Administrative Provisions for Foreign Institutional Investors Investing in China's Bond Market Funds of China (the PRC)

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

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Article 1 — For the purpose of supporting and standardizing the investment by overseas institutional investors in China's bond market, these Provisions are formulated in accordance with the Law of the People's Republic of China on the People's Bank of China, the Regulations of the People's Republic of China on Foreign Exchange Administration, and other relevant laws and regulations.

Article 2 — For the purposes of these Provisions, "overseas institutional investors" means overseas institutions that meet the requirements of the Announcement of the People's Bank of China, the China Securities Regulatory Commission, and the State Administration of Foreign Exchange (No. 4 [2022]) and directly invest in China's bond market through models such as multi-level custody and settlement agency.

Article 3 — For the purposes of these Provisions, "China's bond market" includes China's domestic inter-bank bond market and exchange bond market.

Article 4 — Overseas institutional investors may independently choose the currency of remittance for investment in China's bond market. Overseas institutional investors are encouraged to use renminbi for cross-border receipts and payments when investing in China's bond market, and to complete cross-border renminbi fund settlement through the Cross-Border Interbank Payment System (CIPS).

Article 5 — The domestic custodians (hereinafter referred to as "custodians") and settlement agents of overseas institutional investors shall handle relevant matters on behalf of overseas institutional investors in accordance with the relevant requirements of these Provisions.

Article 6 — The People's Bank of China, the State Administration of Foreign Exchange, and their branches shall, in accordance with the law, supervise, administer, and inspect the accounts, fund receipts and payments, and exchange involved in the investment by overseas institutional investors in China's bond market.

Article 7 — The State Administration of Foreign Exchange shall administer, by registration, the funds for overseas institutional investors investing in China's bond market.

Overseas institutional investors shall, within 10 working days after obtaining the China bond market investment filing notice or other equally effective document issued by the relevant financial regulatory authority, designate a custodian or settlement agent to handle registration on their behalf through the capital account information system of the State Administration of Foreign Exchange (hereinafter referred to as the "capital account information system") on the strength of the said documents.

Article 8 — A custodian or settlement agent shall, on the strength of the business registration certificate generated in the capital account information system, open a special fund (renminbi and/or foreign exchange) account for China bond market investment (hereinafter referred to as the "bond market fund special account") for the overseas institutional investor.

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The scope of receipts of the bond market fund special account includes: principal remitted in from overseas by the overseas institutional investor and relevant taxes and fees (taxes, custody fees, audit fees, management fees, etc.); proceeds from the sale of bonds; principal recovered upon bond maturity; interest income; fund transfers related to qualifying bond and foreign exchange derivatives transactions; fund transfers related to foreign exchange settlement and sale handled domestically; mutual transfers of funds within bond market fund special accounts under the same name; fund transfers in from the domestic special account of the same qualified foreign institutional investor (QFII)/renminbi qualified foreign institutional investor (RQFII); and other receipts conforming to the provisions of the People's Bank of China and the State Administration of Foreign Exchange.

The scope of payments of the bond market fund special account includes: payment of bond transaction prices and relevant taxes and fees; remittance of investment principal and income overseas; fund transfers out related to qualifying bond and foreign exchange derivatives transactions; fund transfers out related to foreign exchange settlement and sale handled domestically; mutual transfers of funds within bond market fund special accounts under the same name; fund transfers out to the domestic special account of the same QFII/RQFII; and other payments conforming to the provisions of the People's Bank of China and the State Administration of Foreign Exchange.

Funds in the bond market fund special account shall not be used for any purpose other than investment in China's bond market.

Article 9 — Where important information such as the name, custodian, or settlement agent of an overseas institutional investor changes, the relevant custodian or settlement agent shall handle change registration in the capital account information system on behalf of the overseas institutional investor.

Where an overseas institutional investor exits China's bond market and closes the relevant fund accounts, it shall, within 30 working days after closing the relevant fund accounts, handle deregistration through the custodian or settlement agent on its behalf.

Article 10 — Funds in the domestic special account of the same overseas institutional investor's QFII/RQFII and funds in the bond market fund special account may be directly transferred in both directions domestically and used for domestic securities investment, and subsequent transactions, fund use, and exchange shall follow the relevant administrative requirements of the channel to which the funds are transferred.

