CHINA ESTABLISHES NEW FINANCIAL REGULATOR – AMONGST MAJOR PRIORITIES IN POST-COVID ERA

On 18 May 2023, the National Administration of Financial Regulation (**NAFR**) was officially established, which opens a new chapter on financial regulation in China. The new regulator replaces the former China Banking and Insurance Regulatory Commission (**CBIRC**) and will also take over certain financial consumer/investor protection responsibilities from other regulators.

The establishment of NAFR is an important step in the reforms of PRC government institutions announced in the inaugural annual plenum session of the 14th National People's Congress (**NPC**) (also referred to as the "**Two Sessions**") in March 2023. In this briefing, we will further examine the key aspects of the Two Sessions and also discuss the potential implications for investing in China and navigating its regulatory environment in the coming years.

As China's top legislative body, the NPC holds a plenum session annually. While this year's 14th NPC session addressed routine items, such as approving the work report from the outgoing team of the State Council (led by Premier Li Keqiang), importantly the session also included the appointment of the State Presidency, a new Premier and cabinet members who will set the policy direction for China for the next five years.

In summary, the focus was (a) to set macroeconomic targets and targets for creation of employment opportunities, as well as setting the plan of attracting foreign investment and boosting economic growth and (b) to approve a plan to reorganize specific government institutions.

RENEWED EFFORT ON ATTRACTING AND UTILISING FOREIGN INVESTMENT

Premier Li Keqiang's government work report presented to this year's plenum NPC session (the **Government Work Report**) outlined major priorities for the

Key Takeaways

- The official establishment of the new financial regulator, NAFR, marks an important step in implementing the government reform plan which was approved in the NPC.
- In addition to the government reform plan, the NPC has emphasised that China intends to continue attracting and welcoming foreign investors.
- This includes expanding market access for foreign investors, particularly in "modern service industries".
- Pilot schemes will be further implemented in free trade zones to test reform measures prior to launching nationwide.
- The plan to reorganize certain government institutions also includes additional supervision over the science and tech industries.

upcoming year. The report set macroeconomic targets, including a GDP growth rate of around 5%, a goal to create approximately 12 million new urban jobs, a growth in personal income generally in line with economic growth, and steady increases in both the volume and quality of imports and exports, among other objectives.

The Government Work Report emphasised boosting market confidence, pursuing higher-quality growth, and encouraging both domestic and foreign investment. In a section related to attracting and utilising foreign investment it set out the following objectives:

- expanding market access for foreign investors, particularly in "modern service industries" such as financial services, business services, and information technology services;
- ensuring equal treatment for foreign investors compared to their domestic counterparts;
- making efforts to join trade and economic agreements like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (**CPTPP**) by upgrading domestic laws, standards, and governance to align with higher international market practice;
- utilising free trade zones, such as the Hainan Island Free Trade Port, as testing grounds for reform measures; and
- enhancing services for foreign-invested enterprises.

These objectives were also found in (and elaborated on) an article authored by Xi Jinping, General Secretary of the Chinese Communist Party (**CCP**) and President of the State, published in the 15 February 2023 issue of *Qiushi,* the CCP's official journal.

The article, based on a speech President Xi Jinping delivered at the Central Economic Work Conference in December 2022, identified China's most significant economic challenges and called for policy initiatives and measures to address them. In relation to attracting foreign investment, the article also elaborated that:

- the government should "reasonably reduce the scope of the Foreign Investment Negative List" and make modern service industries more open;
- foreign investment access policies should be promptly implemented after announcement;
- the government should ensure equal treatment for foreign-invested enterprises, promote fair competition, and grant equal rights to foreign-invested enterprises in government procurement, public sector project bidding, and standard-setting;
- the government should actively promote accession to high-standard trade and economic and trade agreements, such as the CPTPP and the Digital Economy Partnership Agreement; and
- the government should provide "targeted services," strengthen communication and interaction with foreign investors, and offer maximum convenience for trade and investment activities.

