

Measures for the Administration of Domestic Securities and Futures

Investment by Qualified Foreign Institutional Investors and RMB

Qualified Foreign Institutional Investors

(Consultation Paper)

Article 1 For the purpose of supervising the investment activities of qualified foreign institutional investors in China's securities and futures markets and promoting the steady and sound development of the securities and futures markets, the *Measures for the Administration of Domestic Securities and Futures Investment by Qualified Foreign Institutional Investors and RMB Qualified Foreign Institutional Investors*, hereinafter referred to as the *Measures*, is formulated in accordance with relevant laws and administrative regulations.

Article 2 The term of qualified foreign institutional investors (hereinafter referred to as “qualified investors”) as mentioned in the *Measures* refers to foreign institutional investors who have been approved by the China Securities Regulatory Commission (the CSRC) to invest in China’s securities and futures markets, and have obtained investment quota registered with or approved by the State Administration of Foreign Exchange (the SAFE), to invest in China's securities and futures markets with funds raised overseas.

Upon registration with or approval by the SAFE, qualified foreign institutional investors allowed to use offshore RMB funds to invest in China's securities and futures markets are referred to as RMB qualified foreign institutional investors (RQFII).

To facilitate RMB internationalization, qualified investors are encouraged to invest with offshore RMB funds.

Foreign institutional investors referred to in Paragraph 1 of this Article include foreign fund management institutions, commercial banks, insurance companies, securities companies, futures companies, trust companies, government investment management companies and other assets management institutions, as well as other types of institutional investors recognized by the CSRC such as pension funds, charity funds and endowment funds.

Article 3 A qualified investor shall designate an eligible domestic commercial bank as the custodian for its assets, and designate a domestic securities or futures company, in accordance with law, to carry out its investments in China’s securities and futures markets.

Article 4 A qualified investor shall establish and implement an effective internal control system and compliance management regime to ensure its investment activities and funds management conform to laws and regulations in China.

Article 5 The CSRC shall, in accordance with law, oversee and regulate domestic securities and futures investment by qualified investors. The People's Bank of China (PBC) and the SAFE shall, in accordance with law, monitor and regulate the opening of bank accounts in China, securities and futures investment quotas, and cross-border funds transfer by qualified investors.

Article 6 An applicant for the qualification as a qualified investor shall meet the following requirements:

(1) the applicant shall be in sound financial conditions and good credit standing with proven experiences in securities and futures investment;

(2) the applicant's managerial personnel in charge of domestic investments shall meet relevant professional requirements of the applicant's domicile country or region (if such requirements exist);

(3) the applicant shall have sound and effective governance structure, internal control system, and compliance management regime, and, in accordance with relevant regulations, appoint a supervisor to oversee the legality and compliance of the applicant's domestic investment;

(4) the applicant's operation is well-managed and has not been subject to any major punishment by regulatory authorities in the latest 3 years or since its establishment; and

(5) other requirements set by the CSRC in accordance with the principle of prudential regulation.

Article 7 An applicant shall submit the application to the CSRC through its custodian.

The CSRC shall, within 20 business days of accepting the application, examine the documents and deliver a decision. A successful application will receive an approval letter and be granted with securities and futures investment license (the license). A rejected application will be notified in writing.

Article 8 An applicant shall register with or apply for approval on investment quota to the SAFE through its custodian.

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The SAFE shall, within 20 business days of receiving a complete application, examine the documents and deliver a decision. A successful registration or application will receive an approval letter. A rejected registration or application will be notified in writing.

Article 9 A custodian shall meet the following requirements:

- (1) having a dedicated department for asset custodian business;
- (2) paid-in capital of no less than RMB 8 billion;
- (3) adequately staffed with full-time employees who are proficient in asset custodian business;
- (4) having the capability and capacity to safekeep the assets of qualified investors;
- (5) having the capability and capacity to provide clearing and settlement services in a safe and efficient manner;
- (6) having the qualification as a designated foreign exchange bank and the qualification of engagement in the RMB business; and
- (7) no major violation of laws and regulations on foreign exchange management in the latest 3 years.

Article 10 A custodian shall, within 5 business days of first signing a custodian agreement, file the agreement to the CSRC for record.

