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Overview of Private Securities Investment Fund Liquidation

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In recent years, fund liquidation, as a common exit mechanism of various investment funds, has frequently occurred for private funds managed by foreign-invested private fund managers ("**PFMs**"), including private funds managed by WFOE PFMs and QDLP funds, for reasons such as business transformation from private fund management to public fund management, integration and optimization of resources. From a regulatory perspective, the Asset Management Association of China ("**AMAC**") has also issued relevant rules in recent years to clarify the statutory trigger events for the private fund liquidation and to optimize the process of private fund liquidation. Against this background, we would like to briefly introduce the trigger events and the liquidation process of a contractual private securities investment fund ("**Private Fund**"), in order to help foreign institutions better understand and manage the liquidation of Private Funds in Mainland China.

I. Trigger Events for Liquidation of Private Funds

According to the *Guidance for Filing of Private Investment Funds No.1 - Private Securities Investment Funds* (私募投资基金备案指引第 1 号—私募证券投资基金) released by AMAC recently, a private fund shall be liquidated under any of the following circumstances: (1) expiration of term without renewal; (2) occurrence of trigger event for termination provided in the fund contract; (3) consensus among the investors, fund manager and fund custodian to terminate the fund contract; or (4) other circumstances stipulated by the laws, administrative regulations, the China Securities Regulatory Commission and the AMAC. In addition, the *Securities Investment Fund Law of the People's Republic of China* (中华人民共和国证券投资基金法) grants the fund unitholders' meeting the power to decide on the early termination of the fund contract.

To summarize, the trigger events for liquidating a Private Fund are primarily determined by the agreement of the fund contract, as well as statutory liquidation causes such as the expiration of its term, early termination agreed by all parties to the fund contract, and a resolution on early termination passed by fund unitholders' meeting. In practice, the typical trigger events for liquidating a Private Fund, as stated in the fund contracts, include:

1. The Private Fund fails to be established or the filing of the Private Fund is rejected by the AMAC;

2. The Private Fund manager/Private Fund custodian is unable to continue to perform its duties because of dissolution, revocation, bankruptcy or cancellation of relevant qualifications by law etc., and no fund manager/fund custodian is appointed to take over the duties within 6 months;

3. The net asset value ("**NAV**") of a Private Fund is constantly less than a certain amount during a particular period, and the fund manager reasonably concludes that it is impractical or imprudent to continue operating the fund; and

4. All of the fund unitholders of a Private Fund apply for redemption of their fund units, and there are no unprocessed subscription applications. Please note that in the event of the aforementioned

