

24 May 2019
2019年5月24日

The People's Bank of China
6A04, Block A, International Enterprise Building
35 Jinrong Street, Xicheng District
Beijing, China 100032

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Dear Sir/Madam,
尊敬的先生/女士:

RE: PBOC and SAFE's Consultation Draft of the Notice on Issues Related to Further Facilitating Foreign Institutional Investors' Investment in the China Interbank Bond Market

关于中国人民银行 国家外汇管理局《关于进一步便利境外机构投资者投资银行间债券市场有关问题的通知》的征求意见稿

On behalf of its members, Asia Securities Industry & Financial Markets Association ("ASIFMA")¹ is pleased to submit our comments on the Consultation Draft (the "Consultation Draft") of the Notice on Issues Related to Further Facilitating Foreign Institutional Investors' Investment in the China Interbank Bond Market ("CIBM") issued by the People's Bank of China ("PBOC") and State Administration of Foreign Exchange ("SAFE") on 10 May 2019 (the "Notice").

亚洲证券业与金融市场协会 ("ASIFMA")¹ 谨代表我会会员向中国人民银行 ("人民银行") 和国家外汇管理局 ("外管局") 提交我们对人民银行和外管局于 2019 年 5 月 10 日发布的《关于进一步便利境外机构投资者投资银行间债券市场有关问题的通知 (征求意见稿)》(“《通知》”或“征求意见稿”)的一些意见。

1 ASIFMA is an independent, regional trade association with over 100 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

亚洲证券业与金融市场协会 (ASIFMA) 是一个独立的区域性行业协会, 会员基础广泛, 由银行、资产管理公司、律师事务所及市场基础设施服务供应商等 100 多家领先机构组成。协会的使命是发掘金融行业的共同利益来推动亚洲资本市场的深度和广度发展, 为区内的经济发展及增长提供基本条件。ASIFMA 致力于通过清晰而有力的行业共同声音来推动业界就关键议题达成共识、提出解决方案和促进变革。我们所牵头的众多举措包括回应监管机构和交易所的咨询、树立统一的行业标准、通过政策论文倡导更优质的市场, 以及为降低亚太区内的业务成本探索可行方案。通过全球金融市场协会 (GFMA), ASIFMA 与位于美国的证券业与金融市场协会 (SIFMA) 以及欧洲的金融市场协会 (AFME) 形成联盟, 共同提供全球最佳行业实践及标准, 为区域发展作贡献。详情请参阅 www.asifma.org。

DEVELOPING ASIAN CAPITAL MARKETS

We welcome the proposals in the Consultation Draft to allow foreign institutional investors (“**FII**s”) to do non-trade transfers onshore of their CIBM bond and cash holdings between their QFII/RQFII account and their CIBM Direct account as this would enable FIIs to consolidate their positions into one scheme for ease of management and cost efficiency. Our members are appreciative that under the Notice, they will no longer have to liquidate their holdings under QFII/RQFII, repatriate the proceeds and then invest anew under CIBM Direct if they want to hold all their CIBM investments under the latter, for example. This is a great step forward and we look forward to further fungibility among the different market access channels, such as between CIBM Direct and Bond Connect.

我们欢迎征求意见稿中提议的，允许境外机构投资者在将其合格境外机构投资者（QFII/RQFII）项下账户和银行间债券市场直接投资项下（“**直接投资**”）的账户中所持有的银行间市场债券和资金在境内进行非交易过户或划转，因为这可以让境外机构投资者整合其所有持仓到一个机制里面，便于管理和提高成本效率。我们的会员非常感谢在《通知》的规定下，如果它们想要通过直接投资持有其所有银行间市场的债券投资，它们将不再需要卖出其 QFII/RQFII 下的持仓，汇出利润，然后再重新通过直接投资进行投资。这是很大的进步，我们期待看到更多类似的跨渠道的相互转换，例如在直接投资和债券通之间。

We also welcome the proposal in the Consultation Draft that the same FII who invests in the CIBM through QFII/RQFII and CIBM Direct can file with the PBOC Shanghai Head Office (“**PBOC Shanghai**”) through either their QFII/RQFII custodian (the “**Custodian**”) or their CIBM Direct bond settlement agent (“**BSA**”). To enable the Custodian and BSA to check on the filing status with PBOC Shanghai, it would be helpful if they can do so with PBOC Shanghai directly, such as through PBOC Shanghai’s online platform.

