

Domestic Chinese Private Equity Industry Workshops

On April 1 and 3, 2008, the Berkeley Center for Law, Business and the Economy (BCLBE) sponsored workshops in Beijing and Shanghai on the Development of the Domestic Chinese Private Equity Industry. Our co-sponsors were O'Melveny & Myers and Fangda Partners, with support from Beijing University in Beijing and Fudan University in Shanghai. The Workshops were by invitation only and limited to 50 persons at each location. The participants included government policy makers, academics, private equity firms, institutional investors, lawyers and accountants. There was roughly equal representation by Chinese and US nationals. The Workshops were marked by active discussion (greatly facilitated by simultaneous interpreting) among nearly all attendees.

Although private equity in the US has entered a period of consolidation, in China it has only gotten a serious start within the last few years. It continues to attract great attention both from foreign investors and also Chinese policy makers trying to develop China's own domestic capability. Those policy makers have taken a two pronged approach. They have forced foreign deal makers to come on shore by greatly restricting their use of offshore investment vehicles. They have also, through China's National Development and Reform Commission, begun on a trial basis to license purely domestic Chinese private equity funds. There is also an ongoing effort to accelerate the development of the legal and tax environment necessary to both foreign and domestic firms. In free and frank discussions, the Workshops participants exchanged views on the resulting "growing pains" in this major financial sector.

The Workshops have had several important outcomes. By bringing together representatives from the government, private sector and the academy, the Workshops developed within industry leaders in all three of these constituencies a new and shared understanding of what actions must be taken and obstacles overcome for further development of China's domestic private equity sector. For example, investors, Chinese officials and academics explored issues relating to fund organization, operation, taxation and liquidation and identified legal structures and rules, common in the US but absent in China, that would facilitate private equity sector development.

Facilitating dialog among private investors and government officials also opened the way for mutual understanding and development of common goals. For example, the foreign private equity sector strongly believed that China's State Development and Reform Commission (SDRC) imposed cumbersome, bureaucratic rules intended to develop the domestic private equity sector as "state owned private equity." Through Workshop discussions, however, the Chinese regulators effectively communicated that the SDRC actually embraces and emphasizes more market oriented measures.

Finally, the planning and implementation of the Workshops developed important relationships for BCLBE, both with its co-sponsors and with representatives from China's leading law faculties at Beijing and Fudan Universities. More details about the Workshops, including detailed summaries of the discussions and BCLBE's plans for follow-up, will be available on BCLBE's website later this month.

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