

CSRC Announcement [2015] No. 12

Announcement of China Securities Regulatory Commission

[2015] No. 12

The Provisional Rules for Administration of Hong Kong's Mutually Recognized Funds are hereby promulgated with effect from July 1, 2015.

Provisional Rules for Administration of Hong Kong's Mutually Recognized Funds

Disclaimer: For the avoidance of doubt, if there is any conflict in the meaning between the English version and the Chinese version, the Chinese version shall prevail.

Chapter I General Provisions

Article 1 The Rules are formulated pursuant to the Securities Investment Fund Law of the People's Republic of China (hereinafter referred to as the "Fund Law") and other pertinent laws and regulations, and the related Memorandum of Regulatory Cooperation signed by China Securities Regulatory Commission ("CSRC") and Hong Kong Securities and Futures Commission (hereinafter referred to as "SFC"), for the purpose of regulating the registration, distribution, information disclosure and other activities pertaining to the mutually recognized funds of Hong Kong Special Administrative Region (hereinafter referred to as "Hong Kong") on the Chinese Mainland, protecting the legitimate rights and interests of investors and stakeholders, and promoting the healthy development of securities investment funds and capital market.

Article 2 For the purpose of the rules, Hong Kong's mutually recognized funds refer to unit trusts, mutual funds or other collective investment programs set up, operated and publicly sold in Hong Kong according to laws of the territory, and sold to the public on the mainland with approval of CSRC.

Article 3 The manager of Hong Kong's mutually recognized fund shall entrust an eligible mainland institution as its agent to deal with the fund's domestic business.

Chapter II Product Registration

Article 4 Hong Kong's mutually recognized fund publicly sold on the mainland must meet the following conditions and be registered with CSRC:

i. The fund is established and operated in Hong Kong according to Hong Kong's laws, publicly sold with approval of SFC and supervised by SFC;

- ii. The manager is registered and operated in Hong Kong, and holds Hong Kong's asset management license; it has not assigned its investment management functions to institutions in other countries or regions; in the recent three years or since its establishment, the institution must not have been the subject of any major regulatory actions by the SFC;
- iii. The fund adopts the custody system, and its trustor and custodian meet the qualification requirements of SFC;
- iv. Fund types include conventional stock, mixed, bond and index funds (including tradable open-end index fund);
- v. The fund must be established for more than one year, with total assets of not less than RMB200 million (or its equivalent in a different currency); it must not primarily invest in the mainland market, and its distributions on the mainland account for not more than 50% of its total assets.

Article 5 CSRC examines the application for registration of Hong Kong's mutually recognized fund and makes decisions according to Article 55 of the Fund Law. In the course of examination, it may solicit opinions from SFC.

Registration application materials include:

- i. Application report;
- ii. Trust deed or articles of association of the fund;
- iii. The fund's prospectus and brief introduction to product;
- iv. The latest audited annual report of the fund;
- v. The fund agent and agency agreement;
- vi. Documents certifying the fund and its manager, trustor, custodian and agent meet conditions;
- vii. Legal opinion issued by the law firm; and
- viii. Other materials required by CSRC.

In case of discrepancies between the above documents and the versions approved by SFC, the major discrepancies and reasons shall be indicated.

Chapter III Operation and Information Disclosure

Article 6 Investment, trading, asset custody, valuation and accounting, purchase and redemption, fee arrangement, taxes, meeting of holders, revision, termination and merger of legal instruments, revocation of authorization and other matters pertaining to Hong Kong's mutually recognized funds shall comply with the regulatory requirements of SFC and the legal instruments on funds.

Article 7 The content, format, time limit, frequency and other matters pertaining to the information disclosure documents (including prospectus, outline of product

information, net value announcement, regular financial reports and interim reports) of Hong Kong's mutually recognized funds on the mainland shall comply with the regulatory requirements of SFC and the legal instruments on funds, unless otherwise specified herein.

The fund manager shall take reasonable measures to ensure relevant information disclosure documents and regulatory reports are simultaneously disclosed or reported to the investors and regulators of Chinese Mainland and Hong Kong.

