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1. From Sectoral to Unified – Key Regulatory Changes in China's Draft Financial Law

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Background

On 20 March 2026, the Ministry of Justice, together with the People's Bank of China ("**PBoC**"), the National Financial Regulatory Administration ("**NFRA**"), the China Securities Regulatory Commission and the State Administration of Foreign Exchange, released the *Financial Law of the People's Republic of China* (Draft) (《中华人民共和国金融法（草案）》, the "**Draft Financial Law**"), which is open for public comment until 19 April 2026.

The Draft Financial Law comprises 11 chapters and 95 articles, covering the modern central bank system, financial institutions, financial products and services, financial markets, financial regulations, risk management and resolution mechanisms, high-quality financial development and security, and legal liabilities.

Once enacted, the Draft Financial Law is expected to provide a unified legal framework for financial regulation, marking a shift from the current sector-specific approach toward a more coordinated, principle-based system. We summarize below the key highlights of the Draft Financial Law and suggested actions for market participants.

Key highlights

I. A Foundational Law with Comprehensive Scope

1. Full Coverage Across Institutions, Activities and Lifecycle

The Draft Financial Law significantly expands the scope of financial regulation by establishing a comprehensive framework covering all financial sectors, activities and stages of operation.

- **Scope of activities:** Under Article 3 of the Draft Financial Law, "financial activities" refers to monetary and credit activities directly related to deposits, loans, insurance, securities, futures and derivatives, funds, trusts, payment and settlement, credit reporting, and similar matters, engaged in by natural persons, legal persons, and unincorporated organizations. Such term is defined in a broad manner to catch all types of financial activities, howsoever expressed.

- **Scope of institutions:** The Draft Financial Law applies to a wide range of institutions, including banking, securities, fund, futures, insurance and trust institutions, financial holding companies, non-bank payment institutions, as well as financial market infrastructures, regulatory authorities, financial consumers, investors and third-party service providers.

  Notably, the Draft Financial Law introduces several key concepts, including financial institutions (金融机构), local small and medium-sized financial institutions (地方中小金融机构), other financial

institutions (其他金融机构), and local financial organizations (地方金融组织). Based on our reading of the definitions of these terms, the financial institution shall be the overarching, foundational legal category, while local small and medium-sized financial institutions and other financial institutions are subsets of financial institutions. Their classification is primarily based on the geographical scope of their permitted business (restricted vs. nationwide) and their ownership/control structure (central enterprise-controlled or not).

For private investment funds, it is quite clear that private investment funds are not financial institutions but exist in parallel to financial institutions, which is consistent with current regulatory practice and market understanding. However, for local financial organizations, given the cross-references in the definitions of financial institutions, financial business, and local financial organizations, it may need further clarification from the legislator whether they should fall under the scope of financial institutions, but it reads to us the local financial organizations should not be part of the financial institutions.

With the above said, Article 93 provides that both local financial organizations and private investment funds shall be *mutatis mutandis* subject to the Draft Financial Law, therefore are brought within the regulatory perimeter through this referential application clause.

- **Scope of processes:** The Draft Financial Law governs the entire lifecycle of financial institutions, from market entry and ongoing operations to exit, and establishes a full-chain framework for financial risk prevention, early warning and resolution.

2. Addressing Structural Gaps in the Existing Financial Legal Framework

Under the current legal regime, China's financial regulation is primarily governed by sector-specific laws, each applying to a limited category of institutions or activities. For example: the *Law on the People's Bank of China* (《中国人民银行法》) focuses on central bank functions and monetary policy; the *Commercial Bank Law* (《商业银行法》) governs the establishment, operation, and supervision of commercial banks; the *Securities Law* (《证券法》) regulates securities issuance, trading, and supervision; and the *Futures and Derivatives Law* (《期货和衍生品法》) regulates futures markets and derivative trading. As a result, cross-sector activities and mixed financial operations lack a unified set of overarching legal principles. The Draft Financial Law aims to fill these gaps by providing a coordinated, principle-based regulatory structure.

II. Mandatory Licensing for Financial Activities

Article 31 of the Draft Financial Law clearly establishes that offering financial products or services requires prior approval, registration, or filing with the relevant regulatory authorities. No entity or individual may provide or indirectly provide financial products or services without such authorization, forming the legal backbone for cracking down on unauthorized financial activity. This regulatory principle is not first proposed under the Draft Financial Law, but has been implemented by regulators for years. For example, as early as 2019, the PBoC, the NFRA, and other financial regulators issued the *Circular on Further Regulating Financial Marketing and Publicity Activities* (《关于进一步规范金融营销宣传行为的通知》). This Circular reinforced the licensing requirement by prohibiting the

marketing and promotional activities of any financial products/services without proper license granted by financial regulators, with the only exception of allowing media or platforms to market or promote the licensed products/services of those license holders that entrust such media or platforms to do so.

