

私募基金管理人登记指引第 1 号—基本经营要求

Guidelines for Registration of Private Fund Managers No.1 — Basic Requirements for Business Operation

- 第一条** 为了规范私募基金管理人登记业务, 保护投资者合法权益, 促进私募基金行业健康发展, 根据《中华人民共和国证券投资基金法》《私募投资基金监督管理暂行办法》《私募投资基金登记备案办法》(以下简称《登记备案办法》)等, 制定本指引。
- Article 1** These Guidelines are formulated in accordance with the *Securities Investment Funds Law of the People's Republic of China*, the *Provisional Measures on Supervision and Administration of Private Investment Funds* and the *Measures for Registration and Filing of Private Investment Funds* (the "Registration and Filing Measures") and others in order to standardize the registration of private fund managers, protect the legitimate rights and interests of investors, and promote the sound development of the private fund industry.
- 第二条** 提请办理私募基金管理人登记的公司、合伙企业应当以开展私募基金管理业务为目的而设立, 自市场主体工商登记之日起 12 个月内提请办理私募基金管理人登记, 但因国家有关部门政策变化等情形需要暂缓办理登记的除外。
- Article 2** A company or partnership applying for the private fund manager registration shall be established for the purpose of carrying out the private fund management business, and shall submit the application of the registration of the private fund manager within 12 months upon its incorporation with the administration for market regulation, unless the registration needs to be suspended due to changes of the policies of the relevant state authorities or other circumstances.
- 第三条** 私募基金管理人应当在名称中标明“私募基金”“私募基金管理”“创业投资”字样, 不得包含“金融”“理财”“财富管理”等字样, 法律、行政法规和中国证监会另有规定的除外。未经批准, 不得在名称中使用“金融控股”“金融集团”“中证”等字样, 不得在名称中使用与国家重大发展战略、金融机构、知名私募基金管理人相同或者近似等可能误导投资者的字样, 不得在名称中使用违背公序良俗或者造成不良社会影响的字样。
- Article 3** A private fund manager shall, in its name, indicate words of "private fund", "private fund management" or "venture capital", and shall not contain words of "finance", "wealth management" or "management of wealth" etc., unless otherwise required by laws, administrative regulations and rules of CSRC. Without approval, a private fund manager shall not use words of "financial holding", "financial group" or "CSI" etc., words which are the same as or similar to major national development strategies, financial institutions or well-known private fund managers which may mislead investors, or words that violate public order and good morals or cause adverse social influences in its name.
- 第四条** 私募基金管理人应当在经营范围中标明“私募投资基金管理”“私募证券投资基金管理”“私募股权投资管理”“创业投资基金管理”等体现受托管理私募基金特点的字样, 不得包含与私募基金管理业务相冲突或者无关的业务。

Article 4 A private fund manager shall, in its business scope, indicate “private investment fund management”, “private securities investment fund management”, “private equity investment fund management” or “venture capital fund management”, etc. which reflect entrusted management of private funds, and shall not include any business conflicting with private fund business or irrelevant to the private fund management business.

私募基金管理人应当遵循专业化运营原则, 其经营范围应当与管理业务类型一致。

A private fund manager shall follow the principle of specialized operation, and its business scope shall be consistent with the type of its management business.

提请登记为私募证券基金管理人的, 其经营范围不得包含“投资咨询”等咨询类字样。

Those who apply for registration as a private securities fund manager shall not include the word of “investment advisory” and other advisory-related words in its business scope.

第五条 私募基金管理人注册资本及实缴资本均应当符合《登记备案办法》相关规定, 确保有足够的资本金保证机构有效运转。

Article 5 Both of the registered capital and the paid-in capital of a private fund manager shall be in compliance with the relevant provisions of the Registration and Filing Measures to provide sufficient capital funds to ensure effective operation of the institution.

私募基金管理人的资本金应当以货币出资, 不得以实物、知识产权、土地使用权等非货币财产出资。境外出资人应当以可自由兑换的货币出资。

The capital of a private fund manager shall be contributed in cash. The private fund manager shall not use non-monetary property such as material assets, intellectual property or land use right, etc. to make the capital contribution. Foreign investors shall contribute the capital in a freely convertible currency.

