Fiduciary Principles in Chinese Law

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Abstract and Keywords

This chapter examines the principles of fiduciary doctrine that are found in Chinese law, with a particular focus on developments in law and regulation in the People’s Republic of China (PRC) after the early 1980s. It also considers the advent and elaboration of what the Anglo-American legal system calls “corporate fiduciary duties,” including partnership fiduciary duties. The chapter first provides an overview of basic conceptions of corporate fiduciary duties that entered Chinese law and practice through at least three separate tracks: academic, regulatory, and jurisprudential. It then explores corporate and partnership fiduciary duties after 2006, placing emphasis on corporate law and the law on partnerships, before discussing how corporate fiduciary duties are understood and applied by state institutions and private parties. More specifically, it explains how the Chinese courts have engaged with the idea of corporate and partnership fiduciary duties in the period after 2006, and how these doctrines have been formalized in law. The chapter shows how a particular set of legal doctrines originating in a distinct legal, political, and economic system have been given life in large part by private actors, namely, domestic PRC investors, managers, and state institutions, rather than the demands of foreign investors.

Keywords: Chinese law, corporate fiduciary duties, corporate law, law on partnerships, state institutions, private parties, partnership fiduciary duties, domestic investors, People’s Republic of China

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