Administrative Measures on Domestic Securities and Futures Investment by Qualified Foreign Institutional Investors and Renminbi Qualified Foreign Institutional Investors of China (the PRC)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Promulgated by the China Securities Regulatory Commission, the People's Bank of China, and the State Administration of Foreign Exchange (CSRC Order No. 176) on September 25, 2020
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Article 1 — For the purpose of standardizing the investment activities of qualified foreign institutional investors and renminbi qualified foreign institutional investors in the domestic securities and futures market and promoting the stable and healthy development of the securities and futures market, these Measures are formulated in accordance with the relevant laws and administrative regulations.

Article 2 — For the purposes of these Measures, "qualified foreign institutional investors and renminbi qualified foreign institutional investors" (hereinafter collectively referred to as "qualified foreign investors") means overseas institutional investors that, with the approval of the China Securities Regulatory Commission (hereinafter referred to as the "CSRC"), use funds from overseas to make domestic securities and futures investments, including overseas fund management companies, commercial banks, insurance companies, securities companies, futures companies, trust companies, government investment institutions, sovereign funds, pension funds, charitable funds, endowment funds, international organizations, and other institutions recognized by the CSRC.

The use of renminbi funds from overseas to make domestic securities and futures investments is encouraged.

Article 3 — Qualified foreign investors shall entrust qualified domestic institutions to act as custodians to keep their assets in custody, and shall, in accordance with the law, entrust domestic securities companies and futures companies to handle their domestic securities and futures trading activities.

Article 4 — Qualified foreign investors shall establish and implement effective internal control and compliance management systems to ensure that their investment operations, fund management, and other activities comply with domestic laws, regulations, and other relevant provisions.

Article 5 — The CSRC and the People's Bank of China (hereinafter referred to as the "PBOC") shall, in accordance with the law, supervise and administer the domestic securities and futures investments of qualified foreign investors, and the PBOC and the State Administration of Foreign Exchange (hereinafter referred to as the "SAFE") shall, in accordance with the law, supervise and administer the domestic bank accounts and fund exchange of qualified foreign investors.

The types and methods of financial derivatives and other trading instruments in which qualified foreign investors may participate shall be published by the CSRC after consultation with and the consent of the PBOC and the SAFE.

Article 6 — To apply for qualified foreign investor status, the following conditions shall be met:

(1) having sound financial standing and good creditworthiness, and experience in securities and futures investment;

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(2) the persons principally responsible for the domestic investment business meeting the relevant professional qualification requirements of the overseas country or region where the applicant is located (if any);

(3) having sound and effective governance structure, internal control, and compliance management systems, and designating, in accordance with regulations, a supervisor responsible for overseeing the lawfulness and compliance of the applicant's domestic investment activities;

(4) having standardized business operations and not having been subject to any major penalty imposed by a regulatory authority in the last three years or since its establishment; and

(5) having no circumstances that would materially affect the operation of the domestic capital market.

Article 7 — An applicant shall submit its qualified foreign investor status application documents to the CSRC through its custodian.

The CSRC shall, within 10 working days after accepting the application documents, examine the application materials and make a decision to approve or not to approve. Where the decision is to approve, the CSRC shall issue a written approval and grant a securities and futures business license (hereinafter referred to as the "License"); where the decision is not to approve, the CSRC shall notify the applicant in writing.

Article 8 — Where a custodian carries out qualified foreign investor asset custody business for the first time, it shall report to the CSRC for filing within 5 working days after the date of signing the custody agreement.

