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# **A Practical Guide to China Company Law**

**1ST EDITION**



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# A Practical Guide to China Company Law

1ST EDITION

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## INTRODUCTION TO COMPANY LAW/BRANCHES OF FOREIGN COMPANIES

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Graham Brown was admitted as a solicitor in 1985 and commenced practice with Australia's Federal Director of Public Prosecutions. He has worked on major Australian commercial fraud cases before turning to commercial law, ultimately with his own legal practice specialising in Asia related commercial issues. An interest in teaching led to a career as a legal academic, but he retained his interest in commercial matters by acting as a consultant on Asian and China related matters to a number of Australian companies. Graham ventured to China in 1997 where he taught at two of China's well known universities in Beijing and then established, managed and taught in one of the first international post graduate legal education projects in China. While in China, Graham has assisted a number of Chinese and foreign companies with structuring their projects and has also advised on international contractual issues. A contract law specialist, Graham also takes a particular interest in IP, IT and commercially effective structures for international investment.

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# ABBREVIATIONS

|  |   |
|--|---|
| 1987 Corporate Bond Regulations .....    | Provisional Regulations on Corporate Bond Administration  |
| 1993 Corporate Bond Regulations .....    | Provisional Regulations on Administration of Corporate Bonds  |
| 2002 Notice .....                        | Transfer of State-owned Shares and Legal Person Shares of Listed Companies to Foreign Investors                   |
| AIC .....                                | Administration for Industry and Commerce  |
| AMC .....                                | asset management company  |
| Asset Acquisition Notice .....           | Notice on Issues relating to Significant Purchase, Sale, or Exchange of Assets by Listed Companies                |
| Bankruptcy Regulations .....             | Rules of the Supreme People's Court on Issues relating to the Adjudication of Enterprise Bankrupt Cases           |
| Beijing Opinions .....                   | Opinions on Reforming the Market Entry System and Optimising the Environment for Economic Development             |
| CBRC .....                               | China Banking Regulatory Commission   |
| CCP .....                                | Chinese Communist Party   |
| CGSDTC .....                             | China Government Securities Depository Trust & Clearing Corporation Limited                                       |
| CIRC .....                               | China Insurance Regulatory Commission   |
| CJV Law .....                            | Law of the People's Republic of China on Sino-foreign Cooperative Joint Venture Enterprises                       |
| CJV Law Implementation Regulations ..... | Implementation Regulations for the Law of the People's Republic of China on Cooperative Joint Venture Enterprises |
| CJV .....                                | Sino-foreign cooperative joint venture enterprise   |
| CLSs .....                               | companies limited by shares   |
| Code .....                               | Code of Corporate Governance for Listed Companies   |
| Code of Civil Procedure .....            | PRC Code of Civil Procedure   |
| Company Registration Regulations .....   | Regulations on Administration of Company Registration   |

|   |  |
|---|--|
| Company Registration<br>Implementation Regulations .....                    | Implementation Regulations for the<br>Regulations on Administration of<br>Company Registration   |
| Constitution .....  | Constitution of the People's Republic of<br>China  |
| Convertible Corporate Bond<br>Measures .....                                | Provisional Measures on Administration<br>of Convertible Corporate Bonds   |
| Criminal Law .....  | Criminal Law of the People's Republic of<br>China  |
| CSRC .....  | China Securities Regulatory Commission   |
| CSRC Notice on Convertible<br>Corporate Bonds .....                         | Notice of CSRC on Issue of Convertible<br>Corporate Bonds by Listed Companies  |
| Dalian Regulations .....  | Regulations on Further Relaxing Market<br>Entry Conditions for Enterprises   |
| Disclosure Measures<br>Administrative .....                                 | Measures of Information Disclosure<br>Requirements for Changes of<br>Shareholding in Listed Companies  |
| EIT .....   | Law for FIEs Enterprise Income Tax Law<br>of the People's Republic of China for<br>Foreign Investment Enterprises and<br>Foreign Enterprises |
| EJV Law .....   | Law of the People's Republic of China on<br>Sino-Foreign Equity Joint Venture<br>Enterprises   |
| EJV Law Implementation<br>Regulations .....                                 | Implementation Regulations for the Law<br>of the People's Republic of China on<br>Equity Joint Venture Enterprises                           |
| EJV .....   | Sino-foreign equity joint venture<br>enterprise  |
| Employee Shares Regulations .....   | Regulations on Administration of<br>Employee Shares issued by Companies<br>Limited by Shares established by<br>Placement                     |
| Enterprise Legal Person<br>Registration Implementation<br>Regulations ..... | Implementation Regulations for the<br>Regulations on Administration of<br>Registration of Enterprise Legal Person                            |
| Enterprise Legal Person<br>Registration Regulations .....                   | Regulations on Administration of<br>Registration of Enterprise Legal Persons   |

