發的房地產項目增值稅徵收管理暫行辦法〉的公告》) which was promulgated on March 31, 2016 and with effect from May 1, 2016, real estate developer shall pay value-added tax for the sales of its self-developed real estate project.

### **Land Appreciation Tax (LAT)**

Under the Interim Regulations on Land Appreciation Tax of the PRC (《中華人民共和國土地增值稅暫行條例》) promulgated by the State Council on December 13, 1993 and last amended on January 8, 2011 as well as its implementation rules issued on January 27, 1995, land appreciation tax is payable on the appreciation value derived from the transfer of land use rights as well as buildings and other facilities on such land, after deducting the deductible items.

### **Labor Protection**

Pursuant to the Labor Law of the PRC (《中華人民共和國勞動法》) and the Labor Contract Law of the PRC (《中華人民共和國勞動合同法》) which were separately with effect from January 1, 1995 (amended on August 27, 2009) and January 1, 2008 (amended on December 28, 2012), respectively, labor contracts shall be entered into if labor relationships are to be established between the employer and the employees.

Pursuant to the Social Insurance Law of the PRC (《中華人民共和國社會保險法》) which was promulgated on October 28, 2010 and with effect from July 1, 2011, employees shall participate in basic pension insurance, basic medical insurance schemes and unemployment insurance. Basic pension, medical and unemployment insurance contributions shall be paid by both employers and employees. Employees shall also participate in work-related injury insurance and maternity insurance schemes. Work-related injury insurance and maternity insurance contributions shall be paid by employers rather than employees. An employer shall make registration with the local social insurance agency in

## REGULATORY OVERVIEW

accordance with the provisions of the Social Insurance Law of PRC. Moreover, an employer shall declare and make social insurance contributions in full and on time. Pursuant to the Regulations on Management of Housing Provident Fund (《住房公積金管理條例》) which was promulgated on April 3, 1999 and amended on March 24, 2002, employers shall undertake registration at the competent administrative center of housing provident fund and then, upon the examination by such administrative center of housing provident fund, undergo the procedures of opening the account of housing provident fund for their employees at the relevant bank. Enterprises are also obliged to timely pay and deposit housing provident fund for their employees in full amount.

### PRC MERGER & ACQUISITION

Pursuant to Provisions on the Merger and Acquisition of Domestic Enterprises by Foreign Investors (《關於外國投資者併購境內企業的規定》) which was promulgated by the MOFCOM, the State-owned Assets Supervision and Administration Commission of the State Council, the State Administration of Taxation, the State Administration for Industry and Commerce, China Securities Regulatory Commission (the “CSRC”) and the SAFE on August 8, 2006, and subsequently amended by the MOFCOM on June 22, 2009, which provided that the scenarios qualify as an acquisition of a domestic enterprise by a foreign investor.

On October 8, 2016, Ministry of Commerce issued the Interim Administrative Measures for the Record-filing of the Incorporation and Change of Foreign-invested Enterprises (the “Circular 3”) (《外商投資企業設立及變更備案管理暫行辦法》) which took effect on the same day and amended on July 30, 2017. According to the Circular 3, where a non-foreign-invested enterprise changes into a foreign-invested enterprise due to acquisition, consolidation by merger or otherwise, which is subject to record-filing as stipulated in the measures, it shall complete the record-filing formalities for incorporation and submit the Incorporation Application in accordance with the measures.