



HAN KUN LAW OFFICES

Legal Commentary



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AMAC Clarifies Personnel Requirements for Private Fund Managers

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On 7 December, AMAC issued an amended version of its *Private Fund Manager Registration Instructions* (《私募基金管理人登记须知》). The amendments cover a series of matters relating to the registration and post-registration compliance of private fund managers, including requirements for personnel, business premises, business scope, capital sufficiency and affiliates, among others. In general, the amendments are intended to supplement and clarify existing requirements and supersede inconsistent AMAC rules or other guidance that have previously been issued.

From an international asset manager's perspective, the most noteworthy aspect of the amendments is the clarification of and changes to certain personnel requirements. We have summarized the highlights as follows:

I. General non-compete restriction added. The business personnel and investors of a private fund manager are required to comply with the principle of non-competition and to refrain from engaging in any activity which may present conflicts of interest with the private fund management business.

II. "Dual hatting" of senior management personnel further clarified:

1. Except for legal representatives, senior management personnel may not in principle hold any concurrent positions; otherwise, AMAC will require evidencing materials to justify the relevant dual-hatting arrangement.
2. In addition, dual-hatted senior management personnel may not exceed 50% of all senior management personnel at a private fund manager. AMAC will focus particular attention on senior management personnel who hold concurrent positions at multiple institutions and such personnel should reasonably allocate their work time.

3. As a general principle, senior management personnel of a private fund manager may not take concurrent positions at (i) any unaffiliated private asset management institutions or (ii) any institution whose business may conflict with the private fund manager.

The definition of "senior management personnel" remains unchanged and expressly includes, but is not limited to, legal representatives/executive partners, general managers, deputy general managers and chief risk/compliance officers.

III. Minimum staffing requirement expressly provided. It is now clarified that private fund managers are required to have no fewer than five employees and non-senior management employees may not take concurrent positions at other institutions.

IV. Personnel eligibility requirements. While the general requirement remains unchanged that personnel involved in private fund management shall have professional capabilities matching their respective positions, the amended Instructions have added that senior management personnel in charge of investments shall also have corresponding investment capabilities.

V. Continuity of senior management. If any senior management personnel leaves a private fund manager, his or her replacement is required to be appointed within three months.

The requirements above make no distinction on their application to domestic and foreign-invested private fund managers, so it is presumable that they will generally apply to all AMAC-registered private fund managers. The new personnel requirements may be challenging for some international asset managers who intend to engage in QDLP and/or WFOE PFM business, especially at the initial stage. However, to the extent a holding structure is adopted where a WFOE PFM will establish a subsidiary as a QDLP fund manager, a proper dual-hatting arrangement will still be achievable to effectively manage human resources. Given the amendments are very new, further interpretation from AMAC may be required for implementation of these requirements in practice. We will continue to closely monitor for any developments.

We have prepared an English translation of the amended AMAC Private Fund Manager Registration Instructions. Please let us know should you wish to receive a copy.

● **Important Announcement**

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