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Private Equity Law

Long-awaited Private Investment Fund Registration Rules Released

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On January 17, the Asset Management Association of China (the “**AMAC**”) promulgated the long-awaited registration rules for private investment funds, the *Measures for the Registration of Private Investment Fund Managers and Filing of Private Investment Funds (for Trial Implementation)* (the “**Measures**”), which will become effective as of February 7, 2014.

Background of the Formulation of the *Measures*

The amended *Securities Investment Fund Law*, promulgated by the Standing Committee of the National People’s Congress on December 28, 2012 and effective as of June 1, 2013, incorporates private offerings into its purview. It requires private investment fund managers (“**Fund Managers**”) to perform registration formalities and make filings for private investment funds (“**Private Funds**”) under their management with the AMAC. In June 2013, the State Commission Office for Public Sector Reform (the “**SCOPSR**”) issued the *Circular on the Division of Responsibilities for the Administration of Private Equity Funds*, specifying that the China Securities Regulatory Commission (the “**CSRC**”) is charged with the supervision and regulation of Private Funds. With the consent of the SCOPSR, the CSRC authorized the AMAC to supervise the registration of Fund Managers and filing of Private Funds, and perform its self-regulatory role. Thus, the AMAC formulated the *Measures*, setting forth the procedures and requirements for the registration of Fund Managers and filing of Private Funds to perform self-regulatory administration of Private Funds.

Main Content of the *Measures*

The *Measures* mainly cover the following five aspects: registration of Fund Managers, filing of Private Funds, personnel management, information report and self-regulatory management:

1. Registration of Fund Managers

The *Measures* provide that Fund Managers shall perform registration formalities with the AMAC through the private investment fund registration and filing system (“**System**”), and shall apply for membership with the AMAC. The AMAC may examine the application materials submitted by Fund Managers via on-site inspections, interviews with senior management staff or in other ways. If the application materials for registration application are complete, the AMAC shall, within twenty (20) working days upon receiving all requisite application materials, go through the registration procedures for Fund Managers and complete the registration process by posting their basic information on the AMAC’s website.

2. Filing of Private Funds

The *Measures* provide that Fund Managers shall, within twenty (20) working days upon completion of fund raising, make filing for Private Funds through the System, specify the type of Private Funds in accordance with their respective investment orientation, and truthfully fill in their basic information. If the application materials for filing application are complete, the AMAC shall, within twenty (20) working days upon receiving all requisite application materials, go through filing procedures for Private Funds by publicizing their basic information on its website. Filed Private Funds can apply for opening securities accounts.

3. Administration of Private Funds Personnel

Fund Managers shall report basic information and any change of information regarding the senior management and other professionals of Private Funds to the AMAC pursuant to the *Measures*. Private Fund professionals are required to meet the qualifications specified in the *Measures*. The *Measures require* senior management members to be honest and trustworthy, have no record of default within the most recent three (3) years and have not been prohibited from engaging in the Private Funds market by the CSRC.

4. Information Report

Under the *Measures*, the required frequency for the updating of relevant information varies for different types of Private Funds: for private securities investment funds, information report shall be made monthly; for non-securities private investment funds such as private equity funds, information report shall be made quarterly. In addition, Fund Managers shall report, on an annual basis, basic information regarding Fund Managers, shareholders or partners, senior management staff and other professionals, Private Funds managed by Fund Managers, and the annual financial report audited by accounting firms. Fund Managers entrusted to manage venture capital funds that received financial or tax support from the state shall also submit reports describing the contribution to social economy by relevant venture capital funds and

basic information regarding investments into small and medium-sized enterprises by such venture capital funds. The *Measures* also enumerate certain important matters which Fund Managers shall report to the AMAC.

5. Self-regulatory Administration

The *Measures* provide that the AMAC shall establish relevant professional committees based on the different types of Private Funds managed by Fund Managers and differentiate self-regulatory administration. The AMAC may carry out on-site or off-site inspections on Fund Managers and their personnel, establish credit records, accept complaints from Fund Managers and their personnel, resolve industry disputes through mediation, and protect legitimate rights and interests of Private Funds' investors. The *Measures* also make clear that the AMAC may take such measures as giving warnings, circulating a notice of criticism in the industry, condemning openly and other measures against Fund Managers, senior management staff and other personnel that violated the *Securities Investment Fund Law* or the *Measures* or conducting such activities as submitting false information to the AMAC, depending on the severity of the violation.

Following the issuance of the *Measures*, the AMAC published on its official website (<http://www.amac.org.cn/>) a *Concise Guide to the Registration and Filing of Private Investment Funds*, provided the website of the System (<http://pf.amac.org.cn>) and the filing flowcharts. The AMAC has also provided other guidance materials for the reference of Fund Managers, such as the *Operation Manual for the Registration and Filing of Private Investment Funds System*, *Guidelines on Filling Forms for Registration and Filing of Private Investment Funds System* and *FAQ*. In order to promptly answer questions from users of the System, the AMAC also provides consultation hotline (010-66578200) and consultation email (pf@amac.org.cn).



Important Announcement

This Legal Commentary has been prepared for clients and professional associates of Han Kun Law Offices. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.

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