Article 9 — A custodian shall perform the following duties:

(1) safely keeping all assets entrusted by the qualified foreign investor;

(2) handling the qualified foreign investor's relevant business of transaction clearing, settlement, foreign exchange settlement and sale, receipt and payment of foreign exchange, and settlement of renminbi funds;

(3) supervising the investment operations of the qualified foreign investor and, upon discovering that its investment instructions are illegal or non-compliant, promptly reporting to the CSRC, the PBOC, and the SAFE;

(4) in accordance with the requirements of the CSRC, the PBOC, and the SAFE, submitting relevant business reports and statements on the qualified foreign investor's account opening and closing information, cross-border fund receipt and payment information, and domestic securities and futures investment asset allocation information, and making balance-of-payments statistical declarations; and

(5) retaining relevant materials such as records of the qualified foreign investor's fund remittance in, remittance out, exchange, receipt and payment of foreign exchange, and fund transactions for a period of no less than 20 years; and

(6) other duties prescribed by the CSRC, the PBOC, and the SAFE in accordance with prudential regulatory principles.

Article 10 — A custodian shall continuously meet the following requirements:

(1) having a dedicated asset custody department and the personnel, systems, and institutions needed for custody business;

(2) having the qualifications to conduct foreign exchange business and renminbi business;

(3) having no major illegal or non-compliant conduct affecting custody business; and

(4) other requirements prescribed by the CSRC, the PBOC, and the SAFE in accordance with prudential regulatory principles.

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Article 11 — A custodian shall strictly separate its own assets from entrusted assets and keep entrusted assets in custody in separate accounts.

Article 12 — Where a qualified foreign investor entrusts two or more custodians, it shall designate one principal reporter responsible for handling matters such as status applications, reports of major events, and registration of principal information on its behalf. A qualified foreign investor shall, within 5 working days after designating the principal reporter, report the information of all custodians to the CSRC and the SAFE for filing through the principal reporter.

A qualified foreign investor may change its custodian. The CSRC and the SAFE may, in accordance with prudential regulatory principles, require a qualified foreign investor to change its custodian.

Article 13 — A qualified foreign investor shall apply to open securities and futures accounts in accordance with the law.

A qualified foreign investor carrying out securities and futures transactions shall entrust institutions with the corresponding settlement qualifications to settle such transactions.

Article 14 — A qualified foreign investor's investment principal and domestic investment income may be invested in financial instruments that comply with the relevant provisions.

Where a qualified foreign investor invests in the inter-bank bond market or participates in domestic foreign exchange market business, it shall handle the relevant matters in accordance with the relevant provisions of the PBOC and the SAFE.

Article 15 — When making domestic securities investments, a qualified foreign investor shall comply with the securities investment ratio restrictions prescribed by the CSRC and other relevant provisions of the State.

Article 16 — When performing information disclosure obligations, a qualified foreign investor shall, in accordance with the law, aggregate and calculate its equity interests in the domestically listed or quoted shares and overseas listed foreign shares of the same company, and comply with the relevant information disclosure rules.

A qualified foreign investor shall, in accordance with the information disclosure rules, disclose on an aggregated basis the relevant securities investment information of persons acting in concert.

Article 17 — The period for which securities companies, futures companies, and other institutions retain materials such as the entrustment records and transaction records of a qualified foreign investor shall be no less than 20 years.

Article 18 — The domestic securities and futures investment activities of a qualified foreign investor shall comply with the relevant provisions of securities and futures trading venues, securities registration and clearing institutions, and securities and futures market monitoring and surveillance institutions.

Article 19 — A qualified foreign investor shall open a foreign exchange account and/or a special renminbi deposit account with its custodian, and the scope of receipts and payments shall comply with the relevant provisions of the PBOC and the SAFE.

Article 20 — A qualified foreign investor shall remit in its principal in accordance with the relevant provisions of the PBOC and the SAFE, and principal remitted in in the form of foreign exchange shall be in currencies that may be listed and traded on China's foreign exchange market.

A qualified foreign investor may remit out funds in accordance with the relevant provisions of the PBOC and the SAFE.

Article 21 — The CSRC, the PBOC, and the SAFE may, in accordance with the law, require qualified foreign investors, custodians, securities companies, futures companies, and other institutions to provide relevant materials concerning qualified foreign investors, and may conduct necessary inquiries and inspections.