Notably, the "financial products and services" refer to products provided for "financial activities", as well as services directly related thereto, by financial institutions and other legal persons, non-legal person organizations, and the like, in accordance with the law, through contracts, agreements, certificates, and similar instruments. Therefore, the financial products and services are broadly defined to cover all products and services provided by all types of institutions in relation to financial activities (namely all currency and credit related activities).

III. Look-through and Functional Supervision

To ensure that licensing requirements are not circumvented by complex transaction structures or organizational forms, the Draft Financial Law is accompanied by a mechanism for look-through and functional supervision.

- **Support for Regulatory Principles:** Article 8 of the Draft Financial Law designates "look-through supervision" and "functional supervision" as the core means to achieve comprehensive financial regulation. This means that supervision will penetrate legal forms and nested structures to directly examine the substantive functions and ultimate risks of financial activities.
- **Substance Over Form as the Criterion:** Article 51 of the Draft Financial Law requires financial regulatory authorities under the State Council to implement supervision in accordance with the principle of "substance over form". This principle is the essence of look-through supervision, ensuring that regardless of the name or channel under which a business operates, as long as it possesses a financial substance, it must comply with corresponding licensing and regulatory requirements.
- **Prohibition of Regulatory Arbitrage:** Article 32 of the Draft Financial Law explicitly prohibits circumventing laws and regulatory provisions through mergers, splits, nesting, or other means. Article 50 further requires the formulation and implementation of consistent regulatory standards for similar financial activities. These provisions aim to eliminate regulatory arbitrage opportunities arising from differences in organizational forms, ensuring that businesses with the same functions adhere to the same licensing and conduct rules.
- **Extending the Regulatory Chain:** Article 54 of the Draft Financial Law extends the scope of supervision from financial institutions themselves to their shareholders, actual controllers, related parties, and third-party service providers (such as law firms, accounting firms and information technology companies). This ensures that licensing requirements and compliance responsibilities are enforced throughout the entire financial ecosystem.

IV. Principles and Mechanisms for Financial Risk Resolution

Following the clear identification of risk-bearing entities and the establishment of robust risk identification frameworks through look-through and functional supervision, the Draft Financial Law

dedicates its eighth chapter to constructing a comprehensive, multi-layered system for financial risk disposal. This system is designed to manage and resolve financial distress in an orderly manner, guided by core principles and equipped with specific mechanisms and tools.

1. Core Disposal Principles

The disposal framework is anchored by several fundamental principles aimed at ensuring efficiency, fairness, and systemic stability:

- **Market-Driven Principle:** The disposal process prioritizes market-based resolutions over administrative mandates. This involves clearly defined rules and a hierarchy of liability, emphasizing self-rescue by the financial institution itself or its shareholders, alongside resources from industry protection funds and market participants. This principle seeks to break the expectation of "rigid repayment guarantees" and implicit government bailouts. A core tenet is that shareholders and actual controllers must bear losses first, with public resources only deployed after self-help measures are exhausted (as outlined in Article 69 of the Draft Financial Law).
- **Rule of Law Principle:** All disposal actions must be conducted within a clearly defined legal framework, under explicit authorization and oversight. This ensures fairness, transparency, and the maximization of value recovery. It delineates the precise responsibilities and boundaries for authorities involved in risk disposal, such as the central bank and financial stability funds.
- **Ultimate Objective – Systemic Risk Prevention:** The overarching and non-negotiable goal of the entire risk disposal regime is to prevent the occurrence of systemic financial crises. This objective serves as the foundational premise for all regulatory, rescue, and developmental financial policies.

2. Multi-Tiered Risk Disposal Mechanisms

To operationalize these principles, the Draft Financial Law establishes a systemic and multi-dimensional emergency response architecture.

