



Brief Analysis on the Measures for the Administration of Online Marketing of Financial Products from a Private Fund Business Perspective

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The People's Bank of China, the Ministry of Industry and Information Technology, the State Administration for Market Regulation, the National Financial Regulatory Administration, the China Securities Regulatory Commission ("**CSRC**"), the China National Intellectual Property Administration, the Cyberspace Administration of China, and the State Administration of Foreign Exchange jointly issued the Measures for the Administration of Online Marketing of Financial Products ("**Online Marketing Measures**" or "**Measures**"), which will take effect on 30 September 2026. The Online Marketing Measures are intended to regulate online marketing activities relating to financial products. Although the marketing of private funds is primarily conducted on a non-public basis and targeted at specified investors, such activities may inevitably involve online marketing practices in the context of the internet era. This article provides a brief analysis of several key aspects of the Online Marketing Measures that merit attention from a private fund business perspective.

I. Application of the Online Marketing Measures to Private Fund Managers by analogy

Article 2 of the Online Marketing Measures provides that it applies to: (i) financial institutions engaging in online marketing of financial products; and (ii) third-party internet platforms appointed by financial institutions to provide services relating thereto. Paragraph 4 of Article 3 of the Online Marketing Measures further provides that "online marketing of financial products" refers to commercial promotional activities relating to financial products conducted through the internet, including but not limited to the display or introduction of information relating to financial products or the business and brands of financial institutions, and the provision of relay channels for financial consumers and investors to purchase financial products. In addition, Article 36 of the Online Marketing Measures provides that private fund managers conducting online marketing of financial products shall apply the relevant provisions of the Measures by analogy. Accordingly, where a private fund manager conducts marketing activities for private funds or promotes its business and brand through the internet, such activities would fall within the scope of "online marketing of financial products" and should therefore comply with the relevant requirements under the Online Marketing Measures.

"Self-operated platforms of financial institutions" refer to websites, mobile internet applications and other platforms independently operated by financial institutions over which such financial institutions possess full data access rights.

"Third-party internet platforms" refer to websites, mobile internet applications and other platforms that are not self-operated by financial institutions and that provide services relating to the online marketing of financial products. Such third-party internet platforms mainly include comprehensive internet platforms, e-commerce and lifestyle service platforms, content and social media platforms, and financial information service platforms, which are generally not regarded as "financial institutions" under the Online Marketing Measures.

II. Prohibition on the Online Marketing of Private Funds through Third-Party Internet Platforms

Article 6, paragraph 2 of the Online Marketing Measures provides that financial institutions shall neither conduct online marketing of private products to unspecified investors nor conduct online marketing of private products through third-party internet platforms. Accordingly, private fund managers cannot appoint third-party internet platforms to conduct online marketing activities relating to private funds. It is important to note that the scope of “online marketing of financial products” includes not only the financial products themselves but also activities related to the display or introduction of financial institutions’ business and brands, provided that such activities are conducted for commercial and promotional purposes. Therefore, the restriction under the Online Marketing Measures on private fund managers conducting online marketing of private funds through third-party internet platforms should also be interpreted as prohibiting commercial promotional activities relating to the business and brands of private fund managers conducted through such platforms.

Private fund managers may conduct online marketing activities only through self-operated platforms, such as official websites and mobile applications, which are independently operated by themselves and over which they possess full data access rights, or through self-operated accounts lawfully established on third-party internet platforms (for example, WeChat Official Accounts). In addition, private fund managers shall ensure that the target recipients of such online marketing activities complete the specified investor identification procedures established on such platforms before gaining access to the relevant marketing content. Following the release of the Online Marketing Measures, private fund managers should pay closer attention to the compliance review of content published through the internet. Even when content is distributed through self-operated channels such as official websites or WeChat Official Accounts, private fund managers should ensure that, if such content is made available to unspecified investors, it does not include promotional or sales-related material concerning private funds, nor should it contain overt marketing content related to the brands or business of the private fund managers.

III. Distinguishing Third-Party Independent Distributors from Third-Party Internet Platforms

Some market participants have confused the concepts of third-party independent distributors (which distribute funds primarily through online sales channels) and third-party internet platforms. In fact, the two differ fundamentally in terms of their legal nature and business scope.

Third-party independent distributors refer to institutions that have duly obtained qualifications to engage in securities investment fund distribution business and are therefore classified as financial institutions conducting regulated financial activities. Such institutions fall within the scope of “financial institutions” under Article 3, paragraph 1 of the Online Marketing Measures,

namely, institutions established within the People's Republic of China upon approval by the State Council or the financial regulatory authorities under the State Council to engage in financial business activities. By contrast, third-party internet platforms generally refer to websites, mobile internet applications and other platforms operated by non-financial institutions that provide technical support or information services relating to the online marketing of financial products, and which typically do not possess licenses or qualifications to engage in financial business activities. Although the Online Marketing Measures prohibit private fund managers from appointing third-party internet platforms to conduct online marketing activities relating to private funds, they do not prohibit private securities investment fund managers from engaging third-party independent distributors holding securities investment fund distribution qualifications to distribute private funds through their self-operated websites or APP.

