

# WORLD TRADE ORGANIZATION

S/C/N/222  
24 December 2002

(02-7101)

Council for Trade in Services

Original: English

## NOTIFICATION PURSUANT TO ARTICLE III:3 OF THE GENERAL AGREEMENT ON TRADE IN SERVICES

The following notification has been received from the delegation of the People's Republic of China.

**1. Member notifying:**

The People's Republic of China

**2. Notification under:**

Article III, paragraph 3 of the General Agreement on Trade in Services

**3. Date of entry into force/duration:**

2002/6/1

**4. Agency responsible for implementation and enforcement of the measure:**

China Securities Regulatory Commission

**5. Complete description of the measure\* indicating the modes of supply covered, the effect on trade in services (e.g., restrictions/liberalization measures) and the impact of the measure on commitments in the Member's schedule and Article II (MFN) exemption list, if relevant:**

Rules for Establishing Foreign-Invested Fund Management Companies

Full text English translation of the rules is attached<sup>1</sup>. The English translation is for reference only and the Chinese version shall be authentic.

**6. Members specifically affected, if any:**

All Members

**7. The texts are available from:**

- Enquiry point ☒
- WTO Secretariat ☒
- Other sources (address, fax and telephone of other body) ☐

\* Including international agreements, recognition measures or other types.

<sup>1</sup> In English only

## **Rules for Establishing Foreign-Invested Fund Management Companies**

(promulgated by the China Securities Regulatory Commission on June 1st, 2002)

**Article 1** These Rules are formulated, in accordance with the relevant provisions of the Company Law and the Interim Measures for Administration of Securities Investment Funds (hereinafter referred to as Interim Measures), to adapt to the requirements of opening securities market to the outside world, strengthen the supervision and administration of foreign-invested fund management companies and clarify the conditions and procedures for the establishment of foreign-invested fund management companies.

**Article 2** Foreign-Invested fund management companies referred to in these Rules include the fund management companies altered as a result of overseas shareholders' acceptance of the transfer of or purchase of domestic fund management companies shares or the fund management companies established by overseas shareholders and domestic shareholders through joint contribution.

**Article 3** The China Securities Regulatory Commission (hereinafter referred to as the "CSRC") shall be responsible for the examination, approval, supervision and administration of foreign-invested fund management companies.

**Article 4** The organizational form of foreign-invested fund management companies is limited liability company.

Foreign-Invested fund management companies' names, registered capital, organizational institutions establishment and duties and responsibilities there of shall conform to the Company Law, the Interim Measures as well as the relevant provisions of the CSRC.

**Article 5** Foreign-Invested fund management companies shall meet the conditions stipulated by the Interim Measures and the CSRC.

**Article 6** An overseas shareholder of a foreign investment fund management company shall meet the following conditions:

- (1) shall be a financial institution which is established and lawfully exists in accordance with the law of the country where it is situated and has not been seriously punished by its regulatory institution and judicial organs in the recent three years;
- (2) the country where it is situated shall have perfect securities law and system of supervision and administration, its securities regulatory institution shall have already concluded the understanding memorandum of cooperation in securities supervision and administration with the CSRC and maintained effective cooperative relationship in supervision and administration;
- (3) the paid-up capital shall be no less than 300 million Renminbi's equivalent freely convertible currency;
- (4) other prudential requirements stipulated by the CSRC.

**Article 7** A domestic shareholder of a foreign-invested fund management company shall meet the qualification conditions for fund management companies' shareholders stipulated by the CSRC.

**Article 8** The ratio of foreign investment in shares or that of the rights and benefits derived from foreign investment in a foreign-invested fund management company shall not accumulatively (including direct ownership and indirect ownership) exceed 33 per cent. Within three years after our country's accession to the WTO, this ratio shall not exceed 49 per cent.

Overseas shareholders shall make their contributions in freely convertible currency.

**Article 9** The directors, general managers and deputy general managers shall have the qualification for acting as superior management personnel in fund management companies stipulated by the CSRC.

**Article 10** The overseas and domestic applicants of a foreign-invested fund management company shall, in accordance with the contents and formats stipulated by the CSRC, submit the application materials to the CSRC.

The application materials submitted to the CSRC by the overseas and domestic applicants must be written in Chinese. Where the documents or materials provided by the overseas shareholders and the securities regulatory institutions where they are situated are written in foreign languages, the Chinese translations which are consistent with the contents of the original texts shall be enclosed.

**Article 11** The establishment of a fund management company by overseas and domestic shareholders through joint contribution shall undergo such two periods as preparation and starting business.

**Article 12** The CSRC shall, within 60 working days as of official acceptance of the application for preparing to establish a company by the overseas and domestic shareholders, make a decision of approval or disapproval of the preparation. Where the preparation is approved, the approval document shall be provided; where the preparation is disapproved, the applicants shall be notified in writing and the reasons shall be given.

**Article 13** Where major changes occur to the basic circumstances of an overseas shareholder of a fund management company which has already obtained the CSRC's approval document of the preparation but has not officially started business, or a fund management company has been punished or supervised and controlled as a focus by the regulatory institution in the country where it is situated, this overseas shareholder shall timely propose to convene a promoters' meeting of the fund management company and explain the related situation. Where the overseas shareholder does not conform to the conditions of these Rules any longer, the promoters' meeting shall put forward the suggestions to handle the issue and the preparatory work group shall timely report this matter to the CSRC and deal with related matters.

**Article 14** The overseas and domestic applicants shall, after completing the preparation of establishing a fund management company, submit the application materials for the fund management company to start business to the CSRC.

The CSRC shall, within 30 working days as of acceptance of the application for business start, make a decision of approval, delaying approval or disapproval. Where business start is approved, the approval document shall be provided; where the approval is to be delayed or business start is disapproved, the applicants shall be notified in writing and the reasons shall be given.

**Article 15** Where an overseas shareholder accepts the transfer of or purchases the shares in a domestic fund management company, the application materials shall be submitted to the CSRC by the fund management company.

The CSRC shall, within 60 working days as of official acceptance of the application, make a decision of approval or disapproval. Where the application is approved, the approval document shall be provided; where the application is disapproved, the applicant shall be notified in writing and the reasons shall be given.

With respect to the examination and verification of the application regarding the newly added shareholders and the changing of shareholders the ratio of whose contribution is highest or the number of directors nominated by whom is most, the CSRC shall refer to the procedures for examining and verifying the preparation of a fund management company in implementation.

**Article 16** Where the authority in the place where an overseas shareholder of a foreign-invested fund management company is registered or its main business activities take place requires overseas investment to be filed for the record, this overseas shareholder shall, after obtaining the CSRC's approval document according to law, if it submits relevant materials for the record to the authority in the place where it is registered or its main business activities take place, submit the duplicates to the CSRC at the same time.

**Article 17** The shareholders of a foreign-invested fund management company shall, within 30 working days as of obtaining the CSRC's approval document, undertake the registration of alteration or establishment of company at the administrative agency for industry and commerce.

**Article 18** Where investors from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan region invest in shares in fund management companies, these Rules shall be referred to in application.

**Article 19** Where there are no provisions regarding the matters of establishment, alteration, termination, business activities, supervision and administration in these Rules, other relevant provisions of the CSRC shall be applied.

**Article 20** These Rules shall be implemented as of July 1, 2002.

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