- **Early Risk Identification & Corrective Intervention:** Pursuant to Article 65 of the Draft Financial Law, upon detecting signs of elevated risk, the State Council's financial regulatory authorities can order the problem institution to review and rectify its operations. Interventions may include graduated set of tools, such as: ordering corrections; suspending or limiting operations; restricting new business or dividends; limiting shareholders' dividends and the remuneration of directors, senior management, and other directly liable persons; restricting capital expenditures; requiring reduction of risky assets; adjusting regulatory ratios; mandating asset or business transfers; requiring capital injections; directing responsible shareholder equity transfers or restricting shareholder rights; disciplining responsible personnel; reclaiming compensation; disqualifying unsuitable candidates; and imposing market bans. If corrections are inadequate or standards unmet, authorities may escalate to more intensive disposal measures.
- **Tiered & Graded Disposal Responsibility Allocation:** Article 66 of the Draft Financial Law

clearly divides powers and responsibilities based on the nature and scope of the at-risk institution:

Institution / Risk Type	Implementing Authority for Risk Mitigation / Resolution	Coordinating / Guiding Authority
National banks; securities, fund, and futures business institutions; central financial enterprises and their controlled financial institutions	Led, organized, and implemented by financial regulatory authorities under the State Council	/
Local small and medium-sized financial institutions, local financial holding companies, local financial organizations	Led, organized and implemented by the provincial-level authority of the place of registration (province, autonomous region, municipality)	The financial regulatory authorities under the State Council are responsible for guidance and cross-regional coordination
Other financial institutions, private investment fund managers	Jointly organized and implemented by the provincial-level financial regulatory authorities at the place of registration, together with the financial regulatory authorities under the State Council	/
Non-financial enterprises involving financial risks	Implemented by the industry authorities at the provincial level at the place of registration, together with the relevant industry authorities under the State Council.	The financial regulatory authorities under the State Council will cooperate
Systemic financial risks	Led by the PBoC	Ministry of Finance under the State Council participates according to law

- **Diversified Disposal Toolkit:** Article 67 of the Draft Financial Law empowers authorities with a range of specific, statutory tools to implement disposals, including but not limited to: implementing measures provided in Article 56, appointing or establishing custodians or takeover organizations to exercise management rights; disposing of assets and liabilities; suspending, limiting, or terminating part or all financial transactions; revoking business licenses; facilitating third-party institutions or temporary transitional entities to take over business, assets, and liabilities; suspending the right to early termination under eligible financial transactions, for a maximum of 48 hours; implementing equity or debt write-downs, debt-to-equity conversions, or forced equity transfers; repatriating overseas assets if required; requiring domestic and foreign group entities to provide support to maintain critical financial services; and other measures as stipulated by law, administrative regulations, or approved by the State Council.
- **Clear Sequencing of Loss Absorption:** Article 69 of the Draft Financial Law establishes a definitive order for bearing losses and tapping financial resources, codifying the “bail-in” before “bail-out” logic:

(1) **First Layer – Internal Absorption:** The institution under disposal and its direct shareholders/actual controllers must first absorb losses, provide capital replenishment, and attempt to restore operations.

(2) **Second Layer – Sectoral & Local Resources:** Utilization of local fiscal resources, provincial-level support, and industry protection funds (like the deposit insurance fund).

(3) **Final Layer – National Stabilization Tools:** As a last resort, the use of the Financial Stability Guarantee Fund (金融稳定保障基金) and, in severe circumstances, national lender-of-last-resort facilities (central bank emergency lending).

This sequence internalizes risks to shareholders and establishes a graduated escalation for tapping public backstop resources.

- **Judicial & Administrative Coordination:** To ensure legal certainty and procedural efficiency during disposals, Article 70 of the Draft Financial Law provides for seamless coordination between administrative actions and judicial processes. It allows for the centralized jurisdiction of related cases (as designated by the Supreme People's Court) and the suspension of relevant civil litigation, enforcement, or arbitration proceedings. It also confirms the legal validity of actions already completed during the administrative disposal process (such as asset verification, preservation, and disposal) upon judicial review, preventing legal procedures from hindering timely rescue efforts.

In summary, the Draft Financial Law aims to construct a comprehensive, layered risk disposal framework that progresses from preventative correction to post-crisis resolution. It is designed to be market-driven yet government-backed, with clear divisions of responsibility, a defined toolkit, a transparent funding hierarchy, and judicial safeguards—all converging towards the ultimate goal of safeguarding against systemic financial collapse.

