CHINA FURTHER OPENS UP ITS FINANCIAL SECTOR

On 30 September 2019, the PRC State Council revised the *PRC Administrative Regulations on Foreign-invested Insurance Companies* (中华人民共和国外资保险公司管理条例) and the *PRC Administrative Regulations on Foreign-invested Banks* (中华人民共和国外资保险公司管理条例) (the "**New Regulations**"), marking another step towards the implementation of the central government's commitment to "substantially liberalizing market access and further opening up the financial services sector".

BACKGROUND

In April 2018, President Xi Jinping announced general market liberalisation measures at the opening ceremony of the Asian Bo'ao Forum held in Hainan, China. Following Mr Xi's speech, Yi Gang, the Governor of the People's Bank of China, announced a set of liberalisation measures specifically targeted at the financial sector, including: (i) the removal of caps on the foreign investment ratio in banks; (ii) raising caps on the foreign investment ratio in life insurance companies and securities companies to 51%, and eventually removing the cap requirements altogether (full removal was subsequently confirmed to be due by 2020); (iii) substantially expanding the permissible business scope of foreign-invested companies and; (iv) abolishing certain requirements applicable to foreign investors wishing to establish foreign-invested insurance companies. On 20 July 2019, the Financial Stability and Development Committee of the State Council announced eleven new measures which substantially followed the approach set out in Mr. Yi's earlier speech, aiming to provide a roadmap and timeframe for the next stage of the liberalisation of the PRC financial markets.

The New Regulations aim to implement certain parts of the eleven measures of July 2019 and their adoption shows that the PRC authorities remain committed to updating laws and regulations to give effect to those principles

Key issues

- The PRC State Council has taken further steps to revise regulations on foreign-invested insurance companies and banks, following previously announced commitments to further open up the Chinese financial sector.
- The newly issued updated rules ease certain eligibility requirements for foreign investors in banks and insurance companies, and lift some barriers on the operation of certain businesses by foreign-invested banks.
- More implementing laws and regulations further opening up of the financial sector are expected to follow.

EASIER MARKET ENTRY IN BANKS AND INSURANCE COMPANIES

The New Regulations lift certain eligibility requirements applicable to foreign investors in setting up or investing in foreign-invested commercial banks and insurance companies in China, including:

- the "total assets" condition will no long be a "must have" pre-condition for a foreign institution wishing to set up a foreign-invested bank in China, whereas previously a specified total assets threshold was a strict requirement;
- it is now permitted for foreign investors to set up joint venture banks with PRC non-financial institutions as joint venture partners;
- a foreign bank may have both a wholly foreign-owned bank or joint venture bank and a branch in China at the same time;
- a foreign insurer is no longer required to: (i) have a track record in the insurance business of more than 30 years and; (ii) have a representative office in China for more than two years;
- a foreign insurance group company is now permitted to establish a foreign-invested insurance company in China, subject to detailed rules to be issued by the China Banking and Insurance Regulatory Commission ("**CBIRC**") at a later date and;
- a foreign financial institution is now permitted to invest in a foreign-invested insurance company in China, also subject to detailed rules to be issued by CBIRC.

REDUCED BUSINESS OPERATION RESTRICTIONS FOR FOREIGN-INVESTED BANKS

The New Regulations also reduce certain business operation restrictions previously applicable to foreign-invested banks, including:

- a foreign-invested bank is now expressly permitted to engage in the business of: (i) issuance/fiscal agency and underwriting of government bonds; (ii) acting as agent for receipts and payments and; (iii) insurance agency;
- a foreign bank branch now may accept fixed term deposits of no less than RMB 500,000 per transaction from onshore PRC citizens (previously the minimum threshold was RMB 1 million);
- previously, a foreign-invested bank was required to operate for at least one year, and then apply for authorisation to conduct a RMB business to the CBIRC. Neither the one-year qualifying period nor the CBIRC approval is now required; and
- a foreign bank branch will have more flexibility in terms of holding interest-bearing assets, and as long as the parent bank can satisfy the applicable local capital requirements, also in complying with capital requirement under PRC law.

FURTHER LIBERALISATION LEGISLATION

One and a half years have passed since the opening-up commitments announced by President Xi at the Asian Bo'ao Forum. Other than the New Regulations, several pieces of legislation have been issued or updated to implement those commitments in other segments of the financial sectors. The market's response to these new liberalising measures has generally been enthusiastic.

For instance, shortly after the cap on the foreign investment ratio in securities companies was raised from 49% to 51% (according to the *Revised Measures for Administration of Foreign Invested Security Companies*, released on, and effective from, 28 April 2018), Swiss bank UBS AG increased its shareholding in UBS Securities China to 51%, on 30 November 2018. Separately, shortly thereafter, two foreign-controlled securities companies were established by leading multinational financial groups, J.P. Morgan and Nomura Oriental, respectively.

Greater foreign ownership could help foster increased competition and transparency in the financial sector in China, including both banking and insurance. Further major liberalisation legislation is expected to follow in the medium term, which will continue the process of creating a more open regulatory environment that should benefit foreign financial institutions while stimulating the growth of China's financial sector.

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