China Announces Updated Timeline for Further Opening Its Financial Sector to Foreign Investors

April 17, 2018

Following the Chinese government's announcement in November 2017 on proposed substantial relaxation of foreign ownership limits in the financial sector, on 11 April 2018, the Governor of the People's Bank of China (the "PBOC") laid out a clearer timetable and further details, as summarized below:

INSURANCE INDUSTRY

- The limit on foreign ownership in Chinese life insurance companies will be raised to 51% "within a few months" from the current 50%, and all foreign ownership restrictions in the Chinese life insurance sector will be removed in three years. It is reported that the PBOC Governor explained that "within a few months" referred to "by the end of this June." This accelerates the timetable in the November 2017 announcement, which contemplated lifting the limit to 51% in three years and fully removing it in five years.

- The requirement that a foreign insurance company must have maintained a representative office in China for at least two years before it can establish a Chinese insurance company will be removed by the end of this year. Removal of this two-year "seasoning" period will further ease foreign access to the Chinese insurance industry.

- Operation of insurance agency and insurance assessment businesses in China by qualified foreign investors will be allowed "within a few months." It is not yet clear whether this means that foreign investors may set up wholly-owned insurance agency and insurance assessment subsidiaries in China.

  Currently, only insurance agency companies incorporated in Hong Kong and Macau may set up wholly-owned insurance agency subsidiaries in China. The Chinese government currently does not maintain regulations or procedures for the establishment of foreign-invested insurance assessment companies in China, and no foreign-invested insurance assessment companies have been approved in recent years.

- The limits on foreign-invested insurance brokers' business scope will be removed "within a few months." There is currently no limit on foreign ownership in Chinese insurance brokers, but foreign-invested insurance brokers are only permitted to undertake brokerage for certain insurance businesses, such as insurance of large-scale commercial risks, reinsurance and international marine, aviation and transport insurance.

SECURITIES INDUSTRY

- The limit on foreign ownership in Chinese securities companies, securities investment fund management companies and futures companies will be raised to 51% from the current 49% "within a few months", and all foreign ownership restrictions in these sectors will be removed in three years. On 8 March 2018, the China Securities Regulatory Commission issued the draft revised administrative measures on foreign-invested securities companies for public comments, under which the 49% limit was removed. It is expected that the final version of the revised measures will be issued soon.

- The requirement that at least one Chinese shareholder in a Sino-foreign joint venture securities company must be a securities company will be removed "within a few months." This requirement caused difficulties for establishing foreign-invested securities companies in China due to competition concerns.

- The limits on the business scope of foreign-invested securities companies will be removed by the end of the year. Under the current regulatory regime, foreign-invested securities companies are not permitted to conduct certain businesses, such as brokerage of RMB-denominated shares, which put them at a disadvantage when competing with domestic players.

BANKING INDUSTRY

- The foreign ownership limits (20% for a single foreign investor and 25% for all foreign investment) on investing in Chinese domestic commercial banks and financial asset management companies will be removed, and foreign banks will be permitted to set up both subsidiaries and branches in China "within a few months." Currently, a foreign bank can establish a business presence in China through either a branch or a subsidiary. The permitted scope of business of a foreign bank branch is much narrower than that of a foreign bank subsidiary, but a subsidiary is subject to higher capital and other requirements.

- The permitted business scope of foreign-invested banks will be significantly expanded by the end of the year. No details have been provided in the PBOC Governor's announcement.

- There will be no foreign ownership limits on financial assets investment companies and wealth management companies established by commercial banks. The regulations governing commercial bank-sponsored wealth management companies and financial assets investment companies, which primarily engage in the debt-for-equity swap business, have not been issued by the Chinese government. Currently, only a few financial assets investment companies sponsored by the major Chinese state-owned banks have been approved.

The announcement made by the PBOC Governor marks the latest expedited efforts of the Chinese government to further open its financial sector to foreign investors. These measures come at a time of change in other aspects of Chinese financial services regulation. In March 2018, China decided to merge its long-existing regulatory commissions of banking and insurance into a new regulatory body called the China Banking and Insurance Regulatory Commission, and some of their legacy functions, including drafting important regulations governing the insurance and banking industries, will be ceded to the PBOC. In April 2018, China also issued formal rules on single presence for insurers. It remains to be seen how these new developments will impact foreign investors in the Chinese financial sector, such as whether foreign-owned and domestic companies will be treated equally under the regulations and in practice. However, we expect to see further relaxation of the implementing rules relating to foreign investment, together with enhanced supervision of the Chinese financial sector, in the near future.

We continue to monitor developments in this area. If you have any questions about the new measures or Chinese investment regulations generally, please let us know.

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