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Order of the China Securities Regulatory Commission

(No. 140)

With the approval of the State Council, the *Administrative Measures for Foreign-Invested Securities Companies* is hereby issued, and shall come into force on the date of issuance.

Liu Shiyu
Chairman of the China Securities Regulatory Commission

April 28, 2018

Administrative Measures for Foreign-Invested Securities Companies

Article 1 For the purposes of meeting the needs in the opening up of the securities market to foreign investors, strengthening and improving the supervision and administration of foreign-invested securities companies, and specifying the conditions and procedures for the formation of foreign-invested securities companies, this *Measures* is developed in accordance with the relevant provisions of the *Company Law of the People's Republic of China* (hereinafter referred to as the “*Company Law*”) and the *Securities Law of the People's Republic of China* (hereinafter referred to as the “*Securities Law*”).

Article 2 For the purposes of this *Measures*, “foreign-invested securities companies” means:

- (1) securities companies jointly funded and formed by foreign and domestic shareholders according to the law;
- (2) securities companies resulting from modification of domestic-funded securities companies according to the law due to foreign investors' lawful transfer or subscription of equities of domestic-funded securities companies; and
- (3) securities companies resulting from modification of domestic-funded securities companies according to the law due to the modification of actual controllers of shareholders of domestic-funded securities companies into foreign investors.

Article 3 The China Securities Regulatory Commission (“CSRC”) shall be

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responsible for the examination and approval as well as supervision and administration of foreign-invested securities companies.

Article 4 The name, business form, registered capital, business scope, establishment and functions of governing bodies, shareholders, directors, supervisors, and senior executives, among others, of a foreign-invested securities company shall conform to the *Company Law*, the *Securities Law*, and other laws and regulations as well as the relevant rules of the CSRC.

Article 5 For the formation of a foreign-invested securities company, the following conditions shall be met in addition to those for the formation of securities companies set out in the *Company Law*, the *Securities Law*, the *Regulation on the Supervision and Administration of Securities Companies*, and the rules of the CSRC as approved by the State Council:

(1) A foreign shareholder of the company shall satisfy the qualifications set out in this *Measures*, and comply with the provisions of this *Measures* regarding the proportion and form of capital contribution of the foreign shareholder.

(2) The company's initial business scope shall be commensurate with the experience of its controlling shareholder or largest shareholder in operating securities business.

(3) Other prudential conditions specified by the CSRC.

Article 6 A foreign shareholder of a foreign-invested securities company shall meet the following conditions:

(1) The country or region where it is located has sound securities laws and regulatory framework, and the relevant financial regulatory authority has entered into a memorandum of understanding regarding securities regulatory cooperation and maintained an effective regulatory cooperation relationship with the CSRC or an institution recognized by the CSRC.

(2) It shall be a financial institution formed by law in the country or region where it is located, and all its financial indicators in recent three years conform to the provisions of laws and the requirements of the regulatory authorities of the country or region where it is located.

(3) It shall have engaged in securities business for five consecutive years or more, have not been subject to any major punishment by the regulatory authority, administrative agency, or judicial authority in the country or region where it is located in the recent three years, and is not under ongoing investigation by the relevant authority on suspicion of any major violation of law or regulation.

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(4) It shall have a sound internal control system.

(5) It shall hold sound international reputation and outstanding performance, with world-leading business scale, revenues, and profits in the recent three years, and maintain high ratings of long-term credit in the recent three years.

(6) Other prudential conditions specified by the CSRC.

Article 7 Foreign shareholders shall make their contributions with freely convertible currencies.

The proportion of equity cumulatively held by foreign shareholders (including direct holding and indirect control) in a foreign-invested securities company shall conform to the State's overall opening-up commitment of China's domestic securities industry

Article 8 To apply for forming a foreign-invested securities company, the representative jointly designated or the agent jointly authorized by all of its shareholders shall submit the following documents to the CSRC:

(1) An application form jointly signed by the legal representatives or the authorized representatives of its domestic and foreign shareholders.

(2) The contract on formation of the foreign-invested securities company and the draft bylaws.

