Interim Measures for the Administration of Securities and Futures Investment Consulting of China (the PRC)

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

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Approved by the State Council on November 30, 1997; promulgated by the Securities Commission of the State Council on December 25, 1997.

Effective: April 1, 1998

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Chapter I — General Provisions

Article 1 — These Measures are formulated to strengthen the administration of securities and futures investment consulting activities, safeguard the lawful rights and interests of investors and the public interest.

Article 2 — Any person engaging in securities or futures investment consulting business within the territory of the People's Republic of China must comply with these Measures.

For the purposes of these Measures, "securities and futures investment consulting" means the activities whereby institutions engaged in securities or futures investment consulting business and their investment consultants provide, directly or indirectly, securities or futures investment analysis, forecasts or recommendations and other paid consulting services to securities or futures investors or clients in any of the following forms:

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(1) providing securities or futures investment consulting services upon entrustment by investors or clients;

(2) holding lectures, presentations, analysis sessions or other such activities relating to securities or futures investment consulting;

(3) publishing securities or futures investment consulting articles, commentaries or reports in newspapers and periodicals, and providing securities or futures investment consulting services through public media such as radio and television;

(4) providing securities or futures investment consulting services through telecommunications equipment and systems such as telephone, fax and computer networks;

(5) other forms recognized by the China Securities Regulatory Commission (hereinafter referred to as the "CSRC").

Article 3 — Engaging in securities or futures investment consulting business requires a business permit from the CSRC obtained in accordance with these Measures. Without a permit from the CSRC, no institution or individual may engage in any form of securities or futures investment consulting business listed in Article 2 of these Measures.

Securities business institutions and futures brokerage institutions, and their staff, that engage in securities or futures investment consulting business beyond the scope of their respective institutions shall comply with these Measures.

Article 4 — Persons engaging in securities or futures investment consulting business must comply with relevant laws, regulations and rules and the relevant provisions of the CSRC, and adhere to the principles of objectivity, fairness, and good faith.

Article 5 — The CSRC and its authorized local securities and futures regulatory departments (hereinafter referred to as "local securities regulatory offices (CSRC)") are responsible for the supervision and administration of securities and futures investment consulting business and for the implementation of these Measures.

Chapter II — Securities and Futures Investment Consulting Institutions

Article 6 — An institution applying for securities or futures investment consulting practice qualification shall meet the following conditions:

(1) an institution engaging solely in securities or solely in futures investment consulting business has five or more full-time personnel who have obtained securities or futures investment consulting practice qualification; an institution engaging in both securities and futures investment consulting business has ten or more full-time personnel who have obtained securities or futures investment consulting practice qualification; and among its senior management personnel, at least one has obtained securities or futures investment consulting practice qualification;

(2) has registered capital of not less than RMB 1 million;

(3) has fixed business premises and communication and other information transmission facilities commensurate with its business;

(4) has articles of association;

(5) has sound internal management systems;

(6) meets other conditions required by the CSRC.

Article 7 — Securities business institutions and futures brokerage institutions that meet the conditions set forth in Article 6 of these Measures may apply to engage in securities or futures investment consulting business beyond the scope of their respective institutions.

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Other institutions engaging in consulting business that meet the conditions set forth in Article 6 of these Measures may apply to concurrently engage in securities or futures investment consulting business.

Article 8 — An institution applying for securities or futures investment consulting practice qualification shall be approved according to the following procedures:

(1) the applicant files an application with the local securities regulatory office (CSRC) at the place where it is located that is authorized by the CSRC (where the local securities regulatory office (CSRC) at the place where the applicant is located is not authorized by the CSRC, the applicant files the application directly with the CSRC; the same applies hereinafter); after examination and consent, the local securities regulatory office (CSRC) puts forward a preliminary examination opinion;

(2) the local securities regulatory office (CSRC) submits the approved application documents to the CSRC; after examination and approval by the CSRC, a business permit is issued to the applicant, and a copy of the approval document is sent to the local securities regulatory office (CSRC);

(3) the CSRC announces to the public, in the form of a notice, the particulars of applicants that have obtained business permits.