第六条 《登记备案办法》第八条第一款第三项规定的“直接或者间接合计持有私募基金管理人一定比例的股权或者财产份额”, 是指法定代表人、执行事务合伙人或其委派代表、负责投资管理的高级管理人员均直接或者间接持有私募基金管理人一定比例的股权或者财产份额, 且合计实缴出资不低于私募基金管理人实缴资本的 20%, 或者不低于《登记备案办法》第八条第一款第一项规定的私募基金管理人最低实缴资本的 20%。

Article 6 “Directly or indirectly hold a certain proportion of equity or property shares of the private fund manager” specified in Item (3) under the first paragraph of Article 8 of the Registration and Filing Measures refers to that all of the legal representative, executive partner or its appointed representative and the senior management personnel in charge of investment management directly or indirectly hold a certain proportion of equity or property shares of the private fund manager, and their total capital contribution shall be not less than 20% of the paid-in capital of the private fund manager, or not less than 20% of the minimum paid-in capital of the private

fund manager stipulated in Item (1) under the first paragraph of Article 8 of the Registration and Filing Measures.

第七条 私募基金管理人应当具有良好的财务状况, 不存在大额应收应付、大额未清偿负债或者不能清偿到期债务等可能影响正常经营的情形。

Article 7 A private fund manager shall be in good financial status, and be free of any circumstances that may affect its normal operation, such as having large amount of receivables and payables, large outstanding debts or inability to pay off due debts.

私募基金管理人存在大额长期股权投资的, 应当建立有效隔离制度, 保证私募基金财产与私募基金管理人固有财产独立运作、分别核算。

Where a private fund manager has a large long-term equity investment, it shall establish an effective segregation policy to ensure that the private fund assets is independently operated and separately accounted from the proprietary property of the private fund manager.

私募基金管理人与关联方存在资金往来的, 应当就是否存在不正当关联交易进行说明。

Where there are funds transfers between the private fund manager and its related parties, the private fund manager shall specify whether or not there is an improper related-party transaction.

第八条 私募基金管理人应当具有独立、稳定的经营场所, 不得使用共享空间等稳定性不足的场地作为经营场所, 不得存在与其股东、合伙人、实际控制人、关联方等混同办公的情形。经营场所系租赁所得的, 自提请办理登记之日起, 剩余租赁期应当不少于 12 个月, 但有合理理由的除外。

Article 8 A private fund manager shall have independent and stable business premise, and shall not use sharing space and other places with weak stability as business premise, or use the same business premises with its shareholder(s), partner(s), actual controller, related parties, etc. For leased business premises, the remaining lease term shall be not less than 12 months from the date when lodging the application of registration, unless there are reasonable grounds.

私募基金管理人注册地与经营地分离的, 应当具有合理性并说明理由。

If the registered address of the private fund manager is separated from the address of business premise, it shall be reasonable and the reasons shall be explained.

第九条 《登记备案办法》第八条第一款第四项规定的“专职员工”是指与私募基金管理人签订劳动合同并缴纳社保的正式员工, 签订劳动合同或者劳务合同的外籍员工、退休返聘员工, 以及国家机关、事业单位、政府及其授权机构控制的企业委派的高级管理人员。

Article 9 “Full-time employees” stipulated in Item (4) under the first paragraph of Article 8 of the Registration and Filing Measures refer to formal employees who have signed labor contracts with the private fund manager and get their social insurances paid, foreign employees signing labor

contracts or service contracts, retired persons who are re-hired, and senior management personnel appointed by state organs, public institutions, enterprises controlled by the government and its authorized institutions.

第十条 私募基金管理人应当按照中国证监会和协会相关要求, 建立健全风险控制机制, 完善风险控制措施, 保持经营运作合法、合规, 保证内部控制健全、有效。

Article 10 A private fund managers shall, according to the relevant requirements of CSRC and AMAC, establish a sound risk control mechanism, improve its risk control measures, maintain to carry out businesses in accordance with laws and regulations, and ensure that its internal control is sound and effective.