(3) The resumés of the to-be-appointed chairman of the board of directors, general manager, and chief compliance officer of the foreign-invested securities company.

(4) The photocopies of the shareholders' business licenses or registration certificates, and securities business qualification certificates of its shareholders.

(5) The audited financial statements of its domestic and foreign shareholders for the three years prior to the filing of the application.

(6) Explanatory letters issued by the relevant regulatory authorities in the country or region where a foreign shareholder is located or foreign institutions recognized by the CSRC regarding whether the foreign shareholder meets the conditions set out in subparagraphs (2) and (3) of Article 6 of this *Measures*.

(7) Supporting documents on foreign shareholders' good international reputation and business performance, leading position in the world in terms of business scale, revenue, and profits in the recent three years, and long-term credit ratings in the recent three years.

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(8) Legal opinions issued by a law firm within the Chinese Mainland.

(9) Other documents required by the CSRC.

Article 9 The CSRC shall, according to the relevant laws and administrative regulations and this *Measures*, examine the application documents set out in Article 8, make a decision on whether to approve the application within a prescribed period, and notify the applicant in writing. If an application is disapproved, reasons for disapproval shall be explained in writing.

Article 10 The shareholders shall, within six months of issuance of the approval document of the CSRC, contribute capital in full amount or fulfill the agreed cooperative conditions, elect directors and supervisors, appoint senior executives, and apply to the company registration authority for formation registration and business license.

Article 11 A foreign-invested securities company shall, within 15 working days of issuance of the business license of the company, submit the following documents to the CSRC to apply for a securities business permit:

(1) A photocopy of the duplicate of the business license.

(2) Articles of association.

(3) A capital verification report issued by an accounting firm within the Chinese Mainland with corresponding securities-related business qualifications

(4) Roster of directors, supervisors, senior executives, and main business personnel, and their office holding qualification certificates and professional certificates for securities business.

(5) Texts of internal control rules.

(6) Explanatory documents on business premises and operating facilities.

(7) Other documents required by the CSRC.

Article 12 The CSRC shall, according to the relevant laws and administrative regulations and this *Measures*, examine the application documents set out in Article 11, and make a decision within 15 working days of receipt of the application documents satisfying the requirements. If the application meets the prescribed conditions/qualifications, a securities business permit shall be issued; otherwise, no securities business permit shall be issued, but reasons for rejection shall be explained in writing.

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Article 13 A foreign-invested securities company that has not obtained a securities business permit from the CSRC shall not open for business, nor engage in securities business.

Article 14 Where a domestic-funded securities company applies for modification into a foreign-invested securities company, the conditions set out in Article 5 of this *Measures* shall be met.

Foreign shareholders who would acquire or subscribe for equities of domestic-funded securities companies shall meet the conditions set out in Article 6 of this *Measures*, and comply with the provision of Article 7 of this *Measures* regarding the proportion of equity acquired or capital contribution.

Where the actual controller of a shareholder of a domestic-funded securities company is modified into a foreign investor, the foreign investor shall meet the conditions set out in Article 6 of this *Measures*, and comply with the provision of Article 7 of this *Measures* regarding the proportion of equity in the securities company indirectly controlled by it. If the foreign investor fails to meet the conditions or fails to comply with the provision regarding the proportion of equity in the securities company indirectly controlled by it, correction shall be completed within three months.

Article 15 A domestic-funded securities company applying for its modification into a foreign-invested securities company shall submit the following documents to the CSRC:

- (1) An application form signed by its legal representative.
- (2) The resolution of its shareholders' meeting regarding its modification of it into a foreign-invested securities company.
- (3) The draft amendments to its articles of association.
- (4) The equity transfer agreement or the capital contribution agreement (share subscription agreement).
- (5) The list and resumés of persons to be appointed by the foreign investor to positions in the securities company and their corresponding practicing qualification certificates and office qualification certificates.
- (6) The photocopies of the business license or registration certificate and the relevant business qualification certificates of the foreign shareholder.
- (7) The audited financial statements of the foreign shareholder for the three years

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prior to the filing of the application.

