



# JONES DAY COMMENTARY

## THE IMPACT OF THE NEW “SUPER MINISTRIES” ANNOUNCED BY CHINA AND HOW THIS AFFECTS THE CONSTRUCTION INDUSTRY

On March 11 it was announced that China will create five new “super ministries.” The goal of this move is to streamline the bureaucracy, clarify conflicting responsibilities, and curb corruption.

### MACRO-LEVEL CHANGES

The key aspect of the shake-up deals with shifting the focus of the central government to overall macro-regulation of the economy and the continued transition from a central planned economy to one that is (mostly) market-based.

According to the Chinese government, the new macroeconomic functions of the three key institutions are as follows:<sup>1</sup>

- a. The **National Development and Reform Commission** (“NDRC”) will focus on macro-economic planning, paying particular attention to price controls and the management of energy policy. It will phase out its involvement in micro-management of the economy and reduce its examination and approval role for specific projects. The placement of the NDRC industry project approval function under the control of the new and significantly larger Ministry of Industry and Information conforms to the new mandate of the NDRC.
- b. The **Ministry of Finance** shall reform and improve its management over budget and taxation.

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1. Available at [http://www.gov.cn/english/2008-03/11/content\\_916676.htm](http://www.gov.cn/english/2008-03/11/content_916676.htm)

- c. The **People's Bank of China** shall strengthen the system of monetary policies and improve the mechanism of exchange rate formation.

The State Council also plans to strengthen the coordination amongst the three above-mentioned bodies; it is still uncertain whether a coordinating body for the three agencies will be established. Clearly, however, the three bodies are intended to work together on macroeconomic management.

One area that has not been addressed is the lack of supervision over the NDRC. Clearly, there have been some intense power struggles behind the scenes, and the three bodies are not on equal footing. The NDRC will set annual control targets to coordinate monetary, fiscal, and industry policies, and this means that it will remain a key player in the State Council.

## IMPACTS ON CONSTRUCTION

The least-discussed aspect of the restructuring in the Chinese, Chinese English-language, and foreign media was the transformation of the Ministry of Construction into the Ministry of Housing and Urban and Rural Construction. According to *Forbes.com*, the Ministry of Construction was renamed in order to emphasize its role in building affordable housing for low-income families in China.<sup>2</sup> Increased low-income housing is part of President Hu's drive to build a harmonious society. The media failed to provide specific details of the changes that will take place at the Ministry of Construction.

However, *The New York Times* cited Arthur Kroeber, managing director of Dragonomics, as its source when it stated that "the central planning agency [NDRC] would *no longer have* final approval on major construction projects" (emphasis added).<sup>3</sup> This move conforms with the decision to transition the NDRC away from "involvement in micromanagement of the economy"<sup>4</sup> towards a focus on macro-regulation. A further change that may impact construction was the ceding of the power to award investment contracts and licenses from the NDRC to provincial governments and city councils.

As provincial governments and city councils assume powers the NDRC had in the past, the decision-making process will become more decentralized. This may bring about positive changes, as it should clarify which level of government is responsible for interpreting laws and regulations and approving projects. It is equally possible that the transition of power to the local level may have a negative impact on construction in areas of China where local officials are ill-informed, corrupt, or incorrigible.

The new organizational scheme places the Ministry of Construction's urban public transport management functions under the new Ministry of Transportation.

## CONCLUSION

The aim of the restructuring and creation of "super ministries" is to improve regulation, rule of law, and adherence to a market-based economy while simultaneously curbing

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2. Article available at [http://www.forbes.com/markets/economy/2008/03/11/china-administrative-restructuring-markets-econ-cx\\_jc\\_0311markets03.html](http://www.forbes.com/markets/economy/2008/03/11/china-administrative-restructuring-markets-econ-cx_jc_0311markets03.html)

3. Article available at <http://www.nytimes.com/2008/03/12/world/asia/12china.html?pagewanted=print>

4. The quote is from the Chinese government's web site and is available at [http://www.gov.cn/english/2008-03/11/content\\_916676.htm](http://www.gov.cn/english/2008-03/11/content_916676.htm)

corruption, decreasing pollution, and cutting down on turf wars between ministries and disparate sectors of the bureaucracy. All of these are long-standing objectives of the central government.

It appears that the central government is shifting its focus from overarching state planning to macroeconomic stewardship, which is evidenced by the decreased powers of the NDRC. The current restructuring and decentralization of microeconomic decision making may be giving the provinces and city councils many of the powers that they already enjoyed de facto in regards to awarding contracts and enforcing the law and implementation regulations. It is also possible that the central government wants to focus its attention on pressing macroeconomic issues. By coordinating banking, regulation, and taxation more closely, the central government may be trying to curb inflation and slightly cool the economy without bringing about a downturn in the general standard of living. The central government has pledged to facilitate economic development, and this restructuring may be an attempt to fulfill this pledge in lieu of micromanaging parts of the economy over which it exercises little control at present.

## LAWYER CONTACT

For further information, please contact your principal Firm representative or the lawyer listed below. General email messages may be sent using our “Contact Us” form, which can be found at [www.jonesday.com](http://www.jonesday.com).

**Ashley M. Howlett**

86.10.5866.1113

[ahowlett@jonesday.com](mailto:ahowlett@jonesday.com)

This *Commentary* was prepared with the assistance of Jonathan R. Siegel, a legal assistant in Jones Day's Beijing Office.

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