HAN KUN LAW OFFICES

Legal Commentary

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Asset Management Law

SAFE's New Amendment to QFII Forex Rules

James WANG | Yuan LIN | Lu RAN

SAFE promulgated an amendment to the *Provisions on the Foreign Exchange Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors* (Announcement of the State Administration of Foreign Exchange [2012] No. 2, the "**Amendment**") on December 7, 2012. The changes made to the old QFII Forex Rules promulgated on September 29, 2009 (the "**Old Rules**") are listed as follows:

1. The upper limit on the amount of investments made by foreign sovereign wealth funds, institutions of the central bank, and monetary authorities are allowed to exceed USD 1 billion or the equivalent.

2. The open-end China funds ("OECFs") may managethe relevant inward or outward remittance on a weekly basis (rather than a monthly basis as provided in the Old Rules) according to the net amount of netting for subscriptions and redemptions.

3. The total amount of capital (both principal and interest) repatriated by a qualified foreign institutional investor ("QFII") or an OECF in any month is now limited to 20% of its total asset value within China at the end of the previous year.

4. Within the above-mentioned 20% limit, the custodian bank may handle the capital repatriation of OECFs directly without obtaining SAFE approval.

5. Simplify the procedure of profits repatriation. For QFIIs other than OCEFs, the custodian bank may handle the repatriation of profits directly based on an audited report and confirmation of tax payment without obtaining SAFE approval. However, the repatriation of principal still requires advance approval by SAFE.

6. The Custodian shall submit the Monthly Forms I and II for Domestic Securities Investment

by QFIIs within five (5) working days after the end of each month, which is shorter than the Old Rules of eight (8) working days.

7. The QFII shall open the RMB Dedicated Deposit Account ("**DD Account**") corresponding to its foreign exchange accounts in the custodian bank or other domestic commercial bank according to the *Operation Guidelines for the Domestic Account of Qualified Overseas Institutional Investors* ("**Operational Guidelines**"), which provides the following:

- The DD Account shall be divided into a DD Account (Securities Trading) that shall be opened in the domestic custodian bank and a DD Account (Futures Trading) that shall be opened in the bank where the futures margin is deposited.

- The scope of the income and expenditure of the QFIIs' special RMB accounts shall be consistent with the DD Accounts (Securities Trading).

- QFIIs may not apply for more than six (6) DD Accounts (Securities Trading) for the clients they manage.The initial deposit amount of each account shall not be lower than USD 20 million or the equivalent.

- If a QFII needs to open several DD Accounts for the purpose of conducting sectional ledger management to the special RMB account that has been opened for the client's funds, it shall apply to SAFE within six (6) months from the promulgation date of the Operational Guidelines (e.g., December 7, 2012). The QFII shall transfer such capital to the new opening DD Account all at once after obtaining the SAFE's approval, and the custodian bank shall file the relevant information for record within ten (10) working days after such transfer with SAFE.

Important Announcement

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If you have any questions regarding this publication, please contact **James Yong Wang, (+86-10-8525 5553; james.wang@hankunlaw.com).**