Article 8 The fund manager shall publish disclosable information via such media as the national newspapers designated by CSRC or the website of the fund agent, and ensure investors access or copy publicly disclosed information and materials according to the time and method specified in legal instruments on the fund.

Article 9 The manager of a Hong Kong's mutually recognized fund shall disclose to the public the brief introduction to the fund product, announcement on issuance and distribution of fund units, prospectus, trust deed or articles of association and the latest annual and interim financial reports of the fund three days before issuance and distribution of fund units.

Article 10 The prospectus of a Hong Kong's mutually recognized fund on the mainland shall be prepared according to the regulatory requirements of SFC, and shall add the following content:

- i. Special explanations and risk disclosure with respect to the Hong Kong's mutually recognized fund;
- ii. The category, time and form of the fund's information disclosure documents on the mainland, and the storage place and consulting method of documents for reference;
- iii. The rights and obligations of interested parties of the fund, the procedures and rules on the meeting of the holders of fund units, causes and procedures for rescission or termination of fund contract, and method of dispute settlement;
- iv. Type, content and channel of services provided by holders of fund units and contact methods;
- v. Other information substantially different from that obtained by Hong Kong's investors or having a substantial influence on mainland's investors.

Article 11 The brief introduction to the product of Hong Kong's mutually recognized fund on the mainland shall be prepared according to the regulatory requirements of SFC, and shall add the special explanations and risk disclosure with respect to the Hong Kong's mutually recognized fund.

Article 12 The manager of a Hong Kong's mutually recognized fund shall prepare fund unit issuance announcement according to account opening, clearing, registration, distribution time, channel and method, and other specific operation matters with respect to the issuance and distribution of fund units, and disclose it together with the prospectus.

Article 13 The fund manager shall take reasonable measures to ensure investors of Mainland and Hong Kong are treated equally, including protection of investors' rights and interests, exercise of investors' rights, information disclosure and compensation.

Article 14 The settlement of disputes on a Hong Kong's mutually recognized fund shall be handled according to the method specified on the fund contract. In case of settlement of dispute by way of lawsuit, courts on the mainland shall not be deprived of the right to hear relevant lawsuit.

Chapter IV Fund Distribution

Article 15 The distribution institutions of a Hong Kong's mutually recognized fund on the mainland shall obtain the qualification for fund distribution business.

Hong Kong's mutually recognized funds sold on the mainland shall comply with the laws, regulations and the Rules on the distribution of publicly offered funds on the mainland.

Article 16 If the manager of a Hong Kong's mutually recognized fund prepares, on its own or via other institutions, fund product promotion materials applicable to the mainland market, it shall be subject to the compliance inspection conducted by and obtain the opinions from an agent in advance, and shall file the materials with a local office of CSRC in the principal place of business of the agent within five working days after issuing or disclosing the materials to the public. The promotion materials of a Hong Kong's mutually recognized fund prepared by the fund's distribution institution shall be subject to prior inspection by and obtain compliance opinions from the institution's senior management personnel responsible for fund distribution business and compliance, and shall be filed with a local institution of CSRC in the place of industrial and commercial registration of the institution within five working days after being issued or disclosed to the public.

Relevant expressions on the promotion materials of a Hong Kong's mutually recognized fund product issued or released to the public on the mainland shall be complete, accurate, clear and valid, and expressly and conspicuously indicate that the product is established according to the laws of Hong Kong, and its investment, operation and information disclosure shall comply with the laws of Hong Kong and relevant rules of SFC.

Article 17 The manager of a Hong Kong's mutually recognized fund may sign, on its own or via an agent, a distribution agreement with the fund distribution institution on the mainland. If the manager signs the agreement on its own, it shall ensure the agent can perform relevant responsibilities.

The manager, the agent and the distribution institution of the Hong Kong's mutually recognized fund shall reach an agreement on the continuous service responsibilities, performance of anti-money laundering obligations and division of responsibilities of fund holders.