After the NPC session concluded, newly appointed Premier Li Qiang reiterated his predecessor's stance at his first press conference, stating that the government will continue to expand opening-up in alignment with high-standard international trade rules, and that an open China welcomes investors worldwide.

REORGANIZING CENTRAL GOVERNMENT INSTITUTIONS TO IMPROVE FINANCIAL REGULATORY SYSTEM, DATA, SCIENCE AND TECHNOLOGY MANAGEMENT

This year's NPC plenum session also approved a plan to reform specific central government institutions (the **Reform Plan**).

The Reform Plan builds upon the Reform Plan of the Party and State Institutions (党和国家机构改革方案, the **Party's and State's Reform Plan**) passed by the CCP Central Committee's second plenary session, held in February 2023. The Party's and State's Reform Plan was released to the public on 16 March 2023, following the conclusion of the NPC session.

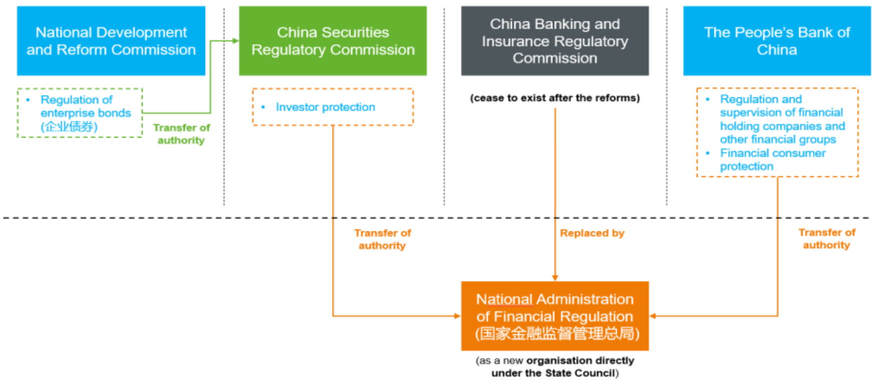
In presenting the Party's and State's Reform Plan, President Xi Jinping emphasised that one of the key objectives of the reform is to strengthen the financial regulatory system and enhance the central leadership of the Party over scientific and technical work. The Reform Plan implements these objectives.

Financial Regulatory System Reform

In terms of financial regulation, China is set to consolidate certain functions amongst various regulators.

At the central government level, all financial sectors, excluding the securities industry, will be regulated by NAFR (国家金融监督管理总局).

From a local government perspective, China will enhance central control over local financial industries. While the exact mandate of NAFR will become clearer at a later stage, it is expected to broadly assume the functions of the original CBIRC, which has ceased to exist. NAFR will also oversee investor and financial consumer protection and financial holding companies. Additionally, a new Central Financial Committee (中央金融委员会) and a Central Financial Working Committee (中央金融工作委员会) will be established, while the original Financial Stability and Development Committee will be dissolved.