IV. Key Compliance Considerations for Online Marketing Content and Activities

i. Compliance Requirements Relating to Simulated Data

Article 10 of the Online Marketing Measures provides that online marketing content shall not cite false, inaccurate or unverified data or materials, nor shall it mislead investors through the use of simulated performance, selected client performance, or performance during favorable periods.

In practice, some institutions have adopted simulated performance data, such as back-tested performance, in their marketing materials. Although the *Guidelines for the Operation of Private Securities Investment Funds* have specified that fund performance data not reviewed by custodians should not be used, the current regulatory framework does not explicitly prohibit the use of simulated data. As a result, the use of such data has persisted in practice.

The Online Marketing Measures now expressly prohibit conduct that misleads investors using simulated performance and similar practices from the perspective of regulating online marketing content. Although the Measures primarily pertain to online marketing scenarios, the regulatory approach reflected therein merits attention. In our view, such requirements may also serve as a useful reference for private fund marketing activities conducted outside the online marketing context. Accordingly, private fund managers should exercise prudence when using simulated performance data to avoid misleading investors.

ii. Enhanced Traceability and Record-Keeping Requirements

According to Paragraph 2 of Article 16 of the Online Marketing Measures, financial institutions shall assume management responsibility for the online marketing activities conducted by their personnel, strengthen compliance review procedures, and promptly

review accounts on third-party internet platforms, such as WeChat Official Accounts, livestreaming channels and short-video accounts, to ensure that marketing and promotional content complies with applicable laws and regulations. Financial institutions are also required to strengthen the traceability management of marketing activities and retain relevant video, audio, image and text materials for inspection purposes.

For private fund managers, given that private funds may only be promoted and offered to specified investors, direct product promotion through livestreaming or short-video channels is relatively uncommon in practice. Nevertheless, brand promotion activities may still be conducted. It should be noted that such brand promotion activities likewise fall within the scope of “online marketing of financial products” under the Online Marketing Measures. Accordingly, when conducting such activities, private fund managers should place particular emphasis on the compliance and traceability of their online marketing activities, and ensure that all such activities are incorporated into a unified management and record-keeping framework to effectively mitigate compliance risks.

iii. Strengthened Management of Marketing Personnel

Personnel conducting online marketing activities should be duly qualified on-duty personnel holding fund practitioner qualifications, employed by either the private fund manager or a licensed fund distributor engaged by the private fund manager, and authorized by their employers to conduct such activities. In conducting online marketing activities, marketing personnel should use only marketing content that has been reviewed and approved by the private fund manager, and should not engage in unscripted statements, provide unauthorized interpretations, make additional commitments, or disseminate promotional content that has not been approved in advance.

iv. Prohibition on Illegal Financial Activities

Article 6, paragraph 1 of the Online Marketing Measures provides that no institution or individual may provide online marketing services or facilitation for illegal financial activities. “Illegal financial activities” refer to activities that, without approval from financial regulatory authorities or in violation of applicable financial regulatory requirements, substantively engage in business activities relating to currency, payment services, deposit-taking, lending, insurance, securities, funds, futures, foreign exchange and other financial businesses. Such activities include, but are not limited to, illegal fundraising, illegal securities and futures activities, illegal deposit-taking, illegal lending, virtual currency issuance and trading, illegal foreign exchange margin trading, and the provision by offshore institutions of financial products or services to domestic residents without the required approvals.

Institutions with offshore affiliates should pay particular attention to the illegal financial activities involving the provision of financial products or services by offshore institutions to domestic residents without the approval. In this regard, the following aspects merit particular attention:

- a. The scope of “financial products or services” is broad. Paragraph 2 of Article 3 of the Online Marketing Measures expressly provides that “financial products” refer to products and services designed, developed or sold by financial institutions, including but not limited to deposits, loans, securities, asset management products, insurance, precious metals, foreign exchange products, futures, derivatives, payment services, and investment advisory or consulting services.
- b. The term “domestic residents” remains subject to interpretation. In the foreign exchange regulatory context, the term generally refers to domestic individual residents, whereas in the tax regulatory context it may encompass both domestic individual residents and domestic resident enterprises. At present, it cannot be conclusively determined that the term “domestic residents” under the Online Marketing Measures is limited solely to domestic individual residents.
- c. Where offshore institutions are permitted under specific cross-border regulatory mechanisms to provide financial products or services to domestic individuals or institutions, such activities should constitute “approved” activities and therefore would not fall within the scope of “illegal financial activities.” For example, upon registration approval by the CSRC, Hong Kong fund managers may publicly offer recognised Hong Kong retail funds to domestic investors through licensed fund distributors in the Chinese Mainland; subject to CSRC approval, eligible offshore asset managers may be engaged by QDII institutions to provide offshore investment advisory services for QDII products; upon registration with the Asset Management Association of China, Hong Kong asset managers may be engaged by public fund managers to provide Hong Kong stock investment advisory services in relation to Stock Connect products.
- d. In the asset management sector, without approvals, offshore asset managers shall not, conduct cross-border distribution activities targeting domestic residents, raise funds from domestic residents for investment in offshore funds established and managed offshore, or provide cross-border securities investment advisory services to such residents.
- e. Private fund managers shall strictly observe applicable business boundaries and avoid being deemed to engage in, or facilitate, illegal financial activities as a result of participating in or assisting offshore affiliates within their group in providing financial products or services to domestic residents without approvals.

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