

Interim Measures for the Administration of Bond Issuances by Overseas Issuers in the Chinese Interbank Bond Market

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To promote the open-up of the Chinese Interbank Bond Market, regulate bond issuances by overseas issuers and protect the legitimate rights and interests of investors in the bond market, the People's Bank of China and the Ministry of Finance have promulgated the *Interim Measures for the Administration of Bond Issuances by Overseas Issuers in the Chinese Interbank Bond Market*, which are hereby published on, and effective as of, the publication date.

People's Bank of China
Ministry of Finance

8 September 2018

Encl.

Appendix: *Interim Measures for the Administration of Bond Issuances by Overseas Issuers in the Chinese Interbank Bond Market*

This English translation is for reference only. Readers should always refer the Chinese original. Due to the differences in grammar and legal terminologies, the possibility that terms or words used in the English translation may have different meanings or connotations from the Chinese original cannot be ruled out. Therefore, this English translation should not be relied upon by any person in making any decision or taking any action. If there exists any difference between the Chinese version and the English version, the Chinese version should govern.

Interim Measures for the Administration of Bond Issuances by Overseas Issuers in the Chinese Interbank Bond Market

Chapter I General provisions

- Article 1 To promote the open-up of the Chinese Interbank Bond Market, regulate bond issuances by Overseas Issuers (as defined below) and protect the legitimate rights and interests of investors in the bond market, these measures (the “**Measures**”) are formulated in accordance with the relevant laws and regulations including the *Law of the People’s Bank of China of the People’s Republic of China* and the *Accounting Law of the People’s Republic of China*.
- Article 2 “**Overseas Issuers**”, for the purpose of these Measures, refer to foreign issuers that issue bonds in the Chinese Interbank Bond Market (the “**CIBM**”), including Foreign Governmental Agencies (as defined below), International Development Institutions (as defined below), financial institutions with legal personality (“**Overseas FI**”) or non-financial enterprise with legal personality (“**Overseas Non-FI**”) organised and registered outside the People's Republic of China (the “**PRC**”)¹.
- Article 3 “**Foreign Governmental Agencies**”, for the purpose of these Measures, include governments of sovereign states, local governments and other agencies that perform the governmental functions.
- “**International Development Institutions**”, for the purpose of these Measures, refer to multilateral, bilateral or regional international development financial institutions that grant loans to, and/or make investments in, development projects.

Chapter II Application for issuance

- Article 4 (1) Applications for issuance of bonds in the CIBM by Overseas FIs are subject to approval of the People’s Bank of China (the “**PBOC**”).
- (2) Applications for:
- (a) issuance of bonds in the CIBM by Overseas Issuers such as (i) Foreign Governmental Agencies or (ii) International Development Institutions, and
 - (b) issuance of non-financial institution debt instruments in the CIBM by Overseas Non-FIs
- are subject to registration with the National Association of Financial Market Institutional Investors (the “**NAFMII**”).
- Article 5 Foreign Governmental Agencies and International Development Institutions shall have experience in bond issuance and remain solvent to repay their debts.
- Article 6 An eligible Overseas FI shall satisfy the following conditions for issuing bonds in the CIBM:
- (1) its paid-up capital shall not be less than RMB10 billion or an equivalent amount in a foreign currency;

¹ For the purpose of the Measures, excluding the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan.

- (2) it shall have in place sound corporate governance and a robust risk management system;
- (3) it shall be in a stable financial condition, have a well-established creditworthiness and have earned profits for the past three consecutive years;
- (4) it shall have experience in bond issuance and remain solvent to repay its debts; and
- (5) it is subject to effective regulation of the financial regulators in its home jurisdiction, and its key risk regulatory indicators comply with the requirement of its home financial regulators.

Article 7 The Overseas FI shall file the following materials with the PBOC for issuance of bonds in the CIBM:

- (1) an application letter for bond issuance;
- (2) the valid resolutions or other proving documents issued by the competent organ / body of the issuer approving the proposed bond issuance;
- (3) an offering circular;
- (4) the annual financial reports and the auditor's report for the past three years, and the latest interim financial report (if available);
- (5) documents that can prove the home financial regulator(s)' approval or authorisation for it to carry out the relevant financial business; and
- (6) a credit rating report and the credit tracking arrangements (if available);
- (7) a guarantee document and the information of the guarantor's creditworthiness (if any); and
- (8) legal opinion(s) issued by the legal advisor (such as a law firm) qualified in the issuer's home jurisdiction.