V. Countermeasures Against Foreign Sanctions

Currently, China mainly relies on the *Anti-Foreign Sanctions Law* (《反外国制裁法》), the *Unreliable Entity List Rules* (《不可靠实体清单规定》), and the *Measures to Block Improper Extraterritorial Application of Foreign Laws* (《阻断外国法律与措施不当域外适用办法》) for sanction countermeasures, but none of these are financial-specific laws. Article 85 of the Draft Financial Law introduces targeted provisions in the financial sector, allowing China to take countermeasures against any country or region that imposes discriminatory financial restrictions on Chinese citizens or organizations, block improper extraterritorial application of foreign laws, and prohibit domestic entities from enforcing or assisting such foreign measures, thereby bolstering national financial security.

VI. Legal Independence of CCP Assets

As the core infrastructure for the operation of financial markets, the stability and security of Central Counterparties (CCPs) are of paramount importance. On top of Article 37 of the current Futures and Derivatives Law, which already provides protections for financial market infrastructures' assets, Article 48 of the Draft Financial Law further establishes the principles of property independence and bankruptcy isolation to offer core legal safeguards for the continuity and finality of centralized clearing

and settlement activities.

VII. Per-occurrence and Cumulative Penalties

Article 86 of the Draft Financial Law introduces per-occurrence penalties for the first time in the financial regulatory field, allowing penalties to be calculated separately for each independent violation of the same provision. This addresses debates in existing laws (banking, securities, insurance, etc.) over whether repeated or continuous violations should receive a single or cumulative penalty.

Article 87, Paragraph 1 provides for cumulative penalties, allowing fines in addition to confiscation, such as up to 5% of the previous year's revenue or equivalent transaction value, as well as other measures, including ordering the suspension or prohibition of relevant business, temporary closure for rectification, or revocation of financial licenses. In addition, Article 87, Paragraph 2 specifies penalties for organizing, directing, assisting, or facilitating others in committing financial violations, with the severity of the penalties determined according to the seriousness of the misconduct and the resulting harm.

However, the implementation of these penalties and enforcement procedures, as well as their coordination with sector-specific financial laws, will require further observation.

VIII. Priority of Civil Compensation

Under Article 220 of the Securities Law, a priority system exists for civil compensation, but it applies only within the securities sector. Article 89, Paragraph 2 of the Draft Financial Law extends this principle to the entire financial sector, stipulating that when a person violates the law and is liable for civil compensation, fines, penalties, or illegal gains, if their assets are insufficient to cover all obligations, available assets must be prioritized for civil compensation.

IX. Financial Consumer Protection

Chapter 4 of the Draft Financial Law focuses on the rigorous requirements for the marketing of financial products and services and the protection of investors' rights. Key provisions include, but are not limited to: (1) enhanced information disclosure – financial institutions are required to provide comprehensive, truthful, and accurate disclosure regarding transaction structures, rights and obligations, profit distribution, fees and charges, innovative product designs, risk levels and other information; and (2) strengthened suitability management – financial institutions shall only recommend financial products appropriate to the consumer's risk tolerance, preventing the sale of high-risk products to consumers who cannot bear the associated risks. These requirements are largely aligned with existing regulations, such as the *Administrative Measures for the Suitability of Products of Financial Institutions* (《金融机构产品适当性管理办法》).

X. Extraterritorial Application of the Financial Law

Article 92 of the Draft Financial Law establishes the extraterritorial jurisdiction principle of the Draft Financial Law, whose application logic is not based on the "territorial principle" of the place where the act occurs, but rather on the "effects principle" based on the effects of the act.

According to this provision, even if financial activities occur outside the territory of China, as long as they meet any of the following statutory conditions, the relevant entities shall bear legal liability in accordance with the Draft Financial Law: endangering the national financial security of China; disrupting domestic financial order; or infringing upon the lawful rights and interests of citizens and domestic organizations.

This provision provides a clear legal basis for regulatory authorities to pursue acts that evade China's financial access and compliance requirements through overseas entities, offshore structures, or cross-border channels. It closely aligns with the "substance over form" principle of look-through regulation, the "same business, same standards" requirement under functional regulation, and the liability look-through provisions applicable to shareholders and actual controllers in the other chapters of the Draft Financial Law, collectively forming a legal regulatory network capable of covering the substance of cross-border financial activities.

Notably, if an overseas institution, without obtaining Chinese authorization, substantially provides financial products or services (e.g., deposit, loan, or securities trading services, etc.) to domestic residents through online platforms, even if its servers and legal entity are located overseas, as long as such acts disrupt domestic financial order or harm the rights and interests of domestic investors, legal liability may be pursued under this provision.

Outlook

Overall, the Draft Financial Law serves as a guiding framework rather than a detailed operational statute and does not provide extensive implementation rules. Importantly, further clarification will be required on how it aligns with and interacts with existing sector-specific laws and regulations. We will continue to monitor any material developments in this regard and provide timely updates.

