

Legal Commentary

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CSRC will introduce MOM to China's Fund Market

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On 22 February 2019, the China Securities Regulatory Commission ("CSRC") issued a consultation draft of the *Guidelines on Manager of Managers Products for Institutions Engaged in Securities or Fund Business* (《证券投资基金经营机构管理人中管理人(MOM)产品指引(征求意见稿)》) (the "**MOM Guidelines**") to solicit public comments. While MOM products are not new in international securities markets, they represent an innovative fund product for China.

Generally speaking, MOM is an investment strategy whereby an asset manager chooses other qualified managers to invest funds in specified portfolios and regularly monitors their performance. The rationale behind MOM is that a team of specialists together can achieve investment diversification and balance over time in a way that a single manager cannot.

In this article, we will introduce some key points of MOM products under the MOM Guidelines.

I. What is MOM?

The MOM Guidelines define MOM products as asset management products where an institution engaged in securities or fund business (the "**Manager of Managers**") entrusts part or all of the assets of the asset management product to more than one qualified third-party asset management institutions to provide investment advisory or management services to the Manager of Managers and the fund product (the "**Sub-Advisors/Managers**").

MOM products can be either publicly-offered securities investment funds or private asset management schemes.

II. How do MOM products work?

The Manager of Managers will divide a portfolio into certain "sub-asset units" and then choose Sub-Advisors/Managers for one or more of the sub-asset units. Each sub-asset unit will have securities and fund sub-account. The Manager of Managers and each of the Sub-Advisors/Managers will sign a service agreement specifying investment objectives, investment scope, investment strategies, each party's rights and obligations as well as other matters required by the MOM Guidelines. The Sub-Advisors/Managers will provide investment advisory or investment management services within their mandates with regard to

such sub-asset units. The Manager of Managers is not relieved of its duties as a result of entrusting product assets to the Sub-Advisors/Managers.

III. What are the key roles for MOM products?

The key roles for MOM products are the Manager of Managers, Sub-Advisors/Managers and fund custodians. The MOM Guidelines specify the duties and prohibited conduct of each role in offering MOM products.

IV. Who can serve as a Manager of Managers and as a Sub-Advisor/Manager?

The MOM Guidelines provide detailed qualification requirements for the Manager of Manager and Sub-Advisor/Manager of a MOM product respectively.

A Manager of Managers must (i) be approved by CSRC to conduct asset management business; (ii) have a specialized investment and research team for MOM products and no less than three personnel engaging in MOM product investment and research; (iii) not have been subject to any administrative or criminal penalties due to significant violations of laws and regulations or serious dishonest conduct within the last year, and no cases exist in which an investigation has been opened into suspected illegal business operations or such operations are in the process of rectification.

Sub-Advisors/Managers of mutual fund MOM products are required to be mutual fund managers, including but not limited to mutual fund management companies and securities companies. Sub-Advisors/Managers of private fund MOM products are required to be institutions engaging in securities and futures business, asset management subsidiaries of commercial banks, insurance asset management institutions and other financial institutions recognized by CSRC. It is worth noting that a private fund manager can also act as a Sub-Advisor/Manager of a private fund MOM product if it satisfies the "1+3+3"¹ requirements and other conditions prescribed in the MOM Guidelines.

The MOM Guidelines also set out specific requirements for managers of private fund MOM products and mutual fund MOM products respectively.

V. What are the requirements to operate MOM products?

The MOM Guidelines prescribe requirements for how a Manager of Managers is to manage and operate MOM products. These requirements include, for example, establishing sound management systems and relevant policies and procedures to select, supervise, evaluate and manage Sub-Advisors/Managers, formulating clear and rational investment strategies for MOM products, and establishing controls for related-party transactions, etc.

¹ To satisfy the "1+3+3" requirements, a private fund manager must (i) be a registered member of AMAC for no less than one year and have no record of significant violations; and (ii) have at least three investment management personnel, each of whom has no fewer than 3 years of continuous and traceable securities/futures investment management experience and no record of professional misconduct.

Important Announcement

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