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Order of the China Securities Regulatory Commission

(No. 149)

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

Liu Shiyu

Chairman of the China Securities Regulatory Commission:

August 24, 2018

Administrative Measures for Foreign-invested Futures Companies

Article 1 For purposes of satisfying the requirements in the opening-up of the futures market, and strengthening and improving the supervision and administration of foreign-invested futures companies, this *Measures* is developed in accordance with the relevant provisions of the *Company Law of the People's Republic of China* and the *Regulation on the Administration of Futures Trading*.

Article 2 For purposes of this *Measures*, “foreign-invested futures company” means a futures company of which 5% or more equities is directly held or indirectly controlled by a single foreign shareholder or by multiple foreign shareholders with affiliations.

Article 3 The China Securities Regulatory Commission (“CSRC”) and its local offices shall conduct the supervision and administration of foreign-invested futures companies in accordance with the law.

Article 4 The names, business forms, registered capital, establishment and functions, among others, of foreign-invested futures companies shall comply with the *Company Law of the People's Republic of China*, the *Regulation on the Administration of Futures Trading*, the *Measures for the Supervision and Administration of Futures Companies*, other laws and administrative regulations and the relevant provisions of the CSRC.

Article 5 A foreign shareholder directly holding 5% or more equities of a futures company shall meet the following conditions in addition to the conditions set forth in Articles 7 and 9 of the *Measures for the Supervision and Administration of Futures Companies*:

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- (1) It has engaged in business operation for five consecutive years or more, and has not been subject to any major punishment from the regulatory authority or administrative or judicial authority of the country or region where it is located in the recent three years.
- (2) The management has good professional qualities and management capabilities.
- (3) It shall have sound internal control rules and a risk management system.
- (4) It shall have sound international reputation and outstanding performance, with world-leading business scale, revenues, and earnings, and high long-term credit ratings in the recent three years.
- (5) Other prudential conditions specified by the CSRC..

Where multiple foreign shareholders with affiliations cumulatively hold 5% or more equities in the futures company, each foreign shareholder shall meet the conditions listed in the preceding paragraph.

Article 6 Foreign shareholders with actual control of 5% or more equity in a futures company, through investment, agreement, or other business arrangements, shall convert such equities into direct holdings, whereas exemptions may apply to indirect holdings via Chinese Mainland securities companies and other circumstances recognized by the CSRC

A foreign investor with actual control of 5% or more equities of a futures company, either solely or jointly with its affiliates and persons acting in concert, shall meet the conditions prescribed in Article 5 of this *Measures*.

Article 7 Foreign shareholders shall make capital contribution with freely convertible currencies. The proportion of equities cumulatively held by foreign shareholders (including direct holding and indirect control) in a foreign-invested futures company shall conform to the State's overall opening-up commitment of the Chinese domestic futures industry

Article 8 The directors, supervisors and senior executives of a foreign-invested futures company shall meet the office-holding conditions and qualifications prescribed by the CSRC.

The senior executives of the foreign-invested futures company must perform their functions within Chinese Mainland.

Article 9 A foreign institution that plans to form a foreign-invested futures company shall register at the company registration authority and file an application with the CSRC. It shall submit the following documents to the CSRC in addition to the

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application documents prescribed in the *Measures for the Supervision and Administration of Futures Companies*:

- (1) Audited financial statements of the foreign institution in the three years prior to the application.
- (2) Explanatory letters issued by the relevant regulatory authority of the country or region where the foreign institution is located or agencies recognized by the CSRC on whether the foreign institution meets the conditions prescribed in subparagraph (1), paragraph 1 of Article 5 of this *Measures* and subparagraph (5) of Article 7 and subparagraph (2), paragraph 1 of Article 9 of the *Measures for the Supervision and Administration of Futures Companies*.
- (3) Explanatory documents proving whether the foreign institution meets the conditions prescribed in subparagraphs (2) and (3), paragraph 1 of Article 5 of this *Measures*.
- (4) Documents proving whether the foreign institution meets the conditions prescribed in subparagraph (4), paragraph 1 of Article 5 of this *Measures*.
- (5) A legal opinion issued by a law firm within Chinese Mainland.
- (6) Other application documents prescribed by the CSRC.