2. Spring Breeze on the Shore: New rules on RMB Cross-Border Interbank Financing and Banks' Suggested Responses

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Background

On February 26, 2026, the People's Bank of China ("**PBoC**") promulgated the *Notice on Relevant Matters Concerning Cross-border RMB Interbank Financing Business of Banking Financial Institutions* (Yin Fa [2026] No. 51, the "**Notice**"). Previously, on September 12, 2025, the PBoC issued the *Notice of the PBoC on Relevant Matters Concerning Cross-border RMB Interbank Financing Business of Banking Financial Institutions (Draft for Comments)* (the "**Draft**"). The Notice further optimizes and relaxes the relevant conditions on the basis of the Draft, including: expanding the business quota for foreign-funded banks; removing the universal restriction that financing tenor shall be within one(1) year,; adding several circumstances which are excluded from the calculation of net lending balance; and expanding the scope of application to a wider range of financial institutions.

It is worth noting that, before the Notice was issued, the PBoC had already successively introduced and established a macro-prudential management framework for full-caliber cross-border financing through multiple policy documents, including but not limited to, the *Notice on Relevant Matters Concerning Macro-prudential Framework for Full-Caliber Cross-Border Financing* ("**Circular 9**"), the *Notice of the PBoC and the State Administration of Foreign Exchange on Matters Relating to Overseas Loan Business of Banking Financial Institutions* ("**Circular 27**"), and the *Notice of the People's Bank of China on Further Clarifying Relevant Matters on Overseas RMB Lending Business by Domestic Enterprises*. The Notice also adopts a dynamic macro-prudential coefficient to adjust and regulate the cross-border capital inflows and outflows, so as to establish a unified, full-caliber management framework.

Review of major policies on cross-border RMB financing

On July 3, 2009, the PBoC promulgated the *Implementation Rules of the Administrative Measures for Pilot RMB Settlement of Cross-border Trade*, marking the formal launch of cross-border RMB financing business. At this stage, the core objective of the policy is to inject liquidity into the offshore RMB market to support cross-border trade settlement. Specifically, the PBoC permitted onshore correspondent banks to provide RMB account financing ("**Account Financing**") for offshore participant banks, which have RMB interbank current accounts with the PBoC, in order to solve the problem of insufficient RMB positions in the offshore market.

On July 5, 2013, to further support the real economy, the PBoC promulgated the *Notice on Simplifying Cross-border RMB Business Processes and Improving Related Policies* (Yin Fa [2013] No. 168) ("**Circular 168**"). The policy significantly relaxes the restrictions on Account Financing, where the financing limit is raised from 1% of the balance of various RMB deposits of a domestic agent bank to 3%, and the financing term is extended from one (1) month to one (1) year. This has significantly increased the depth of liquidity in the offshore RMB market.

On January 12, 2017, PBOC issued Circular 9, namely the *Notice on Relevant Matters Concerning Macro-prudential Framework for Full-Caliber Cross-Border Financing*, pursuant to which the cross-border RMB financing policies of financial institutions have entered the stage of "full-caliber macro-prudential management". However, Circular 9 only applies to capital financing and does not restrict capital lending.

In January 2018, in order to further facilitate cross-border trade and investment, support the healthy development of cross-border RMB business, and improve the cross-border financing services provided by commercial banks, the PBoC made counter-cyclical adjustments to the cross-border RMB Account Financing business of commercial banks, i.e. the upper limit of cross-border RMB Account Financing was determined by the balance of RMB deposits of commercial banks and the counter-cyclical coefficient, which was initially set at 3%. This coefficient can serve as an adjustment tool to guide the two-way cross-border capital flows when the foreign exchange situation stabilizes or the RMB faces upward pressure.

On February 26, 2026, the PBoC issued the Notice, which indicates that the administration of cross-border RMB financing has entered a new stage of more systematization and standardization. The Notice aims to cover various types of RMB cross-border interbank financing business under the scope of supervision in accordance with the principle of "substance over form". It also specifies that relevant existing provisions will apply to business entry, term of funds, scope of use of funds lent out, business implementation procedures and scope of applicable institutions.

