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Financial Services
China

Client Alert
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Chinese financial regulators issued implementing regulations to accelerate opening-up to foreign investment in financial sectors

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Following the announcement on 11 April 2018 by Yi Gang, the new Governor of the People's Bank of China (PBOC), regarding a more definite timetable to further open up China's financial sectors, Chinese financial regulators have acted quickly to formulate and / or issue the relevant implementing regulations. In less than a month, the China Banking and Insurance Regulatory Commission (CBIRC) and the China Securities Regulatory Commission (CSRC) have respectively issued implementing regulations on the relaxation of foreign investment in banking institutions, securities companies, fund management companies, futures companies and insurance brokerage firms. Also, on 24 April 2018, the State Administration of Foreign Exchange (SAFE) approved extra foreign exchange quotas to 24 financial institutions with Qualified Domestic Institutional Investors (QDII) qualifications, after freezing the quota three years previously.

The relevant implementing regulations are outlined below.

Banking

Circular on Matters concerning the Further Opening-up of Market Access of Foreign-invested Banks issued by CBIRC on 27 April 2018

- Wholly foreign-owned banks, Sino-foreign joint venture banks and branches of a foreign bank may carry out business of **issuing and cashing as agent and underwriting government bonds** without the advance approval of CBIRC. Such banks or banking branches shall report to CBIRC or its local counterpart within 5 working days following the carrying out of such business.

- Where a foreign bank has established multiple branches in China, the branch that assumes the management role (the Managing Branch) and has been approved to carry out RMB business may, through fulfilling its management obligations, authorize other branches in China to operate a **RMB business**, provided it has assessed and ensured that other branches meet the relevant qualification requirements to operate RMB business.

- Where a foreign bank has established multiple branches in China, the Managing Branch that has been approved to carry out derivatives trading business may, through fulfilling its management obligations, authorize other branches in China to operate a **derivatives trading business**, provided it has assessed and ensured that other branches meet the relevant qualification requirements to operate such a business.

- The branch authorized by the Managing Branch to carry out derivatives trading business shall meet the relevant requirements on conducting derivatives trading business, and may commence derivatives trading after filing a report, together with the authorization document issued by the Managing Branch and the required materials for carrying out derivatives trading business with the local counterpart of CBIRC.

- Working capital allocated by a foreign bank to its branches in China will be calculated on a consolidated basis. For the purpose of opening a new branch, a foreign bank may authorize its branches in China to allocate working capital to the proposed new branch in accordance with the applicable regulations, provided that their consolidated working capital meet the prescribed minimum threshold and the regulatory indicators.

Securities

Administrative Measures for Foreign-invested Securities Companies promulgated by CSRC on 28 April 2018 (the Measures)

A consultation paper on the same was issued by CSRC on 9 March 2018. The contents of the formally-issued Measures are basically in line with the consultation paper, which include the following key relaxations:

- To allow a foreign investor to hold a controlling stake (capped at **51% at present**, and no cap after 3 years) in a Sino-foreign joint venture securities company (SJV).

- To expand the business scope of such SJV to the same footing with Chinese securities companies.

- To remove the requirement that a non-Chinese investor must partner with a Chinese securities company in order to set up an SJV.

Funds

Q&A by CSRC spokesperson on the Administrative Measures for Foreign-Invested Securities Companies published by CSRC on 29 April 2018

- The *Administrative Measures for Securities Investment Fund Management Companies* provide that the foreign-owned equity stake in a Sino-foreign joint venture fund management company (FMJV) shall not exceed the opening-up commitment of China's securities industry. The present relaxation on foreign investment in FMJVs will not require any amendment to the current regulations. Accordingly, non-Chinese investors that satisfy the applicable qualifications can already apply to CSRC for increase of equity interests in FMJVs or for the establishment of new FMJVs with a view to owning up 51% equity interests in FMJVs.

Futures

Administrative Measures for Foreign-invested Futures Company (Consultation Paper) released by CSRC on 4 May 2018 for public opinion consultation

- To raise the cap on foreign-owned equity stake in a futures company to 51%, and to completely remove the cap after 3 years, so as to be in line with the commitment to open up the futures industry.

Insurance brokerage firms

Notice on the Relaxation of Business Scope of Foreign-invested Insurance Brokerage Company issued by CBIRC on 27 April 2018

- The business scope of foreign-invested insurance brokerage firms has been expanded to be the same as that of Chinese insurance brokerage firms, including:
- To formulate insurance plan, select insurer and effect insurance for the insured;
- To assist the insured or beneficiaries in claims;
- To engage in reinsurance brokerage business;
- To provide disaster prevention, loss prevention or risk assessment and risk management consultation services to client; and
- Other businesses as approved by CBIRC.

(Please see the Chinese version)

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