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Comments on Regulatory Environment for Marketing and Promotion of Retail Wealth Management Products

By Leo Wang

The wealth management products which attract retail investors' investment include mutual funds, trust plans, commercial banks' wealth management products, securities companies' asset management plans and investment-linked insurance. With exploring growth of the asset management business in respect of funds, securities, trust and banks since 2007, the retail investors' complaints against the misleading statements made in the marketing and promotion of wealth management products.

In fact, the marketing and promotion of these wealth management products shall strictly comply with the regulatory requirements set out by the China Securities Regulatory Commission (**CSRC**), the China Banking Regulatory Commission (**CBRC**) and the China Insurance Regulatory Commission (**CIRC**). For some wealth management products linked to various basic products, several regulatory bodies' requirements necessitate to be met at the same time.

Regulation on Marketing and Promotional Materials for Securities Investment Funds

Articles 42 and 64 of the PRC Securities Investment Fund Law make the summarized provisions on marketing and promotional activities conducted in raising of funds. The Measures for the Administration of Sales of Securities Investment Funds and the Supplemental Provisions Concerning the Regulatory Items of Marketing and Promotional Materials for Securities Investment Funds (**Supplemental Provisions**) are principal regulations of CSRC on the marketing and promotional materials in respect of securities investment funds.

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The Supplemental Provisions promulgated in early 2008 officially removed the administrative licensed item of "marketing and promotional materials for securities investment funds", on the one hand, and set out systematic requirements for fund marketing materials, in particular fund performance and publicity wording, on the other hand. For example, Article 1.6.2 of the Supplemental Provisions provides that the wording used in the fund marketing and promotional materials should be clear and accurate, and should not contain any statement such as "enjoying wealth growth", "enjoying growth without any worry" or "enjoying the bull market" which may cause the fund investors to ignore the risks.

Other Regulatory Bodies' Regulation on Marketing and Promotional Materials for Other Wealth Management Products

In respect of trust companies, Article 8.4 of the Measures for the Administration of Trust Companies' Trust Plans for Collective Funds issued by CBRC sets out the principles on marketing materials for trust plans i.e. marketing materials shall neither contain any content inconsistent with trust documents nor contain any false record, misleading statement or significant omission.

In respect of insurance companies, the Regulations on the Administration of Insurance Companies and the Circular on Relevant Issues Concerning the Enhancement Administration of Sales of Investment-Linked Insurance issued by CIRC set out the specific rules on the insurance business, in particular publicity materials for investment-linked insurance.

In respect of commercial banks, CBRC issued the Circular of the General Office of the CBRC on Issues Concerning the Further Regulation on Retail Wealth Management Business of Commercial Banks and Article 3 thereof sets out the specific rules on marketing and promotional materials for wealth management products of commercial banks. In the meantime, Articles 56 and 57 of the Guidelines for the Risk Management of Retail Wealth Management Services Provided by Commercial Banks regulate the introduction and publicity materials for new products of commercial banks.

Compared with CSRC's regulations on marketing and promotional materials, it appears that CBRC attaches same importance to risk disclosure and regulation on the description of past and future performance. However, different regulatory approach is adopted by CSRC and CBRC. For example, CBRC gives special emphasis on the review and approval by relevant authorities and the timely report to CBRC in respect of introduction and marketing materials for new products of commercial banks (Article 56 of the Guidelines for the Risk Management of Retail Wealth Management Services Provided by Commercial Banks) while CSRC requires the fund marketing and promotional materials be filed with CSRC.

Administrative Punishments in Relation to Marketing and Promotional Materials for Wealth Management Products

LLINKS Law Offices 通力律师事务所

Comments on Regulatory Environment for Marketing and Promotion of Personal Wealth Management Products

During the first half of this year, several domestic fund companies received the administrative punishment notices issued by a local administration for industry and commerce. These companies were blamed for “ranking and rating” in the publicity and advertisement of fund sales and were suspected of violation of law. It is concluded that the publicity of the wealth management products should not only comply with regulatory requirements set forth by relevant administrative authorities, but also abide by the requirements by the advertising regulatory bodies in respect of enforcing the PRC Advertisement Law and the PRC Anti-Unfair Competition Law. Regulation by sector regulatory bodies and enforcement by market regulatory bodies are based on different laws and regulations and focus on different areas, therefore, the regulatory bodies should adopt appropriate cooperation and responsibility separation in order to make their regulation and enforcement activities achieve the objective that not only protects the investors but also avoids interfering the independent operations of financial institutions.

In addition, it is noticed that on 4 December 2008, CIRC imposed a penalty of RMB 100,000 on an insurance company. It is reported that the insurance company failed to incorporate some important contractual terms such as uncertainty on dividends, hesitation period and losses in terminating the insurance agreement midway into the sales of dividend-distribution products in telephone sales business in June 2008.

In conclusion, the regulatory bodies attach importance to marketing and promotional materials for wealth management products since investors’ interests will be directly affected by these materials. With prosperity of retail wealth management products and further development of assets management services, CSRC, CBRC, CIRC and other market regulatory and enforcement bodies will improve and perfect the regulatory systems in relation to marketing and promotion of wealth management products based on the mutual learning, cooperation and responsibility separation.

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