

Hu Xiaolian: Law on real rights of the People's Republic of China

Speech by Ms Hu Xiaolian, Deputy Governor of the People's Bank of China, at the Symposium on Judicial Interpretation of Law on Real Rights, Beijing, 27 May 2010.

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I am delighted to attend the symposium on judicial interpretation of the *Law on Real Rights of the People's Republic of China* organized by the Supreme People's Court and the People's Bank of China with the support of International Finance Corporation. We have gathered here today to discuss the experiences of reforming the legal system on security interest, security interests in personal property and innovative practices on warranty of titles, so as to promote the drafting of judicial interpretation of the *Law on Real Rights Part Four on Security Interest*.

Secured credit accounted for more than 80 percent of China's aggregate credit. Therefore, reform and innovation of legal framework concerning security interest is an important part of financial infrastructure. Security interest in personal property is one of the most frequently discussed area in property law system and it is closely related to economic development and restructuring. Based on the four pillars of an ideal framework of security interest in personal property, namely wide range of eligible collateral, a centralized registration and public display system, well-defined rule of priority and streamlined process for implementation, the PBC put forward 8 proposals, i.e. making account receivables and inventory eligible collaterals, establishing a floating charge system, protecting bona fide purchase, expanding party autonomy, defining the rule of priority in a clear-cut manner, designating the institution for the registration of account receivables, defining the principles for the registration of floating charge and rules for the registration and charging of security interest, which have already been written into the *Law on Real Rights* enacted on March 16, 2007.

The launch of the *Law on Real Rights* is of great significance to the development of the credit market, prevention and mitigation of financial risks and easing the financing difficulties of SMEs.

SME financing is a worldwide challenge, and it is more difficult in developing countries. Out of multiple problems such as large SMEs' exposure to operational risks and lack of financial transparency and banks' difficulties in managing lending to SMEs, the lack of legitimate collateral is the real bottleneck. Approximately 70 percent of the credit collateral received by commercial banks in China is real estate, while more than 70 percent of the assets of SMEs are account receivables and inventory. It was estimated that 16 trillion yuan worth of assets of SMEs could not be accepted as loan collaterals. Making account receivables and inventory eligible collateral is an important solution to the financing difficulties of SMEs.

The *Law on Real Rights* also identifies a dedicated agency for account receivables finance registration. The PBC's account receivables finance registration and public display system and the financial leasing registration and public display system started to operate on October 1st, 2007 and July 20th, 2009 respectively. The registration of collateral puts collateral information on public display and holds third parties involved legally accountable, playing an important role in protecting legitimate rights and interests of financial institutions as the secured party. The system also registers factoring business, mitigating legal risks of commercial banks' factoring business with repurchase agreement attached.

The enactment of the *Law on Real Rights* has largely filled in the gap in China's legislation on taking floating charge as collaterals. However, after the *Law on Real Rights* was promulgated, commercial banks have explored taking a mixture of real right as collateral, and they are promoting innovation to include land use right and rural housing site as eligible collaterals. What's more, the two registration systems still need improvements in terms of basis of registration, scope and effectiveness of the registration, underpinning the urgency of legal definition. These need to be clarified by legislations.

This symposium aims to understand innovative practices concerning collaterals, discuss issues to be solved in the implementation of the *Law on Real Rights*, so as to promote judicial interpretations of security interest to be released as soon as possible based on latest developments in collaterals and serve economic and financial development in a more effective manner.

I wish the symposium a complete success.

Thank you.