Article 11 — In principle, the currencies of funds remitted out and remitted in by overseas institutional investors investing in China's bond market shall be consistent, and cross-currency arbitrage between renminbi and foreign currencies shall not be carried out. Where "renminbi + foreign currency" is remitted in simultaneously for investment, the cumulative amount of foreign currency remitted out shall not exceed 1.2 times the cumulative amount of foreign currency remitted in (except for remittance out upon investment liquidation). For long-term investment in China's bond market, the above ratio may be appropriately relaxed.

Article 12 — Overseas institutional investors may, in accordance with the principle of hedging, carry out domestic renminbi-foreign exchange derivatives transactions to manage the foreign exchange risk exposure arising from investment in China's bond market.

Article 13 — Overseas banking institutional investors may choose one of the following channels to carry out spot foreign exchange settlement and sale and foreign exchange derivatives transactions:

(1) trading directly as a customer with custodians, settlement agents, or other domestic financial institutions; or

(2) applying to become a member of the China Foreign Exchange Trade System (hereinafter referred to as the "CFETS") to trade directly in the inter-bank foreign exchange market; or

(3) applying to become a CFETS member to enter the inter-bank foreign exchange market for trading through prime brokerage business.

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Article 14 — Overseas non-banking institutional investors may choose one of the following channels to carry out spot foreign exchange settlement and sale and foreign exchange derivatives transactions:

(1) trading directly as a customer with custodians, settlement agents, or other domestic financial institutions; or

(2) applying to become a CFETS member to enter the inter-bank foreign exchange market for trading through prime brokerage business.

Article 15 — Where an overseas institutional investor chooses the channel specified in item (1) of Article 13 or item (1) of Article 14 of these Provisions, and needs to open a special foreign exchange account with a domestic financial institution other than the custodian or settlement agent, it may do so on the strength of the business registration certificate. Such special foreign exchange account shall be used exclusively for fund delivery, profit and loss handling, and margin management under spot foreign exchange settlement and sale and foreign exchange derivatives transactions, and cross-border fund receipts and payments shall be handled uniformly through the bond market fund special account.

Article 16 — Where an overseas institutional investor carries out foreign exchange derivatives transactions through the channel specified in item (1) of Article 13 or item (1) of Article 14 of these Provisions, it shall, by itself or through its custodian or settlement agent, file the list of financial institutions with the CFETS in advance; where financial institutions are adjusted, it shall file with the CFETS in advance.

Article 17 — Overseas institutional investors carrying out foreign exchange derivatives transactions shall comply with the following provisions:

(1) the foreign exchange derivatives exposure has a reasonable correlation with the foreign exchange risk exposure. The foreign exchange risk exposure includes the principal, interest, and changes in market value of bond investment;

(2) when changes in bond investment cause changes in foreign exchange risk exposure, the corresponding foreign exchange derivatives exposure held shall be adjusted within 5 working days or within 5 working days at the beginning of the following month;

(3) according to the actual needs of foreign exchange risk management, trading mechanisms such as rollover, reverse position closing, and full or net settlement may be flexibly selected, and profits and losses may be settled in renminbi or foreign currency; and

(4) before carrying out foreign exchange derivatives transactions for the first time, the overseas institutional investor shall submit to a domestic financial institution or the CFETS a written commitment to comply with the hedging principle.

Article 18 — When handling fund remittance out and remittance in for overseas institutional investors, custodians or settlement agents shall examine the authenticity and compliance of the corresponding fund receipts and payments, and effectively perform obligations such as anti-money laundering and counter-terrorist financing. Overseas institutional investors shall cooperate with custodians or settlement agents in performing the above responsibilities, and provide custodians or settlement agents with truthful and complete materials and information.

Article 19 — Custodians, settlement agents, and relevant domestic financial institutions shall, in accordance with the Measures for the Administration of Renminbi Bank Settlement Accounts (issued by PBOC Order No. 5 [2003]), the Measures for the Administration of the Renminbi Cross-Border Receipt and Payment Information Management System (issued by Yin Fa [2017] No. 126), the Notice of the General Office of the People’s Bank of China on Improving the Data Submission Process for Inter-Bank Business of the Renminbi Cross-Border Receipt and Payment Information Management System (issued by Yin Ban Fa [2017] No. 118), and other relevant provisions, submit the relevant information and data of overseas institutional investors.