Article 9 — An institution applying for securities or futures investment consulting practice qualification shall submit the following documents:

(1) the application form uniformly printed by the CSRC;

(2) the articles of association;

(3) the business license of the enterprise legal person;

(4) a list of the institution's senior management personnel and personnel engaging in securities or futures investment consulting business, together with their educational background, work experience and practice qualification certificates;

(5) the manner of conducting investment consulting business and the internal management rules and systems;

(6) documents evidencing use of business premises, the institution's correspondence address, and telephone and fax numbers;

(7) a capital verification report provided by a certified public accountant;

(8) other documents required by the CSRC.

Article 10 — Where a securities or futures investment consulting institution's business manner, business premises, principal responsible persons, or business personnel holding securities or futures investment consulting practice qualification change, it shall, within five working days from the date of the change, submit a change report to the local securities regulatory office (CSRC) and complete the change formalities.

Article 11 — A securities or futures investment consulting institution shall apply to the local securities regulatory office (CSRC) for annual inspection during the period from January 1 to April 30 each year. When undergoing annual inspection, it shall submit the following documents:

(1) the annual inspection application report;

(2) the annual business report;

(3) the financial accounting statements audited by a certified public accountant.

The local securities regulatory office (CSRC) shall, within twenty working days from the date of receipt of the documents listed in the preceding paragraph, reach an examination opinion on the annual inspection application; where the examination approves, it shall report to the CSRC for approval.

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A securities or futures investment consulting institution that fails to submit an annual inspection report within the time limit or fails to pass the annual inspection after examination may not continue to engage in securities or futures investment consulting business.

Chapter III — Securities and Futures Investment Consulting Personnel

Article 12 — Personnel engaging in securities or futures investment consulting business may engage in such business only after obtaining securities or futures investment consulting practice qualification and joining a qualified securities or futures investment consulting institution.

Any person who has not obtained securities or futures investment consulting practice qualification, or who has obtained such qualification but is not working in a securities or futures investment consulting institution, may not engage in securities or futures investment consulting business.

Article 13 — A securities or futures investment consultant applying for securities or futures investment consulting practice qualification must meet the following conditions:

(1) holds the nationality of the People's Republic of China;

(2) has full capacity for civil conduct;

(3) is of good conduct, upright and honest, and possesses good professional ethics;

(4) has not received criminal punishment or serious administrative punishment related to securities or futures business;

(5) has an educational background of a bachelor's degree or above;

(6) a securities investment consultant has more than two years of experience in securities business, and a futures investment consultant has more than two years of experience in futures business;

(7) has passed the securities or futures practitioners qualification examination uniformly organized by the CSRC;

(8) meets other conditions prescribed by the CSRC.

Article 14 — A securities or futures investment consultant applying for securities or futures investment consulting practice qualification shall be approved according to the following procedures:

(1) the applicant files an application with the local securities regulatory office (CSRC) at the place where it is located that is authorized by the CSRC (where the local securities regulatory office (CSRC) at the place where the applicant is located is not authorized by the CSRC, the applicant files the application directly with the CSRC; the same applies hereinafter); after examination and consent, the local securities regulatory office (CSRC) puts forward a preliminary examination opinion;

(2) the local securities regulatory office (CSRC) submits the approved application documents to the CSRC; after examination and approval by the CSRC, a qualification certificate is issued to the applicant, and a copy of the approval document is sent to the local securities regulatory office (CSRC).

Article 15 — A securities or futures investment consultant applying for securities or futures investment consulting practice qualification shall submit the following documents:

(1) the application form uniformly printed by the CSRC;

(2) the identity card;

(3) the educational certificate;

(4) the transcript of the securities or futures practitioners qualification examination;

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(5) explanatory materials on past conduct issued by the employing unit or the subdistrict office at the place of household registration;

(6) other materials required by the CSRC.

