Provisions on the Administration of Foreign-Funded Financial Institutions of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Banking Supervision and Administration Law of the People's Republic of China, the Commercial Banking Law of the People's Republic of China, the Foreign Investment Law of the People's Republic of China, and other relevant laws and regulations for the purpose of further opening up the financial industry, regulating the administration of foreign-funded financial institutions, and promoting the sound development of the financial industry.

Article 2 — For the purpose of these Provisions, "foreign-funded financial institutions" refers to financial institutions established within the territory of China with the participation of foreign investment, including the following forms:

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(1) A solely foreign-funded financial institution established within the territory of China by a foreign financial institution;

(2) A financial institution established within the territory of China by a foreign financial institution jointly with a Chinese company or enterprise;

(3) A branch established within the territory of China by a foreign financial institution.

Article 3 — For the purpose of these Provisions, "foreign financial institution" refers to a financial institution registered and established outside the mainland territory of China, including but not limited to foreign banks, foreign insurance companies, foreign securities companies, foreign fund management companies, and foreign financial holding companies.

Article 4 — The establishment, modification, and termination of foreign-funded financial institutions shall be subject to the examination and approval of the financial regulatory authority under the State Council in accordance with the law, and shall go through the formalities for industrial and commercial registration, taxation registration, and foreign exchange registration in accordance with the law.

Article 5 — Foreign-funded financial institutions operating within the territory of China shall comply with Chinese laws and regulations, and their lawful business operations shall be protected by Chinese law.

Article 6 — The financial regulatory authority under the State Council shall, in accordance with the law and the principle of prudential supervision, supervise and administer foreign-funded financial institutions and their business activities.

Chapter II — Establishment and Registration

Article 7 — The foreign investor applying for the establishment of a foreign-funded financial institution shall meet the following conditions:

(1) It is a financial institution lawfully established in its home country or region;

(2) It has been in good standing with the financial regulatory authority under the State Council and meets the prudential regulatory requirements;

(3) It is subject to effective financial supervision in its home country or region and has not been subject to any major penalty by the regulatory authority of its home country or region within the past three years;

(4) It has good corporate governance and an effective internal control system;

(5) Its financial indicators, such as capital adequacy ratio, asset quality, and profitability, meet the regulatory requirements of its home country or region and the prudential regulatory requirements prescribed by the financial regulatory authority under the State Council;

(6) It has obtained the consent of the relevant competent authority of its home country or region, or has completed the regulatory filing in its home country or region;

(7) Other prudential conditions prescribed by the financial regulatory authority under the State Council.

Article 8 — To establish a foreign-funded financial institution, the applicant shall submit an application to the financial regulatory authority under the State Council, together with the following documents:

(1) An application form for establishment;

(2) A feasibility study report and an establishment plan;

(3) The applicant's articles of association, business license, and the annual reports for the preceding three years;

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(4) A letter of opinion from the regulatory authority of the applicant's home country or region on the applicant's application to establish a financial institution within the territory of China;

(5) The resumes and relevant qualification certificates of the proposed directors and senior management personnel;

(6) The draft articles of association of the foreign-funded financial institution to be established;

(7) A capital verification report issued by a certified public accountant firm;

(8) Other documents as required by the financial regulatory authority under the State Council.

Article 9 — The financial regulatory authority under the State Council shall examine the application for the establishment of a foreign-funded financial institution and make a decision on whether to approve the establishment within six months from the date of receipt of the complete application documents.

Article 10 — After the establishment of a foreign-funded financial institution is approved, the applicant shall, within the time limit specified in the approval document, complete the capital contribution and register with the company registration authority in accordance with the law to obtain a business license. After obtaining the business license, the applicant shall complete the foreign exchange registration and taxation registration in accordance with the law.

Article 11 — The foreign-funded financial institution shall, within 30 days from the date of obtaining its business license, submit copies of its business license, articles of association, the capital verification report, and other relevant documents to the financial regulatory authority under the State Council for filing.

Chapter III — Business Scope and Operations

Article 12 — The business scope of a foreign-funded financial institution shall be consistent with its type of business and shall be subject to the provisions of the relevant laws and regulations. Its specific business scope shall be specified in the approval document of the financial regulatory authority under the State Council.

Article 13 — Foreign-funded financial institutions shall operate in compliance with the law and in a prudent manner, and shall accept the supervision and inspection conducted by the financial regulatory authority under the State Council in accordance with the law.

Article 14 — Foreign-funded financial institutions shall establish sound corporate governance structures and internal control systems and submit relevant reports to the financial regulatory authority under the State Council as required.

Article 15 — Foreign-funded financial institutions shall comply with the regulatory requirements on capital adequacy ratio, liquidity ratio, loan concentration, and asset quality prescribed by the financial regulatory authority under the State Council.

Article 16 — Foreign-funded financial institutions shall retain sufficient assets within the territory of China, and the types and amounts of such assets shall be prescribed by the financial regulatory authority under the State Council.

Chapter IV — Supervision and Administration

Article 17 — The financial regulatory authority under the State Council shall supervise and administer the business activities, risk management, and financial standing of foreign-funded financial institutions in accordance with the law.

Article 18 — The financial regulatory authority under the State Council may require foreign-funded financial institutions to submit, within a prescribed time limit, financial statements, business reports, audit reports, and other documents and materials.

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Article 19 — The financial regulatory authority under the State Council may conduct on-site inspections of foreign-funded financial institutions in accordance with the law. Foreign-funded financial institutions shall cooperate and provide the required documents, accounts, and materials in a timely and truthful manner.

Article 20 — The financial regulatory authority under the State Council may, based on the principle of prudential supervision, have regulatory talks with the directors and senior management personnel of foreign-funded financial institutions, requiring them to provide explanations on significant matters concerning the business activities and risk management of the financial institution.

Chapter V — Legal Liability

Article 21 — Where a foreign-funded financial institution is established without approval or where financial business is carried out without authorization, the financial regulatory authority under the State Council shall ban such activities and impose penalties in accordance with the law. If the circumstances constitute a crime, criminal liability shall be pursued in accordance with the law.

Article 22 — Where a foreign-funded financial institution violates the provisions of these Provisions by failing to submit financial statements, business reports, or other documents as required, or by providing false or misleading documents, the financial regulatory authority under the State Council shall order it to make corrections and impose a warning and a fine in accordance with the law.

Article 23 — Where a foreign-funded financial institution violates the prudential operating rules, the financial regulatory authority under the State Council shall order it to make corrections within a specified time limit. If it fails to do so within the time limit, the financial regulatory authority under the State Council may, in accordance with the law, take measures such as restricting its business scope, ordering it to suspend certain businesses, or revoking its financial business permit.

Chapter VI — Supplementary Provisions

Article 24 — These Provisions shall apply, mutatis mutandis, to the financial institutions established within the territory of China by financial institutions from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region.

Article 25 — Where an international treaty concluded or acceded to by the People's Republic of China contains provisions that differ from these Provisions, the provisions of the international treaty shall prevail, unless the People's Republic of China has made a reservation thereto.

Article 26 — These Provisions shall take effect on January 1, 2020.

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