

China Legal Briefing*275

16 August 2019



* CHINA LEGAL BRIEFING is a regularly issued collection of Chinese law related news gathered from various media and news services, edited by WENFEI ATTORNEYS-AT-LAW LTD. distributed to its clients and CHINA LEGAL BRIEFING subscribers.

WENFEI ATTORNEYS-AT-LAW LTD. does not accept responsibility for the accuracy of quotes or truthfulness of its content. CHINA LEGAL BRIEFING is not intended to provide advice.

- I Provisions on Equity Administration of Securities Companies
- II Commercial Bank Equity Custody Measures
- III China Announces 11 New Measures for Further Opening of Financial Industry
- IV Reform Plan for Accelerating the Improvement of the Market Player Exit System

I. Provisions on Equity Administration of Securities Companies

On July 5, 2019 the China Securities Regulatory Commission ("CSRC") issued the Provisions on Equity Administration of Securities Companies ("Provisions"). The Provisions are effective immediately from the date of issuance.

The Provisions divide securities into two categories according to their risk level and their business complexity: traditional securities companies and comprehensive securities companies. Compared to traditional securities companies, comprehensive securities companies will now be subject to higher qualification conditions and equity control requirements.

The shareholders of securities companies are now divided into four categories: controlling shareholders, main shareholders, shareholders holding 5% or more of the equity and shareholders holding less than 5% of the equity. Different regulatory requirements apply to each shareholder group. The higher the proportion of shares is, the stricter the applicable requirements. In addition, the Provisions stipulate that institutional investors of a securities company may not control shares that exceed 50% of total equity.

II. Commercial Bank Equity Custody Measures

The Measures for the Equity Custody for Commercial Banks ("Measures"), were adopted at the second chairman's meeting of China Banking and Insurance Regulatory Commission ("CBIRC") on July 12, 2019. The main contents include the following two aspects:

Mandatory Custody: The measures stipulate that commercial banks must mandate a securities depository and a clearing institution, a regional equity market operator or any other equity custodians to manage their equity affairs.

Content of Custody: According to article 10 of the Measures, commercial banks have to provide the information of their shareholders, status of equity change, pledges, freezes and other materials to the custodian. The custodian will report

relevant information to the CBIRC. If the custodian fails to fulfill its obligations, it risks to be listed on the black list issued by the CBIRC.

III.China Announces 11 New Measures for Further Opening of Financial Industry

On July 20, 2019, The State Council of China unveiled eleven measures to further open financial industry (“11 Measures”). The 11 Measures cover the areas of financial credit rating, wealth management, pension management and currency brokerage.

The 11 Measures present opportunities for foreign investors by expanding business scopes and relaxing the access threshold. Foreign-invested companies e.g. are allowed to run a credit rating business in China such as rating all types of bonds in China's inter-bank bond market and exchange bond market. Further, overseas financial institutions are encouraged to participate in establishing and investing in pension management companies and currency brokerages business.

IV. Reform Plan for Accelerating the Improvement of the Market Player Exit System

In order to remove so-called zombie enterprises and reduce the exit costs, thirteen different authorities, including the National Development and Reform Commission, have recently jointly issued the Reform Plan for Accelerating the Improvement of the Market Player Withdrawal System ("Reform Plan") on June 22, 2019. The Reform Plan is effective from the date of publication.

The Reform Plan mainly sets out provisions which include regulations on the market exit, improvement of the settlement- and deregistration system and the legal system for bankruptcy.

Regarding market exit channels, the Reform Plan provides further clarification. It provides four different ways of withdrawal, such as: withdrawal through voluntary dissolution, withdrawal by going bankrupt, withdrawal through mandatory dissolution and mandatory withdrawal from certain special fields,

such as public safety. The Reform Plan is said to support the exit of market players by improving the liquidation- and deregistration systems and from a more general point of view, bankruptcy law should become more clear in the future.

© Wenfei, Beijing, August 2019

Check the China Legal Briefing archives on: <http://www.wenfei.com/publications.html>

Obtain your personal subscription from: china@wenfei.com