Chapter III Issuance, registration, custody and settlement of bonds

Article 8 Overseas Issuers may issue bonds either (a) on a stand-alone basis or (b) in tranches or series within a specified size.

- Article 9
- (1) Any Foreign Governmental Agency, International Development Institution or Overseas FI that
 - (a) is an experienced bond issuer in the overseas market, or
 - (b) has already issued bonds in the PRC and has fulfilled the information disclosure obligations for over one year,may apply for issuing bonds in tranches or series within a specified size.
 - (2) Applications made by Overseas Non-FIs for issuing bonds in tranches or series within a specified size shall be subject to the relevant rules of the NAFMII.

Article 10 The Overseas FI shall file with the PBOC:

- (1) the updated offering circular for each tranche or series,

- (2) the credit rating report (if available),
- (3) the underwriting agreement and the agreement among syndicate members,
- (4) the legal opinion(s), and
- (5) other documents in final forms,

in accordance with the relevant rules of the NAFMII and prior to the pricing of the bonds.

Article 11 Bonds issued by any Overseas Issuer shall be under the custody of a registration and custody institution recognised by the PBOC (the “**Registrar/Custodian**”). Upon the completion of an issuance, the Overseas Issuer shall confirm the creditor-debtor relationship with the Registrar/Custodian in a timely manner and the Registrar/Custodian shall register the bonds in a timely manner as well.

The Overseas Issuer shall ensure that money for payment of the interest and repayment of the principal of the bonds be paid to the designed cash accounts of the bond holders in a timely manner in accordance with the relevant rules of the Registrar/Custodian.

Article 12 Bonds issued by Overseas Issuers in the CIBM (subject to approval by the PBOC or registration with the NAFMII) shall also be subject to the registration for foreign exchange. The opening of account(s) in relation to the fund-raising, the conversion of fund, the cross-border remittance of the fund and the information reporting shall be in compliance with the relevant rules of the PBOC and the State Administration of Foreign Exchange (the “**SAFE**”).

Chapter IV Disclosure of information

Article 13 Overseas Issuers shall comply with the requirement of the disclosure of information prior to the bond issuance and during the life of the bonds in accordance with relevant rules of the CIBM. Overseas Issuers and their guarantors (if any) shall ensure that the information disclosed be authentic, accurate, complete and in a timely manner, and no false record, misleading statement or material omission be made.

Any material information disclosed by an Overseas Issuer in other market(s) shall also be disclosed in the CIBM simultaneously or, if not, as soon as reasonably practicable.

Article 14 An Overseas Issuer that offers bonds through private placement to qualified institutional investors who enter into the written private placement agreement (the “**QIIs**”) shall disclose the information in the agreed content and form under the private placement agreement solely to QIIs of the bonds. It shall not disclose the offering circular, the financial reports or any other offering document to the public.

Article 15 An International Development Institution that offers bonds and publicly discloses the relevant financial reports shall include a statement of the accounting standards adopted by it at a prominent place in the offering circular and the financial reports. If the financial reports are not prepared in accordance with the *PRC Enterprise Accounting Standards* (the “**PRC GAAP**”) or other accounting standards that have been recognised by the Ministry of Finance (the “**MOF**”) as equivalent accounting standards based on the principle of reciprocity (the “**Equivalent Accounting Standards**”), the International Development Institution shall disclose a statement of the key differences between the accounting standards it adopts and the PRC GAAP.

Article 16 An Overseas FI or Overseas Non-FI that offers bonds and publicly discloses the relevant financial statements shall include a statement of the accounting standards adopted by it at a prominent place in the offering circular and the financial reports. If the financial reports are

not prepared in accordance with the PRC GAAP or any Equivalent Accounting Standards, the Overseas FI or Overseas Non-FI shall also provide the following information:

- (1) a statement of the key differences between the accounting standards it adopts and the PRC GAAP; and
- (2) information of reconciliation to the PRC GAAP, indicating the amount of financial impact of the differences between the accounting standards on all important items in its financial statements.

Article 17 An Overseas Issuer that offers bonds through private placement to QILs may agree with such QILs on the accounting standards under which the Overseas Issuer's financial reports are prepared. It shall fully disclose the risks in the written private placement agreement and confirm that the QILs will assume such risks.

Article 18 The offering documents publicly disclosed by Overseas Issuers shall be in simplified Chinese or, if not, accompanied with a simplified Chinese translation.