Article 16 — Where a person who has obtained securities or futures investment consulting practice qualification applies for practice, the securities or futures investment consulting institution in which the person participates shall file the application with the local securities regulatory office (CSRC) at the place where it is located; after examination and consent by the local securities regulatory office (CSRC), it shall report to the CSRC for approval; where practice is approved, a practice certificate shall be issued by the CSRC.

Article 17 — A person who has obtained securities or futures investment consulting practice qualification shall undergo practice annual inspection at the same time as the annual inspection of the securities or futures investment consulting institution in which the person participates. Where a person who has obtained securities or futures investment consulting practice qualification has not practiced in a securities or futures investment consulting institution, the practice qualification shall automatically lapse upon the expiry of 18 months from the date of acquisition.

Article 18 — A securities or futures investment consultant may not practice in two or more securities or futures investment consulting institutions at the same time.

Chapter IV — Administration of Securities and Futures Investment Consulting Business

Article 19 — Securities or futures investment consulting institutions and their investment consultants shall provide securities or futures investment consulting services to investors or clients with the prudence, honesty and diligence generally recognized in the industry.

Article 20 — Securities or futures investment consulting institutions and their investment consultants shall use relevant information and materials completely, objectively and accurately in providing investment analysis, forecasts and recommendations to investors or clients, and may not quote or tamper with relevant information or materials out of context; when quoting relevant information or materials, the source and the copyright owner shall be indicated.

Article 21 — Securities or futures investment consulting institutions and their investment consultants may not provide investment analysis, forecasts or recommendations to investors or clients based on false information, market rumors or insider information.

Article 22 — When publishing investment consulting articles, reports or opinions in newspapers, periodicals, radio, television or other media, a securities or futures investment consultant must indicate the name of the securities or futures investment consulting institution with which the consultant is affiliated and the consultant's true personal name, and give a full explanation of the investment risks. Facsimiles of securities or futures investment consulting materials provided by a securities or futures investment consulting institution to investors or clients must indicate the institution's name, address, contact telephone number and the name of the contact person.

Article 23 — Where a securities or futures investment consulting institution co-organizes or assists in organizing securities or futures investment consulting sections or programs with newspapers, periodicals, radio or television, or cooperates in business with telecommunications service departments, it shall file with the local securities regulatory office (CSRC) the filing materials, including the content of the cooperation, the start and end time, the layout arrangement or the program time slot, and the persons in charge of the project, and affix the seals of both parties.

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Article 24 — A securities or futures investment consulting institution and its investment consultants may not engage in the following activities:

(1) acting as an agent for investors in buying or selling securities or futures;

(2) promising investors returns on securities or futures investment;

(3) agreeing with investors to share investment returns or bear investment losses;

(4) buying or selling stocks, securities having the nature and function of stocks, or futures for themselves;

(5) using consulting services to conspire with others to manipulate the market or engage in insider trading;

(6) other securities or futures fraudulent acts prohibited by laws, regulations and rules.

Article 25 — Investment analysis, forecasts or recommendations provided by a securities or futures investment consulting institution to different clients on the same issue shall be consistent.

A securities business institution with proprietary business, when engaging in securities investment consulting business beyond the scope of its own institution, shall provide consistent consulting opinions to the public and to its proprietary department on the same issue, and may not mislead the public for the purpose of gaining profits in proprietary business.

Article 26 — Securities or futures information bulletins, newsletters, updates, and information systems compiled by securities business institutions or futures brokerage institutions for their internal use may be used only within the scope of the respective institutions and may not be provided to the public through any channel.

Underwriters or listing sponsors of companies whose public issuance of stocks has been approved by the CSRC, and the securities investment consulting institutions affiliated with them, may not publish in public media the investment value analysis reports written by them for their clients.