Article 11 A custodian shall perform the following duties:

- (1) to safekeep the assets of qualified investors;
- (2) to provide foreign exchange services for qualified investors, including sale and purchase of foreign exchange, receipt and payment of foreign exchange, and RMB settlement;
- (3) to monitor the investment activities of qualified investors, and to report to the CSRC, PBC, and SAFE in a timely manner if their investment orders violate any laws and regulations;
- (4) to submit relevant business reports and statements periodically in accordance with requirements by the CSRC, PBC, and SAFE;
- (5) to document the records of remittance of funds, conversion of currencies, receipt

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and payment of foreign exchange, and fund flows and other information of the qualified investor for no less than 20 years;

(6) to report the statistics on balance of international payments in accordance with relevant national provisions on foreign exchange administration; and

(7) other duties as prescribed by the CSRC, PBC, and SAFE in accordance with the principle of prudential regulation.

Article 12 A custodian shall strictly segregate its proprietary assets from those under its custody, and set up individual accounts for the assets under its custody for separate management.

Article 13 If a qualified investor has more than 2 custodians, it shall designate one as the principal custodian, who is responsible for qualification application, investment quota application, reporting on material matters, and information registration on behalf of the qualified investor. The principal custodian shall submit the information of all custodians to the CSRC and the SAFE for record within 5 business days after the designation.

A qualified investor may change its custodian. The CSRC and the SAFE may require a qualified investor to change its custodian under the principle of prudential regulation. The new custodian shall submit relevant information to the CSRC and the SAFE for record within 3 business days after the former custodianship has been terminated.

Article 14 A qualified investor shall apply for opening a securities and futures account according to law.

Article 15 To trade securities, a qualified investor shall entrust an institution with clearing and settlement qualification for fund settlement. To trade futures, a qualified investor shall entrust an institution with qualification as a settling member of a futures exchange for fund settlement.

Article 16 A qualified investor may invest within the quota registered with or approved by the SAFE. Its principal and return on investments gained in the domestic markets can be invested in eligible RMB financial instruments.

A qualified investor's investment in the domestic interbank bond market and participation in the domestic foreign exchange market conform to applicable rules of the PBC and the SAFE.

Article 17 A qualified investor may, in accordance with law, entrust its assets to asset management schemes set up by asset management institutions including securities companies and fund management companies to invest in China. The

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investment scope of such asset management schemes shall comply with relevant rules on investment scope for qualified investors.

Article 18 Stock investment by foreign investors in China shall observe the foreign ownership requirements as stipulated by the CSRC and other relevant rules in China.

Article 19 With regards to information disclosure, a foreign investor is obliged to aggregate its equity holdings in a company, including the same company's shares listed in domestic stock exchanges, admitted on the National Equities Exchange and Quotations (NEEQ), and foreign shares listed overseas, and comply with relevant information disclosure rules.

A foreign investor shall disclose relevant securities investments of persons acting in concert according to information disclosure rules of listed companies.

Article 20 Securities companies and futures companies shall document foreign investors' order records and trading records for no less than 20 years.

Article 21 A qualified investor's investment activities in the domestic securities and futures market shall comply with relevant rules of the securities and futures trading venues, securities depository and clearing institutions, and futures market monitoring institutions.

Article 22 A qualified investor shall set up a foreign exchange account and a special RMB deposit account with the custodian after the investment quota has been registered with or approved by the SAFE.

Article 23 Deposits into and withdrawals from the foreign exchange account and the special RMB deposit account held by a qualified investor shall comply with the scope of fund use set in relevant rules of the PBC and the SAFE.

Article 24 A qualified investor shall remit its investment principal into China according to the rules of the SAFE. The investment principal remitted into China shall be made in convertible currencies approved by the SAFE and within the quota as registered with and approved by the SAFE.

Upon registration with or approval from the SAFE, a qualified investor may remit its investment principal in RMB.

Article 25 A qualified investor may repatriate its funds according to the rules of the PBC and the SAFE.

Article 26 The PBC and SAFE will exercise macro prudential management on remittance and repatriation of funds by qualified investors according to China's

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economic and financial conditions, supply and demand on the foreign exchange market, and balance of international payments.

Article 27 The CSRC, PBC, and SAFE may, in accordance with law, require qualified investors, custodians, securities companies, futures companies and other institutions to provide relevant information on the qualified investors and may carry out necessary inquiries and inspections.

Article 28 A qualified investor shall report to the CSRC, PBC, and SAFE within 5 business days in the event of any of the following situations:

- (1) change of custodians;
- (2) change of controlling shareholders or actual controllers;
- (3) involvement in major litigation or other major events;
- (4) being subject to major punishments overseas;
- (5) other situations stipulated by the CSRC, PBC, and SAFE.

Article 29 A qualified investor shall apply to change its license in the event of any of the following situations:

- (1) change of institutional information in the license;
- (2) merger and acquisition by another institution;
- (3) other situations stipulated by the CSRC, PBC, and SAFE.

During the application for a change of license, the qualified investor may continue to trade securities and futures, unless the CSRC regards suspension of operation as necessary according to the principle of prudential regulation.