Interpretation of the key points of the Notice

I. Clarifying business scope and adhering to the principle of "substance over form"

The Notice specifies that RMB cross-border interbank financing refers to borrowing and lending business between domestic banks and offshore institutions with RMB financing as the core, including Account Financing, bond repurchase and other funding arrangements in which there is a substantive creditor-debtor relationship. According to the Q&A of the relevant PBoC officers on the Notice (the "**Q&A**")[1], the Notice does not create any new business. Instead, it aims to streamline and standardize all types of existing RMB cross-border interbank financing business under a unified framework, with the aim to solve the problems of unclear boundaries and scattered supervision over the existing business, and to reserve management space for the same kind of new business that may possibly appear in the future. Accordingly, Article 1 of the Notice specifies that domestic banks conducting cross-border RMB interbank financing shall comply with the business rules specified in relevant policies and capital inflow business are be subject to the relevant provisions on macro-prudential management of full-caliber cross-border financing. Therefore, after the promulgation of the Notice, banks still need to conduct RMB cross-border interbank financing business in accordance with the relevant provisions in Circular 168, and conduct capital inflow business in accordance with the relevant provisions on full-caliber macro-prudential management of cross-border financing in Circular 9.

It is worth noting that investments or purchases of negotiable certificates of deposit, bonds, and other debt instruments between domestic banks and overseas institutions, as they constitute spot transactions and

[1] A relevant officer of the People's Bank of China answers questions on the Notice of Financial Institutions on RMB Cross-border Inter-bank Financing Business (the "Q&A").

securities investments, do not fall within the scope of cross-border interbank financing regulated under this Notice.

II. Applicable entities

Domestic banks with the capacity to conduct business: the Notice and its Q&A clearly specify that the Notice applies to banks that are legally established in China and have the capacity to conduct international settlement business, including Chinese-funded banks, wholly foreign-owned banks, sino-foreign joint venture banks and domestic branches of foreign banks. The Notice applies *mutatis mutandis* to the banking institutions established in mainland China by financial institutions from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region that carry out cross-border interbank financing business.

Overseas institutions refer to various financial institutions such as foreign central banks or monetary authorities, international financial organizations, sovereign wealth funds, commercial banks established overseas in accordance with the law (including branches and subsidiaries established overseas by domestic banks), insurance companies, securities companies, fund management companies, futures companies, trust companies and other asset management institutions, as well as medium and long-term institutional investors such as pension funds, charity funds and endowment funds. Compared with the Draft, which excluded overseas RMB clearing banks from the definition of "overseas institutions", the Notice does not provide for such an exclusion. Instead, it expressly stipulates that the lending business carried out with overseas RMB clearing banks shall not be included in the calculation of net lending balance, and it specifies some exceptional circumstances where such balance shall be included in the calculation.

Entities subject to business restrictions: Rural financial institutions such as rural commercial banks, rural cooperative banks, rural credit cooperatives, and village and township banks (excluding the open market primary dealers of the PBoC, which means that currently seven (7) rural commercial banks are permitted[2]) may not carry out RMB cross-border interbank lending business; existing lending businesses shall expire naturally upon maturity.

Alignment with existing policies: The *Circular on Regulating the Interbank Business of Financial Institutions* (Yin Fa [2014] No. 127, "**Circular 127**") regulates the interbank business of financial institutions legally incorporated within China, including interbank lending, interbank borrowing and other funds lending and borrowing business. Circular 127, however, is not applicable to the financing business between financial institutions established within China and financial institutions established outside China. In addition, Article 6 of Circular 168 sets forth the financing tenor of the RMB Account Financing provided by a domestic agent bank to an offshore participant bank, but Circular 168 is not applicable to cross-border financing business among financial institutions other than banks. The Notice supplements and expands the interbank financing business on the basis of these

[2] The list of open market operations primary dealers for 2025 is available as per the PBC.GOV.CN/ZHENGCEHUOBISI/125207/125213/125431/125469/20251009171958640 77/INDEX.HTML. Among them, Shanghai Rural Commercial Bank, Ltd., Guangdong Shunde Rural Commercial Bank, Ltd., Guangzhou Rural Commercial Bank Co., Ltd., Chongqing Rural Commercial Bank, Ltd., Beijing Rural Commercial Bank, Ltd., Chengdu Rural Commercial Bank Co., Ltd., and Qingdao Rural Commercial Bank Co., Ltd.

aforementioned existing policies. By bringing cross-border financing activities under a unified regulatory framework, it effectively fills the gaps in the original policies in the area of cross-border interbank financing and achieves comprehensive policy coverage and effective regulatory coordination.