Article 27 — The CSRC and the local securities regulatory offices (CSRC) have the right to inspect the business activities of securities or futures investment consulting institutions and investment consultants; the inspected securities or futures investment consulting institutions and their investment consultants shall cooperate and may not interfere with or obstruct the inspection.

The CSRC and the local securities regulatory offices (CSRC) and their staff shall, in the course of business inspection, pay attention to protecting the trade secrets involved.

Article 28 — A securities or futures investment consulting institution shall preserve the investment consulting materials it provides to investors or the public for two years from the date of provision.

Article 29 — Based on complaints or reports from investors or the public, the local securities regulatory office (CSRC) has the right to require a securities or futures investment consulting institution and its investment consultants to explain the situation and provide relevant materials.

Article 30 — Where any unit or individual discovers that a securities or futures investment consulting institution, an investment consultant, or any other institution or individual has committed an act in violation of these Measures, it may file a complaint or report with the local securities regulatory office (CSRC).

Article 31 — The local securities regulatory office (CSRC) shall place on file and investigate acts in violation of these Measures and report the investigation results to the CSRC for the record.

Chapter V — Penalty Provisions

Article 32 — Where a person engages in securities or futures investment consulting business as set forth in Article 2 of these Measures without a permit from the CSRC, the local securities regulatory office (CSRC) shall order cessation and impose a fine of not more than the value of the confiscated illegal gains.

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Article 33 — Where a securities or futures investment consulting institution commits any of the following acts, the local securities regulatory office (CSRC) shall impose a fine of not less than RMB 10,000 and not more than RMB 50,000; where the circumstances are serious, the local securities regulatory office (CSRC) shall report to the CSRC, which shall impose the penalty of suspending or revoking the business qualification:

(1) the documents or materials submitted to the securities regulatory department contain false statements or major omissions;

(2) failing to perform the reporting and annual inspection obligations in accordance with these Measures;

(3) failing to complete the change formalities for changes in the institution's relevant circumstances in accordance with these Measures;

(4) the institution's securities or futures investment consultants have violated these Measures and received administrative penalties from the securities regulatory department;

(5) interfering with or obstructing inspections or investigations by the local securities regulatory office (CSRC), or concealing or destroying evidence.

Article 34 — Where a securities or futures investment consulting institution violates Articles 18, 19, 20, 21, 22, 23, 24, 25 or 28 of these Measures, the local securities regulatory office (CSRC) shall impose a warning, confiscation of illegal gains, and a fine of not less than RMB 10,000 and not more than RMB 100,000, singly or concurrently; where the circumstances are serious, the local securities regulatory office (CSRC) shall report to the CSRC, which shall impose the penalty of suspending or revoking the business qualification; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 35 — Where a securities business institution or futures brokerage institution violates Article 26 of these Measures, the local securities regulatory office (CSRC) shall order correction and impose a warning or a fine of not less than RMB 10,000 and not more than RMB 50,000.

Article 36 — Where a securities or futures investment consultant violates Articles 18, 19, 20, 21, 22 or 24 of these Measures, or fails to perform the reporting and annual inspection obligations to the securities regulatory department in accordance with these Measures, the local securities regulatory office (CSRC) shall impose a warning, confiscation of illegal gains, and a fine of not less than RMB 10,000 and not more than RMB 30,000, singly or concurrently; where the circumstances are serious, the local securities regulatory office (CSRC) shall report to the CSRC, which shall impose the penalty of suspending or revoking the business qualification; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 37 — Where staff of the CSRC or the local securities regulatory offices (CSRC) neglect their duties, abuse their authority, or commit irregularities for personal gain, and a crime is constituted, criminal liability shall be pursued in accordance with law; where a crime is not constituted, administrative sanctions shall be imposed in accordance with law.

Chapter VI — Supplementary Provisions

Article 38 — These Measures shall come into force as of April 1, 1998.

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