

**Opportunities and Challenges  
for Overseas Investors  
Investing  
in  
the Chinese Real Estate Market**

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# I. Background

1. Massive capital has flown into the Chinese real estate market in the past five years or so.
2. Various macro-control measures adopted by the Chinese government since 2004 have limited impact on the pouring in of the “hot money”.
3. Recent measures include stricter capitalization requirements and re-imposition of Land Appreciation Tax.

## II. New Rules Restricting Overseas Investment

- ***Opinions on Regulating the Entry into and the Administration of Foreign Investment in the Real Estate Market*** (Jian Zhu Fang [2006] No. 171) (“Document No. 171”)
- Date of Issuance: July 11, 2006
- Issuing Authorities: Ministry of Construction, Ministry of Commerce, National Development and Reform Commission, People’s Bank of China, State Administration of Industry and Commerce and State Administration of Foreign Exchange
- ***Circular on Relevant Issues Concerning Regulating the Administration of Foreign Exchange in the Real Estate Market*** (Hui Fa [2006] No. 47) (“Document No. 47”)
- Date of Issuance: September 1, 2006
- Issuing Authorities: State Administration of Foreign Exchange and Ministry of Construction

### III. Restrictions and Requirements under New Rules

1. Onshore Entity Requirement
2. Higher Capitalization Requirement

<b>Total Investment Amount (Debt &amp; Equity)</b>	<b>Minimum Registered Capital Amount (Equity)</b>	
	<b>Before Issuance of Document No. 171</b>	<b>After Issuance of Document No. 171</b>
US\$3 million or less	70%	Same
US\$3 – 10 million (inclusive)	50% or US\$2.1 million, whichever is higher	Same
US\$10 – 30 million (inclusive)	2/5 or US\$5 million, whichever is higher	50%
Above US\$30 million	1/3 or US\$12 million, whichever is higher	50%

3. Greater Borrowing Restrictions
4. Requirement of Full Payment of Land Grant Fee

### **III. Restrictions and Requirements under New Rules (Cont'd)**

5. Greater Scrutiny of Acquisitions of Existing Real Estate Projects by Foreign Investors
6. Prohibition against Guaranteed Fixed Return
7. Prohibition against Local Incentives
8. Re-imposition of Land Appreciation Tax
9. Exceptions to the Local Entity Requirement – For Self Use
  - Qualified entities and individuals are permitted to buy real property in China for self-use based on their actual needs.
  - Permitted purchasers must buy property in their own names.

## **IV. Practical Implications**

- Types of investment structures will be limited.
- Costs and risks for investing in the property market will significantly increase.
- Transactions will take longer time.
- Smaller or short-term foreign investors may be squeezed out.
- Longer-term investors may find more opportunities.

## **V. Conclusion**

To a certain extent, the new rules have the effect of curbing foreign investment in the Chinese real estate market. However, in light of the rapid expansion of the Chinese economy and the increasing real property demand, we believe that foreign investors' passion for investing in the Chinese real estate market is still high.

Thank you!