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Article 22 — A qualified foreign investor shall report the following circumstances to the CSRC, the PBOC, and the SAFE for filing within 5 working days after the date on which the relevant circumstance occurs:

(1) a change of custodian;

(2) a change of the controlling shareholder or the actual controller;

(3) involvement in major litigation or other major events;

(4) receipt of a major penalty overseas; or

(5) other circumstances prescribed by the CSRC, the PBOC, and the SAFE.

Article 23 — A qualified foreign investor shall apply to change or renew its License under any of the following circumstances:

(1) the information on the License changes;

(2) it is absorbed or merged by another institution; or

(3) other circumstances prescribed by the CSRC, the PBOC, and the SAFE.

During the period of changing or renewing the License, a qualified foreign investor may continue its securities and futures transactions, unless the CSRC considers, in accordance with prudential regulatory principles, that such transactions should be suspended.

Article 24 — A qualified foreign investor shall return its License to the CSRC, which shall cancel its business license, under any of the following circumstances:

(1) the institution is dissolved, enters bankruptcy proceedings, or is taken over by a receiver;

(2) it applies for cancellation of its business license; or

(3) other circumstances determined by the CSRC, the PBOC, and the SAFE.

Article 25 — Under any of the following circumstances, the CSRC, the PBOC, and the SAFE may adopt regulatory measures against a qualified foreign investor, such as ordering rectification, regulatory interviews, and issuing warning letters; and may adopt regulatory measures against the directly responsible persons in charge and other directly responsible persons, such as regulatory interviews, issuing warning letters, and ordering periodic reporting:

(1) failing to open accounts in accordance with regulations;

(2) failing to make domestic securities and futures investments in accordance with regulations;

(3) failing to perform information disclosure obligations in accordance with regulations;

(4) failing to effectively implement internal control and compliance management systems in accordance with regulations;

(5) failing to change, renew, or return the License in accordance with regulations;

(6) failing to handle fund remittance in, remittance out, foreign exchange settlement, or receipt and payment of foreign exchange in accordance with regulations;

(7) failing to submit relevant reports or materials in accordance with regulations, or the relevant content containing false records, misleading statements, or material omissions;

(8) failing to cooperate with relevant inspections, or refusing or delaying the provision of relevant materials; or

(9) other conduct in violation of these Measures.

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Where a qualified foreign investor violates the Securities Law of the People's Republic of China, the Regulations on the Administration of Futures Trading, the Regulations of the People's Republic of China on Foreign Exchange Administration, or other laws and administrative regulations, administrative penalties shall be imposed in accordance with the relevant provisions. Where a crime is suspected, the case shall be transferred to the judicial organs in accordance with the law to pursue criminal liability.

Article 26 — Where a qualified foreign investor commits a major illegal or non-compliant act in the course of making domestic securities and futures investments, the CSRC may, in accordance with the law, adopt measures such as restricting trading in the relevant securities and futures accounts.

Article 27 — Where a custodian fails to make filings in accordance with regulations, fails to perform the duties prescribed in Article 9 of these Measures, or violates Article 10 and other provisions of these Measures, the CSRC may adopt regulatory measures against it, such as ordering rectification, regulatory interviews, and issuing warning letters; and may adopt regulatory measures against the directly responsible persons in charge and other directly responsible persons, such as regulatory interviews, issuing warning letters, and ordering periodic reporting. Where the custodian violates relevant laws and administrative regulations, administrative penalties shall be imposed in accordance with the relevant provisions. Where a crime is suspected, the case shall be transferred to the judicial organs in accordance with the law to pursue criminal liability.

Article 28 — These Measures apply to institutional investors established in the Hong Kong Special Administrative Region or the Macao Special Administrative Region that invest in securities and futures in the mainland, and to institutional investors established in the Taiwan region that invest in securities and futures in the mainland.

Article 29 — These Measures shall take effect on November 1, 2020. The Measures for the Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors promulgated by the CSRC, the PBOC, and the SAFE on August 24, 2006, and the Pilot Measures for Domestic Securities Investment by Renminbi Qualified Foreign Institutional Investors promulgated by the CSRC on March 1, 2013, shall be repealed simultaneously.

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