|   |   |
|---|---|
| Enterprise Name Registration<br>Implementation Measures ..... | Implementation Measures on Registration<br>and Administration of Enterprise Names                                 |
| Enterprise Name Registration<br>Regulations .....             | Regulations on Administration and<br>Registration of Enterprise Names   |
| FICLS.....  | foreign-invested company limited by shares  |
| FICLS Regulations.....  | Provisional Regulations on Issues relating to<br>Establishment of Foreign-invested Company<br>Limited by Shares   |
| FIE Equity Changes Regulations.....                           | Regulations on Changes in Investors' Equity<br>Interests in Foreign Investment Enterprises                        |
| FIE Investment Regulations .....                              | Provisional Regulations on Investments in<br>China by Foreign Investment Enterprises                              |
| FIE Liquidation Measures .....                                | Measures on Liquidation Procedures for<br>Foreign Investment Enterprises  |
| FIE Merger Regulations .....                                  | Regulations on Mergers and Divisions of<br>Foreign Investment Enterprises   |
| FIE.....  | foreign investment enterprise   |
| Financial Institutions Investment<br>Measures .....           | Administrative Measures on Investment in<br>Domestic Financial Institutions by Offshore<br>Financial Institutions |
| FIVC Regulations.....   | Regulations on Administration of Foreign-<br>invested Venture Capital Enterprises                                 |
| General Principles of Civil Law .....                         | General Principles of the Civil Law of the<br>People's Republic of China  |
| Guiding Opinions .....  | Guiding Opinions on Establishing an<br>Independent Directors System for Listed<br>Companies                       |
| Information Disclosure Trial Rules .....                      | Implementation Rules on Information<br>Disclosure for Companies Issuing Shares to the<br>Public (Trial Rules)     |
| IPO .....   | Initial Public Offer  |
| Insolvency Law .....  | PRC Enterprise Insolvency Law (Trial<br>Implementation)   |
| Investment Catalogue.....                                     | Catalogue of Industry Guidelines for Foreign<br>Investment  |
| Listed Companies Convertible<br>Corporate Bond Measures ..... | Implementation Measures on Issue of<br>Convertible Corporate Bonds by Listed<br>Companies                         |
| LLCs .....  | limited liability companies   |
| M&A .....   | mergers and acquisitions  |
| M&A Regulations .....   | Provisions on Foreign-funded Mergers and<br>Acquisitions of Domestic Enterprises                                  |
| MII .....   | Ministry of Information Industry  |

|  |  |
|--|--|
| MOF.....   | Ministry of Finance  |
| MOFCOM.....  | Ministry of Commerce   |
| MOFTEC.....  | Ministry of Foreign Trade and Economic<br>Cooperation  |
| NDRC.....  | National Development and Reform<br>Commission  |
| Notice on Fund Transfers and<br>Provision of Security..... | Notice on Issues relating to the Regulations on<br>Fund Transfers between Listed Companies and<br>Related Parties and Provision of Security to<br>External Parties by Listed Companies |
| NPC.....   | National People's Congress   |
| NPL.....   | non-performing loans   |
| PBOC.....  | People's Bank of China   |
| PRC.....   | People's Republic of China   |
| Private Enterprise Regulations.....                        | PRC Provisional Regulations on Private<br>Enterprises  |
| Public Shareholders Protection<br>Provisions.....          | Provisions on Strengthening Protection of<br>Public Shareholders' Rights and Interests   |
| QFII Forex Regulations.....                                | Provisional Regulations on Administration of<br>Foreign Exchange for Securities Investment in<br>China by Qualified Foreign Institutional<br>Investors                                 |
| QFII Implementation Regulations.....                       | Implementation Regulations on Qualified<br>Foreign Institutional Investors in Securities<br>Trading  |
| QFII Measures.....   | Administrative Measures on Investments in<br>Domestic Securities by Qualified Foreign<br>Institutional Investors   |
| Registered Capital Regulations.....                        | Administrative Regulations on Registration of<br>Company Registered Capital  |
| Registration Procedure Regulations.....                    | Regulations on Enterprise Registration<br>Procedures   |
| Reorganisation Tax Regulations.....                        | Provisional Regulations on Tax Treatment of<br>Mergers and Acquisitions, Divisions, Equity<br>Restructuring and Asset Transfer of Foreign<br>Investment Enterprises                    |
| Reply.....   | Reply from the Supreme People's Court to<br>Guangdong High Court   |
| SAFE.....  | State Administration of Foreign Exchange   |
| SAIC.....  | State Administration for Industry and<br>Commerce  |
| SASAC.....   | State-owned Assets Supervision and<br>Administration Commission  |
| SAT.....   | State Administration of Taxation   |
| SCER.....  | State Commission of Economic Restructuring   |