(8) Explanatory letters issued by the relevant regulatory authorities in the country or region where the foreign shareholder is located or foreign institutions recognized by the CSRC regarding whether the foreign shareholder meets the conditions set out in subparagraphs (2) and (3) of Article 6 of this *Measures*.

(9) Supporting documents on the foreign shareholder's good international reputation and business performance, leading position in the world in terms of business scale, revenue, and profits in the recent three years, and long-term credit ratings in the recent three years.

(10) Legal opinions issued by a law firm within the Chinese Mainland.

(11) Other documents required by the CSRC.

Article 16 The CSRC shall, according to relevant laws and administrative regulations and this *Measures*, examine the application documents set out in Article 15, make a decision on whether to approve the application within a prescribed period, and notify the applicant in writing. If an application is disapproved, reasons for disapproval shall be explained in writing.

Article 17 Where the modification of a securities company is approved, it shall, within six months of issuance of the approval document of the CSRC, complete equity transfer or capital increase, and apply to the company registration authority for modification registration and a new business license.

Article 18 Where the modification of a securities company is approved, it shall, within 15 working days of modification registration, submit the following documents to the CSRC to renew securities business permit:

(1) The photocopy of the duplicate of its business license.

(2) The articles of association of the foreign-invested securities company.

(3) Its original securities business permit and the duplicate thereof.

(4) A capital verification report issued by an accounting firm within the Chinese Mainland with corresponding securities business qualifications.

(5) Other documents required by the CSRC.

Article 19 The CSRC shall, according to relevant laws and administrative regulations and this *Measures*, examine the application documents set out in Article 18, and make a decision within 15 working days of receipt of the qualified

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application documents satisfying the requirements. If the application meets the prescribed conditions, a new securities business permit shall be issued; otherwise, no new securities business permit shall be issued, but reasons for rejection shall be explained in writing.

Article 20 A foreign-invested securities company newly formed or continuing to exist after the merger of foreign-invested securities companies or the merger of foreign-invested securities companies with domestic-funded securities companies shall meet the conditions for formation of foreign-invested securities company prescribed in this *Measures*; and the proportion of shares held by foreign shareholders shall comply with the provisions of this *Measures*.

Where a securities company separated from a foreign-invested securities company has foreign shareholders, its foreign shareholders shall comply with the provisions of this *Measures* regarding their equity proportion.

Article 21 Foreign investors may legally hold shares in a listed domestic-funded securities company through securities trading on a stock exchange or hold shares in a listed domestic-funded securities company with the approval of the CSRC by establishing a strategic partnership with the listed domestic-funded securities company.

A foreign investor legally holding 5% or more of the shares of a listed domestic-funded securities company through securities trading on a stock exchange or holding jointly with others by agreement or any other arrangement shall meet the conditions set out in Article 6 of this *Measures*, and comply with the Securities Law and the rules of the CSRC on approval of acquisition of a listed company and modification of a securities company.

Article 22 The application documents and materials submitted to the CSRC under this *Measures* shall be in Chinese. Where the documents or materials produced by a foreign shareholder and the relevant regulatory authorities in the country or region where it is located or the foreign institutions recognized by the CSRC are in a foreign language, the Chinese versions consistent with the originals shall be attached.

Where the documents and materials submitted by an applicant fail to sufficiently testify the conditions of the applicant, the CSRC may require the applicant to make further explanations.

Article 23 Where a foreign-invested securities company is involved in a national security review, the relevant national provisions shall apply.

Article 24 Investment in securities companies by investors from the Hong Kong

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Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region shall be governed, *mutatis mutandis*, by this *Measures*, except as otherwise specified by the State.

Article 25 Matters concerning the formation, modification, termination, operations, supervision, and administration of foreign-invested securities companies not included in this *Measures* shall be governed by other relevant rules of the CSRC.

Article 26 this *Measures* shall come into force on the date of issuance, upon which the *Rules for the Formation of Securities Companies with Foreign Shareholders* shall be repealed.

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