Article 18 The Manager of a Hong Kong's mutually recognized fund shall authorize an agent to exchange data with the fund distribution institution via the technical platform designated by CSRC.

The registry of a Hong Kong's mutually recognized fund shall back up the registration data of mainland's investors on the mainland.

Article 19 The institutions on the mainland which assess Hong Kong's mutually recognized funds shall establish scientific and effective overseas fund product assessment system. Relevant assessment criteria and methods shall be consistent with the mainland's fund product assessment system.

If a Hong Kong's mutually recognized fund sold on the mainland applies overseas institutions' rating or rating results, it shall give a special notice of the differences between its assessment methods and results and those of mainland's assessment institutions.

Chapter V Agency

Article 20 The agent entrusted by the manager of a Hong Kong's mutually recognized fund shall obtain the publicly offered fund management or custody qualifications granted by CSRC.

Article 21 The agent handles product registration, information disclosure, distribution arrangement, data exchange, fund clearing, regulatory report, communication, customer service, monitoring and other matters as entrusted by the manager of a Hong Kong's mutually recognized fund, but the manager's responsibilities assumed according to law shall not be exempted due to entrustment.

To ensure its responsibilities are effectively performed, the manager shall carefully select its agent and continuously supervise and regularly assess the agent's performance.

Article 22 The manager of a Hong Kong's mutually recognized fund shall sign an agency agreement with its agent, to specify the content of agency, responsibilities, rights and obligations of both parties and the plan for properly dealing with relevant business after the agreement expires or cooperation ends.

Chapter VI Supervision and Administration

Article 23 The fund manager shall take reasonable measures to ensure the Hong Kong's mutually recognized fund continuously meets mutually recognized qualification conditions. When the fund's scale, major investment direction and primary distribution object do not meet conditions, the fund manager shall report to CSRC in time, and suspend the fund's distribution activities on the mainland until it meets the above conditions again. In case of substantial changes in the type and operation mode of the fund, the fund manager shall suspend the fund's distribution activities on the mainland and apply to CSRC for registration again.

Article 24 The violations of laws and regulations by a Hong Kong's mutually recognized fund shall be supervised and administered by CSRC and SFC depending on the places where such violations occur. CSRC supervises the distribution, information disclosure and other activities of Hong Kong's mutually recognized funds on the mainland according to the mainland's laws and regulations, and SFC supervises the investment and operation of Hong Kong's mutually recognized funds in Hong Kong pursuant to Hong Kong's laws.

Article 25 The daily supervision of Hong Kong's mutually recognized funds shall conform to the jurisdictional supervision principles, but CSRC has the right to require the managers of such funds to give explanations on significant supervision matters.

In case the manager of a Hong Kong's mutually recognized fund violates relevant laws and regulations when engaging in distribution, information disclosure and other business activities relating to the fund on the mainland, CSRC may require SFC to provide assistance and impose administrative measures and penalty on the manager according to law.

Article 26 The mainland agent of Hong Kong's mutually recognized fund shall perform various business duties according to relevant requirements set forth in the Rules. CSRC will supervise and administer relevant business activities of agents according to law. In case an agent violates the Rules in related activities, it will be ordered to rectify within a specified period, during which CSRC may suspend or restrict its business; with respect to the persons in charge of agency business directly and other persons directly held accountable, CSRC may take such administrative measures as regulatory talk and issue of warning letter.

Article 27 CSRC and SFC may establish regulatory cooperation mechanism with respect to the constant supervision of Hong Kong's mutually recognized funds to effectively protect the legitimate rights and interests of the fund unit holders in Chinese Mainland and Hong Kong.

Chapter VII Supplementary Provisions

Article 28 The documents of Hong Kong's mutually recognized funds disclosed on the mainland and submitted to CSRC and the promotion materials of the fund issued to the public shall be written in simplified Chinese, and related wording must conform to the business practices of mainland's fund industry; if the original is written in other languages, its true, accurate and complete translation in simplified Chinese shall be provided.

Article 29 The Rules shall come into effect on July 1, 2015.