|   |   |
|---|---|
| SEC .....   | US Securities and Exchange Commission   |
| Securities Law .....                                | Securities Law of the People's Republic of China  |
| SETC .....  | State Economic and Trade Commission   |
| SFC .....   | Securities and Futures Commission of Hong Kong  |
| Shenzhen Insolvency Regulations .....               | Regulations of Shenzhen Special Economic Zone on Enterprise Insolvency  |
| Shenzhen Liquidation Regulations .....              | Regulations of Shenzhen Special Economic Zone on Enterprise Liquidation   |
| Shenzhen Procedures .....                           | Regulations of Shenzhen Special Economic Zone on Requirements and Procedures for Establishment of Companies Limited by Shares   |
| Short-term Financing Bonds .....                    | Administrative Rules on Short-term Financing Bonds  |
| SHSE Rules for Convertible Bond .....               | Listing Rules of Shanghai Stock Exchange for Convertible Corporate Bond   |
| SHSE Rules for Convertible Bond .....               | Listing Rules of Shenzhen Stock Exchange for Convertible Corporate Bond   |
| SHSE Rules for Corporate Bond .....                 | Listing Rules of Shanghai Stock Exchange for Corporate Bond   |
| SOE Restructuring Regulations .....                 | Provisional Regulations on Using Foreign Investment for Reorganisation of State-owned Enterprises                               |
| SOX Act .....                                       | 2002 Sarbanes-Oxley Act   |
| SPC Opinion on Insolvency Law .....                 | Opinion of the Supreme People's Court on Issues relating to the Implementation of the PRC Insolvency Law (Trial Implementation) |
| SPC Opinion on Code of Civil Procedure .....        | Opinion of the Supreme People's Court on Issues relating to Application of the Code of Civil Procedure                          |
| SOEs .....  | State-owned enterprises   |
| SPC .....   | State Planning Commission   |
| SPV .....   | special purpose vehicle   |
| Standard Opinions .....                             | Standard Opinions on Companies Limited by Shares  |
| State-owned Property Rights Transfer Measures ..... | Provisional Measures on Administration of Transfer of State-owned Property Rights of Enterprises                                |
| SZSE Rules for Corporate Bond .....                 | Listing Rules of Shenzhen Stock Exchange for Corporate Bond   |
| Takeover Measures .....                             | Administrative Measures on Takeover of Listed Companies   |

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|---|--|
| Term of Operation Regulations.....                    | Provisional Regulations on the Term of Operation of Sino-foreign Equity Joint Ventures                       |
| Trial of Insolvency Cases Provisions ....             | Regulations on Issues relating to Trial of Enterprise Insolvency Cases                                       |
| Trial Method .....                                    | Trial Measures for Stock Enterprises   |
| UN Convention (also known as Vienna Convention) ..... | United Nations Convention on Contract for the International Sales of Goods                                   |
| VAT .....   | Value-added tax  |
| WFOE Law .....  | Law of the People's Republic of China on Wholly Foreign-owned Enterprises                                    |
| WFOE Law Implementation Regulations .....             | Implementation Regulations for the Law of the People's Republic of China on Wholly Foreign-owned Enterprises |
| WFOE .....  | Wholly foreign-owned enterprise  |
| Zhongguancun Registration Measures .....              | Measures on Registration and Administration of Enterprises within Zhongguancun Science Park                  |

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# INTRODUCTION TO COMPANY LAW

**Graham Brown**

**Wei Xin**

International Business Group

JunZeJun Law Offices

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