我们也欢迎征求意见稿中的另一个提议，即同一境外机构投资者分别通过 QFII/RQFII 和直接投资渠道投资境内银行间债券市场的，只需通过 QFII/RQFII 境内托管行（“**托管行**”）或者直接投资结算代理人（“**结算代理人**”）向人民银行上海总部备案一次。如果人民银行上海总部可以开通相应的在线平台，以供托管行和结算代理人查询备案状态，将利于托管行和结算代理人的业务运行。

While we appreciate this first step in facilitating FIIs’ investment in the CIBM, we hope that in the not too distant future, similar transfers can be made between CIBM Direct and Bond Connect and FIIs can also hold and manage their CIBM and exchange traded bonds through the same account. In addition, non-trade transfers between different funding channels, i.e. between offshore RMB and onshore RMB accounts, will be highly important given the FX basis concerns of some FIIs.

虽然我们感谢促进境外机构投资者投资银行间市场上迈出的第一步，我们希望在不久的将来，类似的非交易过户可以在直接投资和债券通之间进行，而境外机构投资者也可以通过同一个账户持有并管理其在银行间市场和交易所交易的债券。此外，考虑到境外机构投资者在外汇基准上的忧虑，允许在不同资金渠道（即离岸人民币和在岸人民币账户）之间的非交易过户将有重大意义。

Set forth below are some specific clarification comments and questions on the Consultation Draft that we would like to submit for your consideration:

以下是关于征求意见稿的一些具体意见和问题，谨供您参考：

Two-way non-trade transfer

双向非交易过户

Paragraph 1 of the Consultation Draft states that the non-trade transfer of holdings between QFII/RQFII and CIBM Direct accounts of the same FII can be two ways, i.e. from QFII/RQFII to CIBM Direct or from CIBM Direct to QFII/RQFII. The Consultation Draft, however, does not state a limit on

the number of times such transfers may be made so unless it is clearly stated in the Notice, we will assume that there is no such limit either way.

征求意见稿第一条规定，同一境外机构投资者 QFII/RQFII 和直接投资账户之间的债券非交易过户可双向进行，即可从 QFII/RQFII 转到直接投资或从直接投资转到 QFII/RQFII。然而，征求意见稿并未规定对此类过户的次数的限制，因此除非在《通知》中明确说明，我们理解为双向过户和划转均没有限制。

It also provides that the application materials and actual operational details for non-trade transfers are subject to guidelines to be issued by the bond registration, custody and clearing organizations which are China Central Depository & Clearing Co., Ltd. (“CCDC”) and/or Shanghai Clearing House (“SCH”). To avoid unnecessary confusion, we hope that these guidelines and operational details issued by CCDC and SCH will be the same and that they apply equally to the Custodians and BSAs and to the transferor and transferee. It is also important that from an operational perspective, a non-trade transfer be distinguished from a normal transfer but both can be done online. Some of our members also hope that these guidelines will be in line with the standard free of payment transactions (i.e. transactions involving no change in beneficial owner) in global markets.

该条还规定，非交易过户所提交的申请材料和具体操作流程，应以债券登记托管结算机构，即中央国债登记托管结算有限责任公司（“中债登”）或（和）银行间市场清算所股份有限公司（“上清所”），发布的指引为准。为避免不必要的混淆，我们希望中债登和上清所各自发布的指引和操作细则是相同的，并且它们同等地适用于托管行和结算代理人以及同等地适用于非交易过户双方。同样重要的是，在运营角度上，中债登和上清所应区分非交易过户与正常交易，但允许非交易过户和正常交易都可以在中债登与上清所的在线交易系统中进行。我们的一些会员也希望这些指引能符合全球市场的无需付款交易（即没有受益拥有人变更的交易）的标准。

QFII/RQFII quota

QFII/RQFII 额度

If an FII’s CIBM holdings under QFII/RQFII, which is subject to a quota, are transferred to its CIBM Direct account, which is not subject to any quota, the Notice does not state whether or not the QFII/RQFII quota available to the FII will be released for other investment. We believe that an increase in the available QFII/RQFII quota after such transfer would be beneficial as it would allow such FII to increase its investment in the securities market (including corporate bonds) in China.

