

17 August 2018

China Banking and Insurance Regulatory Commission
Jia No.15 Financial Street
Xicheng District
Beijing, China 100140

Email: cxcpc@cbrc.gov.cn

Dear Sir/Madam,

ASIFMA AMG's Comments on the Measures for the Supervision and Administration of Wealth Management Business of Commercial Banks (Consultation Draft)

On behalf of the Asset Management Group (**AAMG**) of Asia Securities Industry & Financial Markets Association (**ASIFMA**)¹, we are pleased to submit our comments on the *Measures for the Supervision and Administration of Wealth Management Business of Commercial Banks (Consultation Draft)* (the "**New Bank Wealth Management Measures**") issued by the China Banking and Insurance Regulatory Commission ("**CBIRC**") on 20 July 2018.

ASIFMA is an independent Asia-wide industry association which focuses on capital markets issues and development. It is part of a global alliance of similar industry associations in the U.S. and Europe. AAMG was launched by ASIFMA in 2014 to represent asset managers and currently has 24 asset manager members, all of which are global asset managers with a presence in Asia and two with headquarters in Asia. Between them, our members manage over USD 33.5 trillion in assets globally and thousands of investment funds as well as numerous separate institutional mandates with allocations to Asia Pacific.

Since all of our members are foreign institutions and most of their staff use English as their working language and translation of the entire New Bank Wealth Management Measures will take us a lot of time, the comments submitted below are what our members consider to be the most important.

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, professional and consulting 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.

DEVELOPING ASIAN CAPITAL MARKETS

Our members' other comments (if any) on the New Bank Wealth Management Measures may be submitted to you in another way.

Set out below are our comments on the New Bank Wealth Management Measures.

1. Background

In recent years, global asset management institutions have responded to China financial industry's outward opening up policies and actively develop China's financial market. Since the Asset Management Association of China (**AMAC**) issued on 30 June 2016 the *Q&As on Registration and Filing of Private Funds (No. 10)* which allows eligible wholly foreign owned enterprises (**WFOEs**) to apply for registration as private securities fund managers on 30 June 2016, 14 WFOEs have already successfully obtained such registration and many others are in the process of or preparing to apply for registration as wholly foreign owned Private Fund Managers (**WFOE PFM**). Since Shanghai issued in 2012 the *Implementation Measures on the Pilot Work of Qualified Domestic Limited Partnership (QDLP) in the City* and started QDLP business as a pilot, five batches of nearly 40 WFOEs or joint ventures (the "**QDLP fund managers**") set up by global asset management institutions in Shanghai have obtained QDLP pilot business qualification and quota.

AAMG's comments on the New Bank Wealth Management Measures are mainly aimed at enabling PFM WFOE and QDLP fund managers to better develop their businesses in China.

2. Prevent New Regulatory Arbitrage between Publicly Offered Bank Wealth Management Products and Existing Publicly Offered Securities Investment Funds

We understand that one of the legislative objectives of the *Guiding Opinions on the Regulation of Financial Institutions' Asset Management Business* (the "**Guiding Opinions**") published and implemented on 27 April 2018 was to remove regulatory arbitrage. However, upon comparing the *Securities Investment Fund Law of the People's Republic of China* (the "**Fund Law**") and various other regulatory requirements applicable to public funds regulated by the China Securities Regulatory Commission ("**CSRC**") against the regulatory requirements for publicly offered bank wealth management product under the New Bank Wealth Management Measures, there are big differences between publicly offered funds and publicly offered bank wealth management products in such areas as law applicability (the Fund Law applies to the former but not the latter), legal relationship, investment scope, methods of advertisement & promotion and product registration procedures, etc. These differences will lead to new room for regulatory arbitrage, which contradicts the legislative objective of the Guiding Opinions.

According to the China government's recent undertakings to further open up to foreigners, CSRC will permit qualified foreign institutions to set up wholly foreign-owned public fund management companies in April 2021. Therefore, foreign asset managers are particularly concerned about the publicly offered bank wealth management system arrangements and the possible regulatory arbitrage problems between such arrangements and the system for publicly offered funds.

3. Private Bank Wealth Management Products Investing in Private Funds

We notice Article 10 of the consultation draft of the Guiding Opinions states that “when a financial institution invests its asset management product in another institution’s asset management product, and as such is entrusting the investment of funds of its asset management product to another institution, the entrusted institution should be another **financial institution** with professional investment capabilities and qualifications and subject to regulation by a financial supervisory and regulatory department.” However, Article 22 of the final Guiding Opinions, published and implemented officially on 27 April 2018, replaced “**financial institution**” with “**institution**”. Moreover, Article 22 of the Guiding Opinions further states that “institutions entrusted by publicly offered asset management products should be financial institutions, and private fund managers can be entrusted by privately offered asset management products.” From this we can see that, according to the Guiding Opinions, privately offered bank wealth products may invest in private funds issued by private fund managers that are registered at AMAC and regulated by the CSRC.

