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Brief Analysis of the General Data List Mechanism for Retail Funds in the Lin-gang Special Area

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Following the *Opinions of the State Council on Further Optimizing the Business Environment for Foreign Investment and Increasing the Attraction of Foreign Investment* issued on 13 August 2023, which supports areas like Beijing, Tianjin, **Shanghai**, and the Guangdong-Hong Kong-Macao Greater Bay Area **in exploring the creation of list of general data which can flow freely, developing service platforms and providing compliance services for cross-border data flow** in the process of implementing CAC data export security assessment, standard contract filing or personal information protection certification the Lin-gang Special Area released the *Measures for Classification and Grading Management of Cross-Border Data Flows in the Lin-gang Special Area (Trial)* ("**Measures for Cross-Border Data Flows in Lin-gang**") on 8 February 2024, and subsequently issued the *General Data List for Cross-Border Scenarios in the Retail Fund Sector in Lin-gang Special Area of China (Shanghai) Pilot Free Trade Zone (Trial)* on 16 May 2024. This article briefly introduces and analyzes such general data list ("**General Data List for Retail Funds**") in a Q&A format.

I. What is the application scope of the General Data List for Retail Funds? Does it apply to the scenarios of cross-border data transfers by the retail fund management company ("FMC") registered outside the Lin-gang Special Area?

The General Data List for Retail Funds applies to publicly-raised securities investment fund management companies registered in the China (Shanghai) Pilot Free Trade Zone ("**Shanghai FTZ**") and the Lin-gang Special Area **and** conducting cross-border data transfers in the Lin-gang Special Area. It does not apply to critical information infrastructure operators in the retail fund sector.

The prerequisites for application include: (a) the FMC shall be registered within the Shanghai FTZ and the Lin-gang Special Area. Those not registered in the Lin-gang Special Area but within the Shanghai FTZ are still concerned. However, it does not apply to the FMC registered outside the Shanghai FTZ and the Lin-gang Special Area; (b) additionally, the FMC shall conduct cross-border data transfers in the Lin-gang Special Area. As for the technical implementation details, the applicant may need to further communicate with the administrative committee of the Lin-gang Special Area ("**Administrative Committee**"). In line with Article 15 of the Measures for Cross-Border Data Flows in Lin-gang, this may involve interfacing with the Public Service Management Platform for Convenient Data Flow of the Lin-gang Special Area to realize data transfer and data backup.

II. What are the benefits of the General Data List for Retail Funds?

According to the *PRC Data Security Law* and the Measures for Cross-Border Data Flows in Lin-gang, outbound data shall be graded into core data, critical data, and general data in descending order. Core data is banned from cross-border transfers. The cross-border transfer of critical data set out in the critical data catalog requires CAC Security Assessments in advance. Data provided in the general data list is permitted for free cross-border flows following registration and filing by the data handler to the Administrative Committee and upon meeting the relevant administrative requirements. Eligible FMCs can realize the outbound of data within the General Data List for Retail Funds and have been filed with the Administrative Committee.

III. What are the contents of the General Data List for Retail Funds?

The General Data List for Retail Funds mainly includes two scenarios: market research and internal management.

Scenario 1: Market Research

Scenario Introduction: Market research data which is necessary to transfer abroad to improve the efficiency and quality of domestic research and attract foreign investment in the Chinese market, primarily including data concerning industry research reports and macroeconomic analysis reports.

Data Category	**Examples and Notes**	**Requirements for Cross-Border Transfers**
Industry Research Reports	Data related to industry research reports, such as the name and analysis of the industry	1. It shall not involve any data related to securities value analysis and market trends.
Macroeconomic Analysis Reports	Data related to macroeconomic analysis reports, such as the name of the report and macroeconomic analysis	

Scenario 2: Internal Management

Scenario Introduction: Internal management data which is necessary to transfer abroad to achieve unified global internal management for multinational corporations, primarily including data concerning settlement management, vendor management, investors management, risk management, etc.

Data Category	**Examples and Notes**
Settlement Management Data	Data related to fund settlement management, such as product names, net asset value per unit of products
Vendor Management Data	Data of enterprises or institutions that have provided or might provide goods, services, or other resources to the FMC through procurements, such as vendor information and contact details
Investors Management Data	Aggregated statistical data on investors but not involving information about a specific investor, such as the total number of clients per day, client retention rates
Marketing Service Management Data	Data generated from the FMC's marketing activities, such as marketing campaign names and wrap-up
Product Management Data	Product-related information generated from the FMC's issuance of fund products, such as data on fund launches and fund contracts

Data Category	Examples and Notes
Risk Management Data	Data related to risk control regimes, real-time monitoring mechanisms, authorization management systems, and ex-post evaluation mechanisms established by the FMC to avoid or lower risks, reduce loss from risks, and enhance internal control, such as the number of risk events and violations
Compliance and Audit Management Data	Data generated to ensure that the operation management and practices of the FMC and its employees comply with laws, regulations, rules and other normative documents, industry norms, and self-regulatory rules, the internal rules and policies of the FMC, as well as professional ethics and codes of conduct recognized and generally observed by the industry, such as internal audit reports, compliance training details
Financial Management Data	Data related to the FMC’s operational activities and financial outcomes, such as balance sheet, statement of profit distribution, and cash flow statement
Project Management Data	Management data related to various projects set up for the development of the FMC, including infrastructure and information systems construction, such as project names, task names, and status

Regarding the purpose of achieving unified global internal management for multinational corporations mentioned in Scenario 2 “Internal Management”, we understand that it is not limited to WFOE FMCs. If there is a genuine need for data export by JV FMCs to their foreign shareholders, they might also be included in the mechanism of the General Data List for Retail Funds.