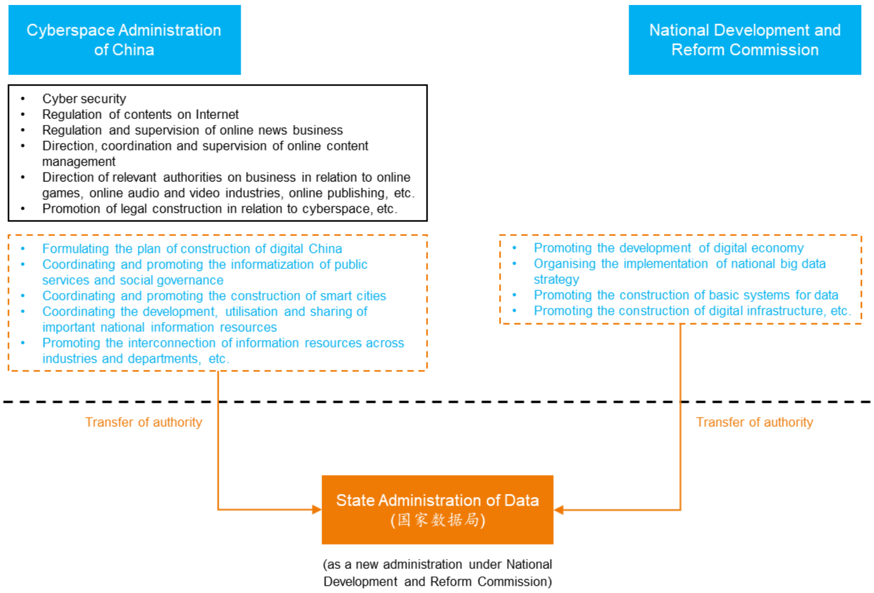


Details of the reform will progress step by step. In relation to transfer of authority on onshore bond issuance, the reform has now reached the implementation stage – in addition to the set up of NAFR in May, in April, the China Securities Regulatory Commission (**CSRC**) and the National Development and Reform Commission (**NDRC**) jointly issued a transition plan, signalling that CSRC will take over all the responsibility of supervising the registration of onshore corporate bonds from that point onwards..

The Data, Science and Technology System Reform

In relation to the science and technology side, a new institution, the State Administration of Data (国家数据局, **SAD**), will be established (and the English name/acronym is still to be finalised). Certain aspects which were previously within the Cyberspace Administration of China's authority (**CAC**) will be transferred to SAD. It appears that SAD will focus more on the development of data and digital-related matters, while CAC will concentrate on the security and enforcement aspects of data and cybersecurity.

Given SAD's mandate, it will be placed under the leadership of NDRC, an organization responsible for formulating macro strategies and coordinating between different sectors.



Other reforms, such as those related to intellectual property protection and administration of technology, were also introduced as part of the broader government revamp. The responsibilities of the Ministry of Science and Technology will also be regrouped and will more focus on macroscopic functions, developing and implementing technology innovation strategies nationwide, promoting the transformation of scientific and technological achievements etc.

CONCLUSION

The 14th NPC was followed by state visits from governmental leaders from different countries/regions. As a result, several joint governmental statements were issued by China and foreign countries/regions (as applicable), highlighting the Chinese government's determination to deepen economic cooperation and further open up the China market to foreign investors.

Additionally, China's financial regulators proactively arranged roundtable meetings with senior management of various international institutions operating in China. It is expected that more policies seeking to attract foreign investment will be issued to accelerate economic growth.

Given the breadth of the Party's and State's Reform Plan, it will take time to complete the overall reorganisation, and this may then mean there are some further changes. However, some of these reforms are already in place, such as the transfer of certain authority between NDRC and CSRC and the set-up of NAFR, as discussed in this briefing. Further implementation measures related to the Party's and State's Reform Plan will follow soon and a closer look at such measures will be required in order to determine how these will further impact the international investors' existing and potential business operations in China.

CLIFFORD CHANCE

CONTACTS

Terence Foo
Co-Managing Partner

T + 86 10 6535 2299
E terence.foo@cliffordchance.com

Emma Davies
Partner

T + 852 2825 8828
E emma.davies@cliffordchance.com

Kelly Gregory
Partner

T + 86 21 2320 7234
E kelly.gregory@cliffordchance.com

Terry Yang
Partner

T + 852 2825 8863
E terry.yang@cliffordchance.com

Yufei Liao
Partner

T + 86 10 6535 2298
E yufei.liao@cliffordchance.com

Yi Yang
Partner

T + 86 21 2320 7201
E yi.yang@cliffordchance.com

Peter Zhao
Senior Associate

T + 86 21 2320 7373
E peter.zhao@cliffordchance.com

Jane Chen
Senior Associate

T + 86 10 6535 2216
E jane.chen@cliffordchance.com