如果境外机构投资者在 QFII/RQFII 下的银行间市场债券持仓（受 QFII/RQFII 额限制）被过户到直接投资账户（无额度限制），《通知》并未说明境外机构投资者可用的 QFII/RQFII 额度是否将被释放用于其他投资。我们认为，此类过户后增加可用的 QFII/RQFII 额度是有利的，因为这将允许该境外机构投资者增加对中国证券市场（包括公司债券）的投资。

According to Article 1(2) of the reporting guideline attached to the Consultation Draft (the “Reporting Guideline”), the transferred position of the holdings will be reported based on its fair value. We would like to see this fair value amount be the same quota amount to be released for further usage after a transfer of CIBM holdings from a QFII/RQFII account to a CIBM Direct account of the same FII and the Notice to confirm this. We also suggest that the Notice or Reporting Guideline clarify what is meant by “fair value” and when and how it is determined.

根据征求意见稿的附件《债券非交易过户及资金境内划转国际收支申报指引》（“《申报指引》”）第一条第（二）项，申报金额均以所过户债券的公允价值为准。我们希望《通知》可以明确银行间市场债券持仓从同一境外机构投资者的一个 QFII/RQFII 账户过户到其直接投资账户之后，与此公允价值金额相同的 QFII/RQFII 额度可以被释放另作他用。此外，我们还建议《通知》或《申报指引》明确“公允价值”的定义以及确定它的时间和方式。

Cash transfers

资金划转

The third paragraph of the Consultation Draft states that cash in the Custodian account or in the BSA account of the same FII can be transferred onshore either way. We assume that this means all the cash that was injected for investments in the CIBM, including cash for repurchase agreements, can be transferred as QFII/RQFII can also have cash for investment in securities listed in the stock exchanges. It would be helpful if the Notice can clarify this.

征求意见稿的第三条规定，同一境外机构投资者的 QFII/RQFII 托管账户内资金与直接投资资金账户间，可在境内直接划转。我们认为这意味着所有为了投资银行间债券市场而注入的资金，包括用于回购交易的资金，都可以划转。因为 QFII/RQFII 也可以有用于投资证券交易所上市证券的资金。如《通知》可以对此进行澄清，将会有所帮助。

Onshore/offshore RMB tracking and repatriation

在岸/离岸人民币跟踪和汇出

Since FIIs are allowed to invest in the CIBM through CIBM Direct using CNY (converted from foreign currency) or CNH (offshore RMB), the cash that is allowed to be transferred can be CNY or CNH. Would tracking of CNY and CNH, which is required under CIBM Direct, be required once cash is transferred from the QFII/RQFII account to the CIBM Direct account or from the CIBM Direct account to the QFII/RQFII account? It would be most helpful if these questions are addressed in the Notice.

由于境外机构投资者可在岸人民币（由外币兑换）或离岸人民币来通过直接投资渠道投资银行间债券市场，可划转的资金可以是在岸或离岸人民币。直接投资下要求跟踪在岸和离岸人民币，当资金从 QFII/RQFII 账户转移到直接投资账户或从直接投资账户转移到 QFII/RQFII 账户时，该要求是否还适用？如这些问题在《通知》中得到解答，那将是非常有帮助的。

Opening up non-trade transfers between onshore RMB and offshore RMB accounts within each access channel or across access channels will produce positive values to FIIs, avoiding undesirable FX basis risk. In the same spirit of avoiding liquidation and reinvestment, we believe bond positions held by the same FII across funding channels (offshore RMB and onshore RMB) can be consolidated without significant cost.

在单个准入渠道或跨渠道开放在岸人民币和离岸人民币账户之间的非交易划转将为境外机构投资者带来正面价值，让其避免不利的外汇基准风险。和避免卖出和再投资的道理一样，我们认为同一境外机构投资者在不同资金渠道（离岸人民币和在岸人民币）下的债券持仓应可以在无需大量成本的情况下整合。

In addition, we assume that foreign currency (“FX”) held in the Custodian account or BSA account of an FII for investment in the CIBM can be transferred as well. It would be helpful if the Notice can clarify.