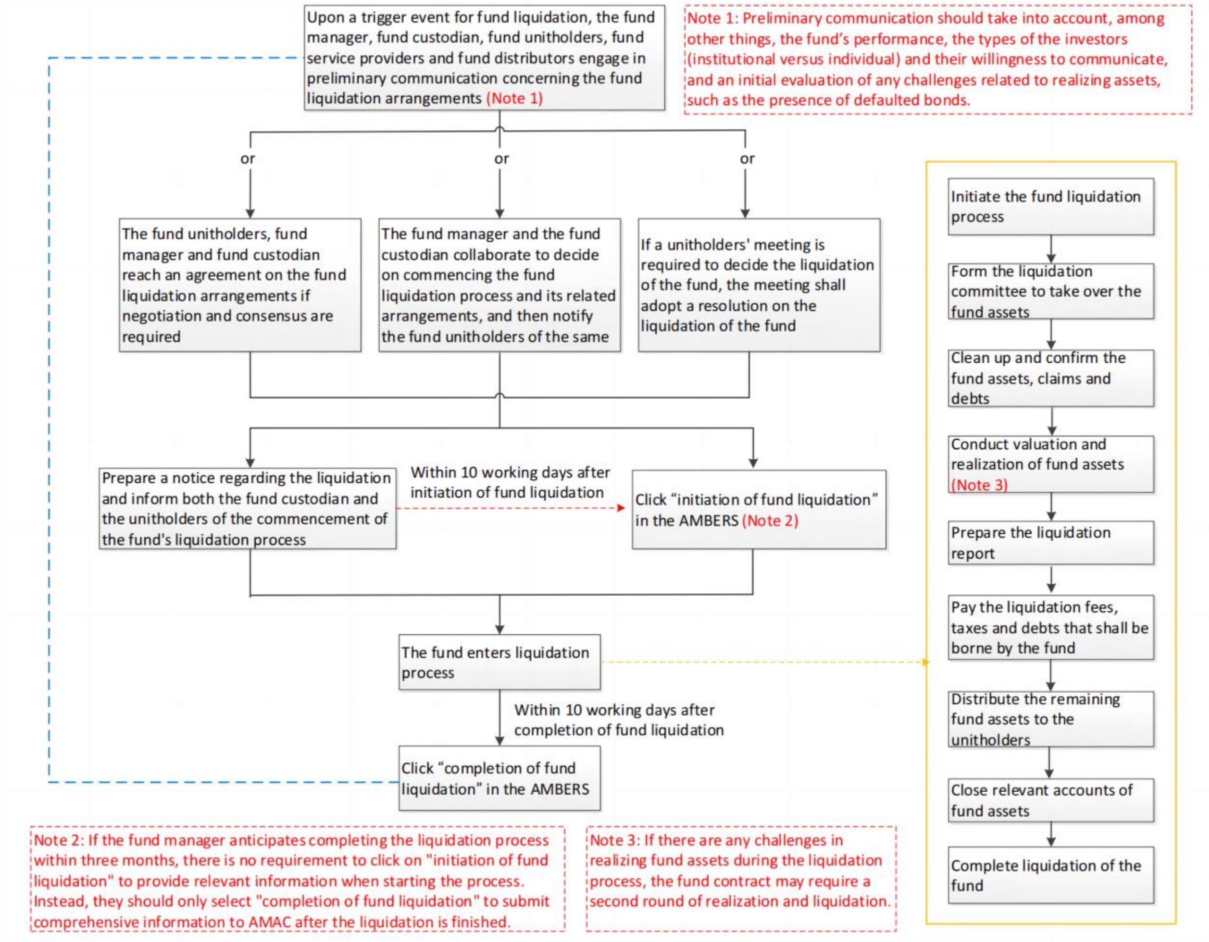
scenario, the Private Fund would enter liquidation proceedings regardless of whether there is any relevant agreement in the fund contract. From a legal standpoint, the Private Fund is established as a trust based on specific trust property, and the trust shall be terminated when the purpose of the trust has been realized or cannot be realized, according to the *Trust Law of the People's Republic of China* (中华人民共和国信托法). Therefore, when fund unitholders redeem all fund units, the lack of trust property leads to the failure of trust purpose, and the fund automatically enters the liquidation process.

In practice, some PFMs (especially WFOE PFMs) tend to stipulate a clause of "contingent event" in the fund contract, upon the occurrence of which the Private Fund will be conditionally liquidated. That is, if the foreign institution decides to conduct a business transformation from private fund management to public fund management, the Private Funds under its management shall be converted into private asset management schemes managed by the newly established mutual fund management company. However, if any Private Fund fails to complete such conversion for any reason, such fund will be terminated prematurely and enter the liquidation process.

It is worth noting that the *Guidelines for Operation of Private Securities Investment Funds (Consultation Paper)* (私募证券投资基金运作指引(征求意见稿)) released by the AMAC in April 2023 also provide for the compulsory liquidation of the Private Funds with small scale ("**Mini-Funds**"). That is, if the NAV of a Private Fund is less than RMB 10 million for 60 consecutive trading days, the fund must enter the liquidation process, unless the change of NAV is caused by market fluctuations. If no adjustment in this regard is made in the official draft, the Mini-Funds will constitute a statutory cause of Private Fund liquidation.

