Shanghai
19F, ONE LUJIAZUI
68 Yin Cheng Road Middle
Shanghai 200120 P.R.China
Tel: (86 21) 3135 8666
Fax:(86 21) 3135 8600

Beijing
Units 902-903
Winland International Finance Centre
No.7 Finance Street, Xicheng District
Beijing 100033 P.R.China
Tel: (86 10) 6655 5050
Fax:(86 10) 6655 5060

上海
上海市银城中路68号
时代金融中心19楼
邮政编码: 200120
电话: (86 21) 3135 8666
传真: (86 21) 3135 8600
www.llinkslaw.com

北京
北京市西城区金融大街7号
英蓝国际金融中心9楼02-03单元
邮政编码: 100033
电话: (86 10) 6655 5050
传真: (86 10) 6655 5060
master@llinkslaw.com

Llinks Asset Management Bulletin
November 2011

Independent Fund Sales Institutions in China and Conditions for Their Establishment

By Sandra Lu and Sue Sun

The *Administrative Measures for Securities Investment Funds Sales* ("**2011 Measures**") promulgated by the China Securities Regulatory Commission ("**CSRC**") on 9 June 2011 has come into effect as of October 1 of the same year. The 2011 Measures has amended the access standards for professional fund sales institutions. The so-called "professional fund sales institutions" as mentioned herein refer to those independent financial sales institutions whose major business is commissioned sales of funds. The term is renamed to "independent fund sales institutions" in the 2011 Measures. In spite of such provision in the *Administrative Measures for Securities Investment Funds Sales of 2004* ("**2004 Measures**"), that commercial banks, securities companies, securities investment consultation institutions and professional fund sales institutions may apply to CSRC for the qualification to engage in the business of commissioned sales of funds, the development of professional fund sales institutions, since the 2004 Measures entered into force, had been rather slow, and the growth among the various fund sales institutions was unbalanced, owing to its exorbitant requirement for registered capitals and the lack of profit mode and matching environment for the settlement of funds, resulting in the China fund sales market being dominated by commercial banks and supplemented by fund management companies and securities companies. This is contrary to the situation in some mature foreign markets in which fund sales are mostly operated by professional institutions.

Pursuant to the 2011 Measures, independent fund sales institutions that desire to apply for the qualification related to fund sales shall have a registered capital of no less than RMB 20 million, and their senior executives shall have obtained the fund practice qualification and have two or more years of working experience in fund practice or five or more years of working experience in other relevant financial institutions. In addition, similar to commercial banks, securities companies and securities investment consultation institutions, independent fund sales

如果您需要本出版物的中文本，请与下列人员联系：

郭建良: (86 21) 3135 8756
Publication@llinkslaw.com

If you would like other Llinks publications, please contact:

Roy Guo: (86 21) 3135 8756
Publication@llinkslaw.com

Llinks Law Offices
www.llinkslaw.com

institutions shall have business premises, safety prevention facilities and other facilities commensurate with fund sales. They shall also have safe and efficient technical facilities for sale, subscription, redemption and other business of funds as well as such internal systems as anti-money laundering, adaptability for fund sales and fund settlement process, etc.

Where an independent fund sales institution is established in the form of a limited liability company, its shareholders may be corporate legal persons or natural persons. According to the provisions in the 2011 Measures, to be shareholders of independent fund sales institutions, corporate legal persons shall satisfy the following conditions: (1) They shall have been in operation for three or more complete accounting years on a continuous basis, with favourable financial status and regulatory and stable operation; (2) They shall have no record of any criminal punishment for the most recent three years; (3) They shall have no record of any administrative punishment by administrative departments of financial regulation, industrial regulation, industry and commerce or tax or any other administrative departments for the most recent three years; (4) They have no bad record in self-discipline institutions, commercial banks or other relevant institutions for the most recent three years; and (5) They shall be neither under investigation by regulatory authorities nor in a rectification period on account of violation of laws, regulations or rules. For natural persons to be shareholders of independent fund sales institutions, besides the foregoing conditions of (2) and (3), they shall as well satisfy such conditions as having ten or more years of working experience in securities, funds or other finance businesses, or five or more years of working experience as managers of divisions of securities business or fund business, or three or more years of working experience as senior executives in securities industry or fund industry; having no bad record in self-discipline institutions, commercial banks or other relevant institutions; not having large amount of outstanding debts; and not having other major bad faith record for the most recent three years.

It can be perceived that the promulgation and enforcement of the 2011 Measures has provided room for the development of independent fund sales institutions, that the China fund sales market will display a trend of diversified development. Nevertheless, a series of issues, such as whether foreign entities may become shareholders of independent fund sales institutions, whether there are any restrictions on the shareholding proportion of offshore shareholders and whether there are any restrictions on the amount invested by foreign entities in the independent fund sales institutions, etc., are not provided upon in the 2011 Measures and are yet to be further clarified.

Contact Details

If you would like to know more information about the subjects covered in this publication, please feel free to contact the following people or your usual Llinks contact.

Shanghai	**Beijing**
Christophe Han Tel: (86 21) 3135 8778 (86 10) 6655 5050 Christophe.Han@llinkslaw.com	**James Weng** Tel: (86 10) 6655 5050 - 1028 James.Weng@llinkslaw.com
Charles Qin Tel: (86 21) 3135 8668 (86 10) 6655 5020 Charles.Qin@llinkslaw.com	
Sandra Lu Tel: (86 21) 3135 8776 (86 10) 6655 5050 Sandra.Lu@llinkslaw.com	

This article was first published in *Asia Asset Management, November 2011*.