Article 30 A qualified investor shall surrender its license to the CSRC for cancellation in the event of any of the following situations:

- (1) the qualified investor is dissolved, going into the bankruptcy proceedings or is taken over by a receiver;
- (2) the qualified investor applies for cancellation of its license; or
- (3) other circumstances stipulated by the CSRC, PBC, and SAFE.

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Article 31 In the event of any of the following situations, the CSRC, PBC, and SAFE can take regulatory measures on a qualified investor, including ordering for corrections, supervisory talks and issuing warning letters; and can take regulatory measures on managers and personnel with direct responsibilities or involvement, such as supervisory talks, issuing warning letters, ordering for participation in training, ordering for periodic reporting, or disqualification of the individual:

- (1) failing to comply with relevant rules in opening an account in accordance with relevant rules;
- (2) failing to comply with relevant rules in carrying out securities and futures investment activities in China;
- (3) failing to comply with relevant rules in performing information disclosure obligations;
- (4) failing to comply with relevant rules in effectively and efficiently implementing a compliance management regime;
- (5) failing to comply with relevant rules in the change or surrender of the license;
- (6) failing to comply with relevant rules in remittance of funds, foreign exchange settlement, purchases or sales of foreign exchange;
- (7) failing to comply with relevant rules in the submission of relevant reports and materials; or, the submission contains misrepresentation, misleading statements, or major omissions;
- (8) failing to cooperate with inspections, refusing to provide or stalling the provision of relevant materials; or
- (9) violating other provisions of the *Measures*.

In the event of overdue rectifications or severe violations, the qualified investor may be subject to warning and/or a fine of no more than RMB 30,000, individually or collectively; managers and personnel with direct responsibilities or involvement may be subject to warning and/or a fine of no more than RMB 30,000 each, individually or collectively. Any violation of the *Securities Law*, *Regulation on the Administration of Futures Trading*, *Regulations on Foreign Exchange Administration*, and other laws and administrative regulations will receive administrative penalties accordingly. Where a violation constitutes a suspected criminal offense, the case will be transferred to judicial authorities for prosecution of criminal liability in accordance with law.

Article 32 If a qualified investor violates laws and regulations in the process of

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conducting securities and futures investment in China, the CSRC may take measures according to law, such as imposing restrictions on the trading of relevant securities and futures accounts, and the PBC and the SAFE may take measures according to law, such as imposing restrictions on remittance of funds.

Article 33 In the event of any of the following situations, the CSRC, PBC, and SAFE can take regulatory measures on the custodians, such as ordering for correction, supervisory talks and issuing warning letters; and can take regulatory measures on managers and personnel with direct responsibilities or involvement, such as supervisory talks, issuing warning letters, ordering for participation in training, ordering for periodic reporting, suspension from duties, or disqualification of the individual:

- (1) failing to comply with relevant rules in custodian registration;
- (2) failing to comply with relevant rules in keeping custody of the qualified investor's assets;
- (3) failing to comply with relevant rules in fulfilling its duty to supervise the domestic securities and futures investment by a qualified investor;
- (4) failing to comply with relevant rules in conducting exchange and remittance of funds, and other relevant business for a qualified investor;
- (5) failing to comply with relevant rules in reporting balance of international payments;
- (6) failing to comply with relevant rules in the submission of relevant application materials, business reports, or statements;
- (7) failing to comply with relevant rules in record-keeping of remittances of funds and other related information of a qualified investor; or
- (8) violating other provisions of the *Measures*.

In the event of overdue rectifications or severe violations, the custodian may be subject to warning and/or a fine of no more than RMB 30,000, individually or collectively; managers and personnel with direct responsibilities or involvement may be subject to warning and/or a fine of no more than RMB 30,000 each, individually or collectively. Any violation of the *Securities Law*, *Regulation on the Administration of Futures Trading*, *Regulations on Foreign Exchange Administration*, and other laws and administrative regulations will receive administrative penalties accordingly. Where a violation constitutes a suspected criminal offense, the case will be transferred to judicial authorities for prosecution of criminal liability in accordance with law.

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Article 34 The *Measures* is applicable to institutional investors incorporated in the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan Region who conduct securities and futures investment in the mainland market.

Article 35 The *Measures* shall take effect on (DD/MM/YYYY). In the meantime, the *Measures for the Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors* (CSRC Order No. 36) issued on 1 September 2006 and the *Measures for the Pilot Program of Domestic Securities Investment by RMB Qualified Foreign Institutional Investors* (CSRC Order No. 90) issued on 1 March 2013 shall be simultaneously invalidated.