The general data list published on the official website of the Lin-gang Special Area presents the data by way of categories and description of nature without exhaustively detailing every specific data under each category. In addition to the examples listed above, investment risk management data of products generally concerned by the FMCs may be included in the “Risk Management Data” category, and the AUM and net subscription and redemption data of funds may be included in the “Settlement Management Data” category. Data handlers may apply to the Administrative Committee for consultation on the specific data fields under each data category in the list, taking into account their own circumstances.

If the General Data List for Retail Funds involves personal information, it shall not include sensitive personal information, and the requirement that the individuals involved in the outbound transfers shall be fewer than 100,000 since 1 January of the current year should be satisfied. Otherwise, data handlers shall carry out the CAC data export security assessment, standard contract filing, or personal information protection certification in accordance with the *PRC Personal Information Protection Law* and *the Provisions on Promoting and Regulating Cross-Border Data Flows*, except for those scenarios (such as the implementation of cross-border human resources management) that are exempted from carrying out the aforesaid procedures as provided in the *Provisions on Promoting and Regulating Cross-Border Data Flows*. In addition, even for outbound transfers of personal information included in the General Data List for Retail Funds, it is still required to perform the obligations of notification, obtaining separate consent from the individuals, conducting impact assessment of personal information protection per the applicable laws and regulations.

IV. For the retail fund sector, as a highly regulated industry, what is the applicable principle for the CSRC's data whitelist and the General Data List for Retail Funds?

Lin-gang Special Area plays a pioneering and exploratory role in constructing the international data port, which has taken the lead in introducing the General Data List for Retail Funds. Any FMCs within the scope of the application may choose to realize the free cross-border flows of general data within the list through the filing mechanism. The existing WFOE FMCs have submitted the whitelist of cross-border data transfers to CSRC at the stage of establishment approval or on-site inspection, specifically enumerating the data to be provided to the Group and offshore affiliates. Upon CSRC's approval for such whitelist, WFOE FMCs may provide the data set out in the whitelist abroad. In addition, in accordance with the *PRC Data Security Law* and the *Provisions on Promoting and Regulating Cross-Border Data Flows*, CSRC will formulate and announce the specific catalog of critical data for the retail fund sector based on the data classification and grading protection regime.

As far as we know, the General Data List for Retail Funds issued by the Lin-gang Special Area has been thoroughly discussed and confirmed with the CSRC. If the WFOE FMC registered in the Shanghai FTZ and Lin-gang Special Area finds that its data whitelist is narrower than General Data List for Retail Funds, and the WFOE FMC and its Group are fine with Lin-gang Special Area's requirements regarding the filing procedure, general data flow path and data backup, it may consider filing with the Administrative Committee so as to be included in the mechanism of General Data List for Retail Funds, thereby enabling a wider range of cross-border general data flows.

If the critical data catalog issued by CSRC in the future contains data that has been included in the General Data List for Retail Funds, the corresponding data will need to be removed from the General Data List for Retail Funds.

The trial period of the General Data List for Retail Funds will last one year from its publication, ending on 15 May 2025. However, given the circumstances above-described, the Administrative Committee may also, as the case may be, make dynamic adjustments on such list during the trial period.

V. How to apply for the filing of the General Data List for Retail Funds?

FMCs within the scope of the application may submit the electronic version of the filing materials to the Public Service Management Platform for Convenient Data Flow of the Lin-gang Special Area (https://sjkj.lingang.gov.cn).

The filing materials include the unified social credit code certificate, ID card of the legal representative, ID card of the handling person, POA for the handling person, letter of undertaking for self-discipline and compliance, filing application form, descriptions of the cross-border data transfer scenarios and the general data to be transferred abroad, contract on cross-border data transfers to be concluded with the overseas recipient or other legally binding documents and other relevant supporting materials. Lin-gang Special Area has prepared templates of cross-border data transfer contract and letter of undertaking for the applicants. In the meantime, the phrase “or other legally binding documents” possibly provide flexibility and alternatives for applicants who may face practical difficulties in signing cross-border data transfer contract.

After submitting the filing application, the Administrative Committee will review the specific outbound transfer scenarios, list of general data and data fields, etc., put forward requirements for supplementation or correction, and complete the filing if the requirements are met. Once the filing is successful, the FMC shall keep and back up the outbound general data for at least one year. The validity period of the filing is one year. Within two months before the expiry of the validity period, applicants may apply for renewal online at the Public Service Management Platform for Convenient Data Flow of the Lin-gang Special Area. If there is any change to the content of the applicant’s list of general data, the procedure for change of filing shall be initiated.

VI. Are there no restrictions or requirements for the cross-border data flows within the scope of the General Data List for Retail Funds that has been filed?

We understand that the data set out in the General Data List for Retail Funds can flow freely under the filed cross-border scenarios. But it should be noted that the requirements for data classification, grading, and security management provided in the laws, regulations and standards such as the *PRC Data Security Law*, the *Measures for the Administration of Network and Information Security in the Securities and Futures Industry*, the *Data Security Technology — Rules for Data Classification and Grading* (a national standard, which will take effective as of 1 October 2024), the *Data Classification Guidelines for Securities and Futures Industry* and the *Financial Data Security – Guidelines for Data Security Classification* still apply to the handling of data in the General Data List for Retail Funds. FMCs shall also ensure proper classification, grading, and cross-border data security management for such general data. For relatively sensitive data, secure transmission measures such as encryption shall be adopted where necessary.

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