Article 19 An Overseas Issuer that adopts the PRC GAAP to prepare the financial reports shall engage an accounting firm qualified for securities and futures-related business in the PRC (the "Qualified PRC Auditor") to audit its financial reports. An Overseas Issuer that adopts other accounting standards to prepare the financial reports shall engage either (a) a Qualified PRC Auditor or (b) an overseas accounting firm satisfying the following requirements to audit its financial reports:

- (1) it is duly incorporated or registered in the overseas country or region of its location, obtains the auditor's qualification and is in good standing;
- (2) it gains high international reputation and is well recognised by the relevant market;
- (3) it is qualified in the country or region of its location to provide, and has no less than five years' experience in, audit services for public offering of securities; and
- (4) any other condition or regulatory requirement as prescribed by the MOF.

The information of reconciliation to the PRC GAAP provided by the Overseas Issuer for bond issuance shall be verified by a Qualified PRC Auditor.

Article 20 Any overseas accounting firm engaged by an Overseas Issuer to audit the relevant financial reports of that Overseas Issuer in relation to bonds issued in the PRC shall (a) be subject to the supervision of the MOF and (b) file with the MOF pursuant to the relevant requirements. If the country or region where the overseas accounting firm is located has entered with the MOF into (a) any valid agreement on equivalence of supervision of auditors, or (b) any cooperation agreement on supervision of auditors specifically for bond issuance, such agreement(s) shall apply.

Article 21 An overseas accounting firm shall make the first filing with the MOF no later than the 20th working day immediately preceding the date on which the Overseas Issuer applies for bond issuance, and make subsequent filings with the MOF during the life of the bonds on an annual basis.

Chapter V Miscellaneous

Article 22 Underwriters, trustees, credit rating agencies, accounting firms, laws firms and other professional agencies and their representative personnel that provide professional services to Overseas Issuers in connection with the bond issuance shall:

- (1) strictly comply with the applicable codes of conduct and professional ethics,
- (2) perform their duties pursuant to the applicable rules and agreements and in accordance with the due diligence principle, and
- (3) assume the relevant legal liabilities.

Article 23 The MOF regulates and supervises the accounting firms that provide auditing services for the relevant financial reports pursuant to the applicable laws and regulations. The MOF has the authority to take disciplinary actions, including, without limitation, issuing demands for rectification within a given time limit and making public announcements, against the overseas accounting firms that breach any provision of these Measures and cause serious quality issues in practising.

Article 24 An Overseas Issuer that offers bonds in the CIBM shall engage a law firm or other legal advisor that is qualified to practise local law in the country or region of the Overseas Issuer's location to issue legal opinion(s). It shall also engage qualified PRC lawyer(s) to opine on legal issues in the PRC in accordance with the *Law of Lawyers of the People's Republic of China*.

Article 25 Overseas Issuers shall have in place an investor protection mechanism, and engage a PRC institution that is independent from the Overseas Issuers to safeguard the bond holders' interest during the life of the bonds. Such independent PRC institution shall

- (1) perform its duties based on the principles of due diligence, independence and justness, and
- (2) implement the investor protection mechanism, including procuring the Overseas Issuers to disclose the information relating to material events and convening the meetings of bond holders.

Article 26 If an Overseas Issuer is required to publicly disclose a credit rating report for the bond issuance, such credit rating report shall be issued by a recognised rating agency in the CIBM.

Article 27 The NAFMII will

- (1) strengthen the self-regulation mechanism for bond issuance by Overseas Issuers in the CIBM;
- (2) be responsible for formulating (a) the relevant registration rules for Foreign Governmental Agencies, International Development Institutions and Overseas Non-FIs to issue bonds in the CIBM and (b) information disclosure guidelines for bond issuance by Overseas Issuers;
- (3) review and exercise post-disclosure supervision over the information disclosed by the Overseas Issuers; and
- (4) report, in a timely manner, to the PBOC for any failure of the Overseas Issuer in information disclosure obligations.

Chapter VI Supplementary provisions

Article 28 The Measures apply *mutatis mutandis* to the issuance of bonds in the CIBM by issuers incorporated in the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan.

- Article 29 The PBOC and the MOF have the authority to interpret these Measures and is responsible for such interpretation. Matters not expressly provided for under the Measures shall be subject to other relevant regulations of the PBOC and the MOF.
- Article 30 Overseas Issuers that have obtained approval, or completed the registration, for bond issuance in the CIBM before the publication of the Measures may act in accordance with the relevant requirements at the time of such approval or registration.