此外，根据我们的理解，境外机构投资者的外汇资金也可以在 QFII/RQFII 资金账户与直接投资资金账户内进行划转。如《通知》可以对此进行澄清，将会有所帮助。

Tax implications

税务影响

Under China’s tax law, gains derived from a transfer of bonds by a FII without an establishment or place of business in China are not subject to China Enterprise Income Tax (“EIT”) or China Value Added Tax (“VAT”). Moreover, there is no change of beneficial ownership of the underlying bonds

upon the non-trade transfers between the QFII/RQFII and CIBM Direct accounts of the same FII and hence, the transfer shall not realize any gain/loss. Therefore, we are of the view that a non-trade transfer by a FII of bonds between its QFII/RQFII and CIBM accounts would not give rise to a taxable transfer for EIT and VAT purposes. To provide certainty to FIIs, we would like to suggest that the Notice confirms that the non-trade transfer is not taxable. In addition, we would like to request for consistent tax treatment by different tax bureaus, which is very important to our members.

根据中国的税法，在中国没有设立机构或营业场所的境外机构投资者转让债券所得收益无需缴纳中国企业所得税或中国增值税。而且，境外机构投资者进行其 QFII/RQFII 和直接投资账户之间的非交易过户，该过户不会导致债券的受益所有权的变化，所以不应造成任何收益/损失。因此，我们认为境外机构投资者在进行其 QFII/RQFII 与直接投资账户之间的债券非交易过户时，不应产生企业所得税和增值税。为了给境外机构投资者提供确定性，我们建议《通知》可以确认不对非交易过户征税。此外，我们希望不同的税务局可以保持一致的税收规则，这对我们的会员非常重要。

Reporting

申报

Paragraphs 2 and 3 of the Consultation Draft provide that after an FII completes a non-trade transfer of bonds or cash onshore, the relevant Custodian or BSA shall submit a virtual declaration for the balance of international payments and receipts in accordance with the Reporting Guidelines. In addition, it would be helpful if SAFE can clarify in the Reporting Guideline whether such non-trade transfers will be reported under “Cross-border Scheme” or “Domestic Scheme” as the transfers are being done onshore even though the transferor/transferee are FIIs.

征求意见稿第二、三条规定，相关托管行及结算代理人在境外机构投资者完成债券非交易过户或资金划转时，应按《申报指引》中相关要求在国际收支虚拟申报。另外，如果外管局可以在《申报指引》中澄清这些非交易过户是申报在“跨境划转”还是“非跨境划转”项下，将会有所帮助。因为转让人和受让人都是境外机构投资者，而过户和划转都在境内进行。

We understand that currently under CIBM Direct, BSAs are required to report funding transfer from the BSA account to the CCD/C/SCH account to meet the RCFE/RCPMIS reporting requirement. Since a non-trade transfer of bonds is free of payment (i.e. does not involve a change in beneficial owner) at the CCD/C/SCH level, we believe the funding transfer report is not required. It would be helpful if the Notice or Reporting Guideline can confirm this.

根据我们的了解，目前在直接投资下，结算代理人需要申报从其账户到中债登/上清所账户之间的资金转移，以满足人民币跨境收付信息管理前置系统（RCFE）/人民币跨境收付信息管理系统（RCPMIS）的报告要求。由于债券的非交易过户在中债登/上清所层面是无需付款的（即没有受益所有人的变更），我们认为不需要进行跨境资金收付申报。如《通知》或《申报指引》可以确认这一点，将会有所帮助。

QFII/RQFII Custodian/BSA QFII/RQFII

托管行/结算代理人

We assume that any FX conversion for repatriation purposes will be made pursuant to the rules and practices under the scheme (i.e. QFII/RQFII or CIBM Direct) in which the bond holdings of an FII are held at the time of repatriation.

我们了解，任何用于汇出的外汇兑换将根据汇出时境外机构投资者持有债券的机制（即 QFII/RQFII 或直接投资）的规则和惯例进行。

ASIFMA is grateful for the opportunity to comment on the Consultation Draft and look forward to the issuance of the Notice that takes into consideration our comments made in this letter.

本协会非常感谢有机会对征求意见稿提出意见，并期待在最终发布的《通知》中采纳本函的意见。

If you have any questions regarding any of the foregoing, please contact Eugenie Shen, Head of Asset Management Group of ASIFMA, at eshen@asifma.org or Tel: 2531 6570.

如果您对以上内容有任何疑问，请联系本会的资产管理部主管沈玉琪女士（电邮 eshen@asifma.org 电话 +852 2531 6570）。

Yours sincerely,

顺颂商祺，



Mark Austen

Chief Executive Officer 首席执行官

Asia Securities Industry & Financial Markets Association 亚洲证券业与金融市场协会