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Overseas institutional investors, custodians, settlement agents, and relevant domestic financial institutions shall, in accordance with the Detailed Rules for the Implementation of Balance of Payments Statistical Declaration Business through Banks (issued by Hui Fa [2022] No. 22), the Guidelines for Balance of Payments Statistical Declaration Business through Banks (2019 Edition) (issued by Hui Fa [2019] No. 25), the Statistical System for External Financial Assets, Liabilities, and Transactions (issued by Hui Fa [2021] No. 36), the Notice of the State Administration of Foreign Exchange on Issuing the Specifications for Foreign Exchange Business Data Collection of Financial Institutions (Version 1.3) (Hui Fa [2022] No. 13), and other relevant provisions, submit the relevant information and data.

Article 20 — Where a domestic financial institution handles spot foreign exchange settlement and sale for overseas institutional investors through the channel specified in item (1) of Article 13 or item (1) of Article 14 of these Provisions, it shall perform statistical and reporting obligations to the State Administration of Foreign Exchange in accordance with customer spot foreign exchange settlement and sale business; where it handles spot foreign exchange settlement and sale through the channels specified in item (2) or item (3) of Article 13 or item (2) of Article 14 of these Provisions, statistics shall be compiled in accordance with inter-bank foreign exchange market transactions.

Where a domestic financial institution handles foreign exchange derivatives business for overseas institutional investors through the channel specified in item (1) of Article 13 or item (1) of Article 14 of these Provisions, it shall comply with the following provisions:

(1) reporting daily the foreign exchange derivatives transaction information of overseas institutional investors in accordance with the provisions of the CFETS; and

(2) performing statistical and reporting obligations to the State Administration of Foreign Exchange in accordance with customer foreign exchange derivatives business.

Where an overseas institutional investor chooses the direct market entry model or the prime brokerage model of the inter-bank foreign exchange market to carry out foreign exchange derivatives transactions, it shall report the relevant transaction information in accordance with the provisions of the CFETS.

Where a domestic financial institution handles spot foreign exchange settlement and sale and foreign exchange derivatives business for overseas institutional investors through the channel specified in item (1) of Article 13 or item (1) of Article 14 of these Provisions, and uses a third-party trading system, platform, or facility other than its own internal trading system, it shall comply with the relevant regulatory provisions.

Article 21 — Where overseas institutional investors, custodians, settlement agents, relevant domestic financial institutions, and others commit any of the following relevant acts, the People’s Bank of China and the State Administration of Foreign Exchange shall impose penalties in accordance with the Law of the People’s Republic of China on the People’s Bank of China and the Regulations of the People’s Republic of China on Foreign Exchange Administration and other laws and regulations, respectively:

(1) failing to handle registration in accordance with regulations;

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

(3) failing to open or close accounts in accordance with regulations, or failing to use accounts in accordance with regulations;

(4) failing to handle foreign exchange derivatives business in accordance with regulations;

(5) failing to report information and data in accordance with regulations, or the reported information and data being incomplete or untrue in content, or providing false materials, data, or certificates; or

(6) failing to make balance-of-payments statistical declarations and relevant foreign exchange settlement and sale statistical reports in accordance with regulations.

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Article 22 — These Provisions apply to overseas central banks or monetary authorities, other official reserve management institutions, international financial organizations, and sovereign wealth funds investing in China's bond market through custodians or settlement agents (commercial banks).

Article 23 — Materials submitted by overseas institutional investors in accordance with these Provisions shall be in Chinese. Where Chinese and foreign-language versions are submitted simultaneously, the Chinese version shall prevail.

Article 24 — These Provisions shall be interpreted by the People's Bank of China and the State Administration of Foreign Exchange.

Article 25 — These Provisions shall take effect on January 1, 2023. The Notice of the State Administration of Foreign Exchange on Relevant Issues Concerning the Administration of Foreign Exchange Accounts of Overseas Central Bank-Type Institutions Investing in the Inter-Bank Market (Hui Fa [2015] No. 43), the Notice of the State Administration of Foreign Exchange on Relevant Issues Concerning the Foreign Exchange Administration of Overseas Institutional Investors Investing in the Inter-Bank Bond Market (Hui Fa [2016] No. 12), and the Notice of the State Administration of Foreign Exchange on Relevant Issues Concerning the Improvement of Foreign Exchange Risk Management of Overseas Institutional Investors in the Inter-Bank Bond Market (Hui Fa [2020] No. 2) shall be repealed simultaneously.

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