III. Management of the quota of cross-border interbank financing business

Management of the upper limit of the net lending balance: Article 17 of the Notice expressly abolishes the provision under Article 6 of Circular 168 concerning the upper limit on the RMB Account Financing ratio. It introduces the concept of net lending balance to impose restrictions on RMB cross-border financing rules, while no longer setting any limits on one-way lending balances. The upper limit of the net lending balance is linked to a bank's capital level and financial strength. Under the counter-cyclical management of the macro-prudential adjustment parameters, the net lending balance is subject to the specified upper limit at any time. The specific calculation formula is as follows:

	Calculation formula of the upper limit of the net lending balance of RMB cross-border interbank financing	Initial value of the cross-border business adjustment parameters	Initial value of the macro-prudential adjustment parameters	Remarks
Chinese-funded banks within mainland China	Tier 1 net capital × cross-border business adjustment parameters × macro-prudential adjustment parameters	0.06	1	Tier 1 net capital shall be determined based on the audited financial reports at the end of the previous year
Wholly foreign-owned banks and Sino-foreign joint venture banks in China	Tier 1 net capital or balance of various RMB deposits at the end of the previous year × cross-border business adjustment parameters × macro-prudential adjustment parameters, whichever is higher	0.18	1	
Domestic branches of a foreign bank	Working capital or balance of various RMB deposits at the end of the previous year × cross-border business adjustment parameters × macro-prudential adjustment parameters, whichever is higher	0.18	1	Working capital shall be determined based on the audited financial reports at the end of the previous year

Compared with the Draft, which set the initial value of the risk management factor (now the cross-border business adjustment parameter) for all domestic banks at 0.06, the Notice appropriately increases the cross-border business adjustment parameter for foreign-funded banks based on

comprehensively considering international settlement capacity, overseas business networks, risk control capacity of cross-border business and other factors with respect to foreign-funded banks.

In addition, according to Article 10 of the Notice, the PBoC may appropriately adjust the cross-border business adjustment parameters, macro-prudential adjustment parameters and the calculation method of the net lending balance, based on the development of the RMB offshore market, cross-border capital flow and operations of domestic banks. These adjustments may be made for part or all of the banks.

Internal warning mechanism: pursuant to Article 5 of the Notice, domestic banks are required to establish an internal warning and reminder mechanism. An internal warning should be given to the relevant business department when the net lending balance of RMB cross-border interbank financing reaches 80% of the upper limit.

Business scope not included in the net lending balance: Compared with the Draft, the Notice adds a new Article 7, which clarifies that the following RMB cross-border interbank financing businesses that are excluded from the calculation the net lending balance: (1) borrowing and lending businesses based on genuine trade financing background; (2) lending businesses conducted with offshore RMB clearing banks (however, according to the Q&A, cross-border interbank lending funds will be remitted into the interbank account opened by clearing banks in China specifically for centralized handling of the RMB business of clearing banks, and if remitted into the account opened by clearing banks in name of participating banks, such funds shall be included in the net lending balance of RMB cross-border interbank financing); (3) businesses where domestic banks indirectly grant RMB loans to offshore enterprises by lending funds to offshore banks (such as the indirect offshore loans regulated by Circular 27); (4) passively formed liabilities; and (5) other businesses recognized by the PBoC.

The excluded scope set out above largely draws reference from the excluded items applicable to the risk-weighted balance of cross-border financing under the full-caliber macro-prudential financing framework in Circular 9, as well as the excluded items applicable to the overseas loan balance under Circular 27, thereby maintaining the consistency of the overall regulatory framework.

Full-caliber macro-prudential financing quota still applicable for fund raising: For example, according to Article 1 of the Notice, the upper limit of the net lending balance of RMB cross-border interbank set forth in the Notice may not affect the application of full-caliber macro-prudential cross-border financing quota under Circular 9. In other words, financial institutions, when borrowing funds, shall comply with the quota limits under both Circular 9 and the Notice simultaneously.

IV. Free trade account ("FT Account") separate accounting unit business management

Based on the Draft, the Notice adds a new Article 8, which clarifies that RMB cross-border interbank financing businesses under the FT Account separate accounting unit , in principle, shall continue to be governed by the existing regulatory framework for FT Accounts and is not automatically included within the scope of the new rules. However, if the business funds originate from allocations by the head office of a domestic bank and in substance constitute a cross-border outflow of domestic funds, they shall be included in the net lending balance of RMB cross-border interbank financing and be subject to macro-prudential management based on capital constraints. This arrangement, based on the

source of funds and risk attribution, respects the "risk isolation" system design of the separate accounting unit and prevents regulatory arbitrage through the account structure, which is consistent with the management logic of offshore loans under Circular 27.