Where a foreign shareholder's change of equities falls under the circumstances prescribed in Article 17 of the *Measures for the Supervision and Administration of Futures Companies*, it shall file an application with the CSRC and the application documents shall be governed by the provisions in the preceding paragraph.

Article 10 A foreign-invested futures company formed with the approval of the CSRC shall undergo the relevant business registration formalities in accordance with the provisions of the foreign exchange administrative department of the state, and make full payment of capital contributions or provide agreed cooperation conditions.

Article 11 A foreign-invested futures company that applies for the issuance or renewal of the Securities and Futures Business License shall submit the following documents to the CSRC.

- (1) Photocopy of the duplicate of the business license.
- (2) Articles of Association.
- (3) The capital verification report issued by an accounting firm qualified for conducting the futures-related business within Chinese Mainland.

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- (4) Roster of directors, supervisors, senior executives and major business personnel, and their office-holding qualification certificates and professional certificates for futures business.
- (5) Explanatory documents proving that the senior executives physically perform their duties in Chinese Mainland.
- (6) Texts of internal control rules and risk management rules.
- (7) Explanatory documents on business premises and business facilities.
- (8) Other documents required by the CSRC.

A foreign-invested futures company that applies for renewing the Securities and Futures Business License shall also submit the company's original Securities and Futures Business License.

A foreign-invested futures company which fails to obtain the Securities and Futures Business License issued by the CSRC shall not conduct the futures business.

Article 12 The equity change of a foreign-invested futures company formed after the combination or division of foreign-invested futures companies shall comply with the provisions of this *Measures*.

Article 13 Where the shares of a listed futures company legally held by an foreign investor through securities trading on the stock exchange or in joint holdings with others through agreements or other arrangements reach 5% or more, the conditions prescribed in Article 5 of this *Measures* shall be met, and the laws, administrative regulations and the relevant provisions of the CSRC on the approval of acquisition of listed companies and the modification of futures companies shall be complied with.

Article 14 The application documents submitted to the CSRC by foreign-invested futures companies and their foreign shareholders and documents and materials submitted to the CSRC and its local offices must be in Chinese. If the documents and materials issued by a foreign shareholder and the relevant regulatory authority of the country or region where it is located or agencies recognized by the CSRC and the relevant documents and materials of the shareholders' meeting, the board of directors, the board of supervisors, and the executive meeting of the general manager of a foreign-invested futures company 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 explain the condition of the applicant, the CSRC may require the applicant to make further explanations.

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Article 15 The core servers of information systems such as transaction, settlement, and risk control, and data equipment for recording and storing client information of a foreign-invested futures company shall be set up within Chinese Mainland.

On the premise of complying with laws, administrative regulations, and the relevant provisions of the CSRC, the foreign-invested futures company may use the resources and technologies of foreign shareholders to improve the efficiency and security level of the information system.

Article 16 Where a foreign-invested futures company or any of its shareholders, directors, supervisors and senior executives violates the provisions of this *Measures*, the CSRC and its local offices may take administrative regulatory measures against or punish the violator in accordance with the *Regulation on the Administration of Futures Trading*, the *Measures for the Supervision and Administration of Futures Companies*, the *Measures for the Administration of Office Qualifications of Directors, Supervisors and Senior Executives of Futures Companies* and other relevant provisions.

Article 17 This *Measures* shall apply, mutatis mutandis, to investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan Region who invest in futures companies, except as otherwise prescribed by the State.

Article 18 Matters concerning the formation, modification, termination, operations, supervision, and administration of foreign-invested futures companies not included in this *Measures* shall be governed by other relevant rules of the CSRC.

Article 19 This *Measures* shall come into force on the date of issuance.