

Policy Highlights of QDIE

Pilot Scheme for Overseas Investment of Qualified Domestic Investors

By Sandra Lu

On 8 December 2014, Shenzhen Municipal Government issued the *Provisional Measures on Shenzhen Pilot Scheme for Overseas Investment of Qualified Domestic Investors* formulated by Shenzhen Financial Development Services Office (the “Provisional Measures”). The Provisional Measures take effect from the date of issue, and are aimed towards further opening up of the financial market and to accelerate the development of a mechanism for free cross-border capital flow.

According to the Provisional Measures, “overseas investment fund management enterprises” recognized by a committee of the pilot scheme (“Fund Management Enterprises”) would be able to establish overseas investment enterprises (“QDIE”) under the scheme. Such QDIE may be formed with investment capital owned by qualified domestic investors, and may make overseas investment upon completion of formalities of foreign exchange capital remittance within its fund size as established and registered with the Shenzhen Financial Development Services Office.

As set out in the *Basic Situation of Shenzhen Financial Industry in the Third Quarter of Year 2014* published on 13 November 2014 on the website of the Shenzhen Financial Development Services Office, the State Administration of Foreign Exchange has granted the first batch of investment quota of US\$1 billion to QDIE scheme.

Flexible Overseas Investment Scope

A key difference of the QDIE scheme from the QDII scheme (qualified domestic institutional investors scheme respectively under the supervision of China Securities Regulatory Commission (“CSRC”), China Banking Regulatory Commission (“CBRC”) and China Insurance Regulatory Commission (“CIRC”) and the QDLP scheme (qualified domestic limited partners scheme as administered under the auspices

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of the Shanghai Financial Services Office) is that the Provisional Measures of the QDIE scheme does not contain any expressed restriction on the permitted scope of overseas investment (also considering that the *Several Opinions on Shenzhen Municipal Government Fully Taking the Advantage of Determinative Role of the Market and Comprehensively Deepening the Financial Reform and Innovation* issued in early of Year 2014 which was purported “to advance a pilot scheme in Qianhai for overseas investment of qualified domestic investors, and to engage in various types of overseas investment business including direct investment, securities investment, investment in derivatives and so forth”, we understand that there should be no specific investment restrictions). In comparison, CSRC, CBRC and CIRC imposed detailed provisions on QDII investment scope, while the investment scope under QDLP scheme is also limited to “direct investment in overseas secondary market or investment in overseas secondary market through overseas funds”.

Legal Structure and Basic Requirements of QDIE Pilot Enterprises and QDIE

A Fund Management Enterprise may be established as a company, partnership or other forms. Overseas or domestic Fund Management Enterprises shall have a registered capital (or subscribed capital) of not less than US\$ 2 million (or equivalent currency) or RMB 10 million respectively, and shall also meet qualifying conditions such as the “controlling investor (or the general partner) or the associated entity of the controlling investor (or the general partner) having continually operated the management of overseas investment funds for at least three years, having at least one investment personnel with over 5 years overseas asset management experience and at least two investment personnel with over 3 years overseas asset management experience”.

Besides this, the controlling investor (or the general partner) or associated entity of the controlling investor (or the general partner) of a domestic Fund Management Enterprise should also meet any one of the following:

- A domestic financial enterprise (with financial license issued by a China financial regulator); or
- An equity investment fund management enterprise with assets under management of not less than RMB1 billion and having continually operated relevant business for at least three years.

The legal structure of a QDIE is quite flexible, which could be a corporation, a partnership, a contractual fund, a segregated account, etc., provided that such QDIE meets the conditions such as having size of not less than RMB 30 million (or its equivalent in foreign currency), and having not less than RMB 2 million (or its equivalent in foreign currency) invested by each qualified domestic investor.

If a QDIE adopts the legal form of a company, a limited partnership or a contractual form, its Fund Management Enterprise shall register with the Asset Management Association of China (“AMAC”) as a private fund manager; whereas if a segregated account arrangement is adopted, it means that a Qianhai-registered subsidiary of a retail fund management company may directly apply for the pilot QDIE qualification. Currently, several subsidiaries of fund management companies have obtained the pilot QDIE qualification according to the media.

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Basic Requirements on Qualified Domestic Investors

Each qualified domestic investors must meet requirements such as having net assets of not less than RMB 10 million (as applicable to institutional investors) or financial assets of not less than RMB 3 million (as applicable to natural persons).

Other Related Institutions

Further, similar to the QDLP scheme, according to the Provisional Measures, a Fund Management Enterprise must engage a qualifying domestic independent third party institution as the administrator to be responsible for performing back-office administration management and investment oversight, and appoint qualifying domestic commercial banks as fund custodian.

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