II. Liquidation Process of Private Funds

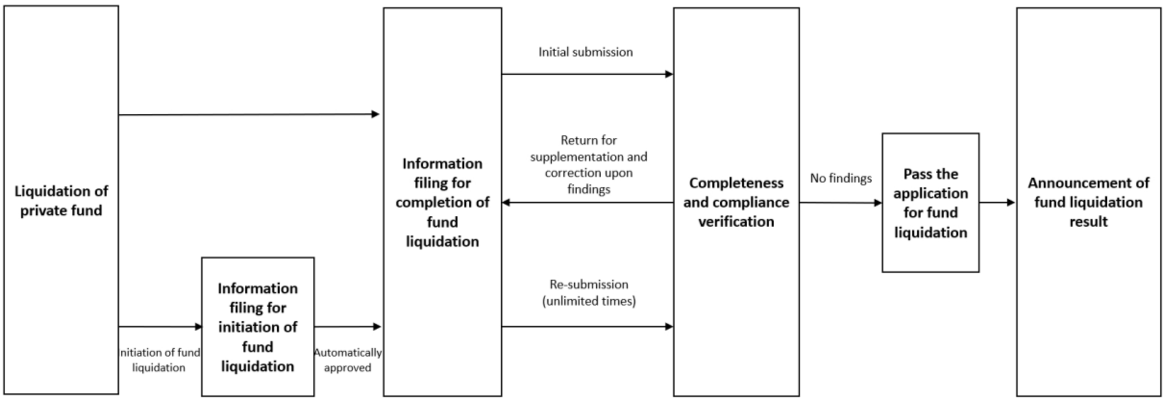
The liquidation of a Private Fund in Mainland China does not require pre-approval from the regulatory authority. Pursuant to Article 57 of the *Measures for Registration and Filing of Private Investment Funds* (私募投资基金登记备案办法), PFMs are only required to submit relevant information to the AMAC within the statutory timeframe upon the initiation and/or completion of fund liquidation. The routine process of the private fund liquidation is illustrated in the following flow chart (Chart 1).



(Chart 1)

As mentioned in Note 2 above, according to the *Measures for Registration and Filing of Private Investment Funds* and the *Guidance for Filing of Private Investment Funds No.1 - Private Securities Investment Funds*, if the liquidation process is not expected to be completed within 3 months after the commencement of the private fund liquidation, an application for "initiation of fund liquidation" is required at the commencement of the private fund liquidation. However, we have also noticed that the *[Service Guidelines for Registration and Filing Matters] Handling of Private Investment Funds Liquidation* published on the AMAC official website in September 2023 specifies that if the liquidation process cannot be completed within 20 working days, the "initiation of fund liquidation" step is required. The *[Service Guidelines for Registration and Filing Matters] Handling of Private Investment Funds Liquidation* is expected to be updated according to the AMAC's latest rules in the future. For PFMs that will initiate the process of Private Fund liquidation in the near future, it is recommended that they pay close attention to the relevant requirements for submitting "initiation of fund liquidation" in AMBERS.

The application for "initiation of fund liquidation" will be automatically approved by the AMBERS. For the application for "completion of fund liquidation", the AMAC would verify the application, return for supplementation and correction, complete the case, and announce the results, etc. Please refer to the following chart for details.



(Chart 2)

It should be noted that if the liquidation of a Private Fund is not completed within 6 months after clicking "initiation of fund liquidation", the Private Fund manager will be recognized as "there is a fund in liquidation for a long period of time", and the official website of the AMAC will provide special reminders for such cases.

III. Other Matters for Attention

According to the AMAC's rules, after all the private funds managed by a PFM are liquidated, and if no new private fund is filed within 12 months from the date of completion of the liquidation, the PFM will be deregistered with the AMAC. Therefore, if all the Private Funds managed by the PFM have been liquidated, a new product should be launched in a timely manner, in order to avoid the risk of PFM deregistration.

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