V. Information submission and statistics management

To ensure the accuracy of statistics, Article 12 of the Notice requires domestic banks conducting business to submit the information of RMB cross-border interbank financing to the RMB Cross-border Payment & Receipt Management Information System ("**RCPMIS**"). The head office of a domestic bank or a domestic branch of a foreign bank (domestic managing bank) is required to consolidate the statistics, and report the statistical information, including but not limited to, details on the previous month's RMB cross-border interbank financing activities and changes in balances to the PBoC within five (5) business days at the beginning of each month. The materials submitted shall be kept for five (5) years. It is worth noting that the information to be submitted includes the businesses, that are excluded from the calculation of the net lending balance of RMB cross-border interbank financing as stipulated by the Notice.

In addition, 27 domestic banks (including three (3) foreign-funded banks: HSBC Bank (China) Company Limited, Citibank (China) Co., Ltd., and Standard Chartered Bank (China) Limited) will submit the information directly to the PBoC; other banks will submit the information to the PBoC's local offices at or above the municipal level specifically designated in the state plan.

VI. Financing term limitations

The Draft originally provides that the financing term for RMB cross-border interbank financings shall not exceed one (1) year. According to the public feedback on the Notice[3], the PBoC adopted the suggestion that no additional tenor requirement should be imposed on RMB cross-border interbank financing. Taking into account that Circular 127 and Circular 168 already contain provisions on the tenor of interbank financing[4], the Notice no longer sets out any new tenor requirements. Article 4 of the Notice provides that the tenor of RMB cross-border interbank financing shall follow the relevant rules governing such business. Article 17 further explicitly repeals the provisions in Article 6 of Circular 168 concerning the cap on the proportion of RMB Account Financing. However, it retains the restriction that RMB Account Financing provided by domestic agent banks to overseas participating banks shall be subject to a maximum tenor of one(1) year.

For repurchase transactions, the longest repurchase term for overseas institutional investors to conduct bond repurchase business in the inter-bank bond market is 365 days, according to Article 7 of the *Circular of the National Interbank Funding Center, China Central Depository & Clearing Co., Ltd.,*

[3] https://www.pbc.gov.cn/tiaofasi/144941/144979/3941928/2026022621071546594/index.html.

[4] Article 13 of the Circular on Regulating the Interbank Business of Financial Institutions A financial institution shall reasonably and prudently determine the financing term when conducting interbank business. The longest term for interbank loans shall not exceed three (3) years, and that for other interbank financing businesses shall not exceed one (1) year, and may not be extended upon maturity.
Article 6 of the Circular on Simplifying the Cross-border RMB Business Processes and Improving the Relevant Policies A domestic correspondent bank may extend the financing term of RMB accounts to one (1) year for an overseas participating bank, and the financing proportion in the account shall not exceed 3% of the balance of all RMB deposits of the domestic correspondent bank at the end of the previous year.

and the Clearing House Financial Market Co., Ltd. on Jointly Supporting Overseas Institutional Investors to Conduct Bond Repurchase Business in the Inter-bank Bond Market. Therefore, financial institutions shall still handle RMB cross-border financing business in accordance with the financing term under Circular 168, the aforementioned Notice, and other applicable rules currently in force.

VII. Punishment and rectification

Based on the Draft, the Notice further specifies that the PBoC may order domestic banks to rectify within a time limit and impose punishment in accordance with the *Law of the People's Republic of China on the People's Bank of China* if: (1) the net lending balance of RMB cross-border interbank financing exceeds the upper limit (excluding situations caused by changes in net tier 1 capital (working capital) and balances of all RMB deposits, adjustments to cross-border business adjustment parameters or adjustments to macro-prudential adjustment parameters, or situations where the existing RMB cross-border interbank financing exceeds the upper limit on the day of implementation of the Notice); (2) the bank fails to submit relevant information to RCPMIS or the PBoC in accordance with the relevant provisions; and (3) other behaviors in violation of the Notice.

Outlook

Financial institutions are required to improve their business systems according to the Notice, including setting up systems for the calculation, monitoring and early warning of net lending balances, and streamlining and implementing the procedures for statistical reporting as required by the Notice. We will continue to monitor market developments and share relevant observations and experiences with the market in a timely manner.

Important Announcement

This Newsletter has been prepared for clients and professional associates of Han Kun Law Offices. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. 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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