However, according to Article 36 of the New Bank Wealth Management Measures, any bank wealth management product may not invest in “products issued by an institution set up without the approval of a financial regulatory and administrative department or without a financial license”, except for private equity investment funds set up legally by subsidiaries of financial asset investment companies and others provided by CBIRC regulations. Therefore, private bank wealth management products cannot invest in private funds either. From this, we note that the New Bank Wealth Management Measures are stricter than the Guiding Opinions.

We understand that, for products issued under the private bank wealth management system to qualified investors, their qualified investors have higher risk distinction and risk tolerance capability better than the investors of publicly offered bank wealth management products as well as higher demand for diversity in investment types. Hence, we suggest removing the restriction on private bank wealth management products investing in private funds in the New Bank Wealth Management Measures.

More specifically, we suggest that the regulatory rules in the New Bank Wealth Management Measures and the Guiding Opinions be kept consistent, amending paragraph 3 of Article 36 from:

“Commercial bank wealth management products may not, directly or indirectly, invest in any **products issued or assets managed by institutions that are set up without the approval of a financial supervisory administration department or do not hold a financial license** other than those listed in Article 35 of these Measures. Private equity investment funds set up legally by affiliates of financial asset management companies and those otherwise regulated by the banking regulator under the State Council are exempted from the above.”

to:

“Commercial bank wealth management products may not, directly or indirectly, invest in **any products issued or assets managed by institutions that are not**

subject to regulation by the financial supervisory administration department assets outside of those listed in Article 35 of these Measures, **or**. Private equity investment funds set up legally by affiliates of financial asset management companies and those otherwise regulated by the banking regulator under the State Council are exempted from the above. **Publicly offered bank wealth management products may not invest in private funds issued by other institutions that are set up without the approval of the financial supervisory administration department or do not hold a financial license.”**

Moreover, Article 48 of the New Bank Wealth Management Measures has the same problems. Please see the analysis in section 4 below.

4. Bank Wealth Management Product’s Investment Advisor Qualification

According to Article 48 of the New Bank Wealth Management Measures, wealth management investment cooperation organizations (including but not limited to issuing institutions of asset management products that commercial bank wealth management products invest in, institutions entrusted to engage in wealth management product investment pursuant to a contract, and investment advisors related to management of wealth management products, etc.) should be professionally qualified and also be a “**financial institution** legally regulated by a financial supervisory administration department” or another institution approved by the banking regulator under the State Council.

For an analysis of the reasonableness of private funds managed by a private fund manager being the underlying investment of private bank wealth management products, please see the analysis in section 3 above.

When a private fund manager is the investment advisor for a bank wealth management product, the requirements of the New Bank Wealth Management Measures are also stricter than the Guiding Opinions. According to Article 22 of the Guiding Opinions, financial institutions can employ professionally qualified **institutions** regulated by a financial supervisory administration department as an investment advisor.

Therefore, we suggest that the supervisory regulations in the New Bank Wealth Management Measures and the Guiding Opinions be kept consistent, allowing non-financial institutions supervised by a financial supervisory administration department (such as private fund managers registered at AMAC and regulated by CSRC) to be appointed as investment advisor for bank wealth management products.

More specifically, we suggest amending paragraph 2 of Article 48 of the New Bank Wealth Management Measures as follows:

“Wealth management investment cooperation institutions referred to in these Measures include, but are not limited to, issuing institutions of asset management products that commercial bank wealth management products invest in, institutions entrusted to engage in wealth management product investment pursuant to a contract, and investment advisors involved in related investment management of

wealth management products, etc. Wealth management investment cooperation institutions should be professionally qualified and an **institution** legally regulated by a financial supervisory administration department or other institutions approved by the banking regulator under the State Council.

Moreover, given the New Bank Wealth Management Measures are essentially the implementation details of the Guiding Opinions, we suggest that such Measures provide a more detailed description of the requirements (if any) of “professionally qualified” referred to in paragraph 2 of Article 48 of the Measures.

We hope that you will find our comments useful. Please feel free to contact me at eshen@asifma.org or Tel: 2531 6570 if you have any questions regarding any of our comments.

Yours sincerely,



Eugenie Shen
Managing Director
Head of Asset Management Group
Asia Securities Industry & Financial Markets Association