私募基金管理人应当建立科学合理、运转有效的内部控制、风险控制和合规管理制度, 包括运营风险控制、信息披露、机构内部交易记录、关联交易管理、防范内幕交易及利益输送、业务隔离和从业人员买卖证券申报等制度, 以及私募基金宣传推介及募集、合格投资者适当性、保障资金安全、投资业务控制、公平交易、外包控制等制度。

A private fund manager shall establish scientific, rational and effective policies of internal control, risks control and compliance management, including policies of operational risks control, information disclosure, institutional internal transaction recording, related-party transaction management, prevention of insider dealing and interest tunneling, business segregation and reporting concerning securities trading by practitioners, as well as policies for private fund marketing, promotion and fund-raising, suitability of qualified investors, ensuring safety of capital, control of investment business, fair trading, outsourcing control, etc.

第十一条 私募基金管理人应当建立突发事件处理预案, 对严重损害投资者利益、影响正常经营或者可能引发系统性风险的突发事件的处理机制作出明确安排。发生前述突发事件时, 私募基金管理人应当按照预案妥善处理, 并及时向注册地所在的中国证监会派出机构和协会报告。

Article 11 A private fund manager shall establish an emergency response plan, and make a clear arrangement for response mechanisms for emergencies that will seriously damage investors' interests, affect normal operation, or may trigger systemic risks. In the event of any aforementioned emergencies, a private fund manager shall properly handle them according to the plan, and report to CSRC local branches at its registered address and AMAC in a timely manner.

第十二条 私募基金管理人的商业计划书应当清晰合理、具有可行性, 与私募基金管理人的业务方向、发展规划、人员配备等相匹配。

Article 12 The business plan of a private fund manager shall be clear, reasonable and feasible, and in line with its business direction, development plan and staffing, etc.

第十三条 私募基金管理人不得直接或者间接从事《登记备案办法》第八十条规定的冲突业务, 不得通过设立子公司、合伙企业或者担任投资顾问等形式, 变相开展冲突业务。

Article 13 A private fund manager shall not directly or indirectly engage in any conflicting business as stipulated in Article 80 of the Registration and Filing Measures, or carry out conflicting business in disguised forms such as establishing a subsidiary or a partnership, or acting as an investment advisor, etc.

第十四条 私募证券投资基金管理人由于出资人、出资比例变更或者自然人出资人国籍变更等导致外资出资比例不低于 25% 的, 应当符合《登记备案办法》第十四条规定的登记要求, 并按规定向协会履行变更手续。

Article 14 A private securities fund manager whose foreign shareholding is not less than 25% due to the change of investors, the change of capital contribution or the change of nationality of natural person investors shall meet the registration requirements stipulated in Article 14 of the Registration and Filing Measures, and go through the changing procedures with AMAC as required.

第十五条 《登记备案办法》第四十七条和第四十八条第一款规定的“自变更之日起”, 按照下列方式计算:

Article 15 The timeline “from the date of the change” stipulated in Article 47 and the first paragraph of Article 48 of the Registration and Filing Measures shall be calculated in the following ways:

(一) 变更事项需要办理市场主体变更登记的, 自市场主体变更登记之日起计算;

(1) For a change requiring change of registration of a market entity, the period shall be calculated from the date of change of registration of a market entity;

(二) 变更事项无需办理市场主体变更登记的, 自相关协议或决议生效之日起计算;

(2) For a change that does not require change of registration of a market entity, the period shall be calculated from the effective date of relevant agreement or resolution;

(三) 其他事项发生变更的, 自实际发生变更之日起计算。

(3) For any other change, the period shall be calculated from the date when the change actually occurs.

第十六条 《登记备案办法》第四十八条第三款规定的管理规模, 是指变更之日前 12 个月的月均管理规模。协会可以视情况要求私募基金管理人就前述管理规模提交经中国证监会备案的会计师事务所出具的专项审计报告。

Article 16 The AUM specified in the third paragraph of Article 48 of the Registration and Filing Measures refers to the monthly average AUM for 12 months before the date of the change. AMAC may, as

the case may be, require the private fund manager to submit special audited reports on the aforementioned AUM issued by an accounting firm filed with CSRC.

第十七条 法律、行政法规、国家有关部门对相关人员出资或者执业有限制的, 相关人员在限制期限内不得成为私募基金管理人的股东、合伙人、实际控制人, 或者担任私募基金管理人的董事、监事、高级管理人员及从业人员。

Article 17 Where laws, administrative regulations or relevant state organs impose restrictions on capital contribution or practice of the relevant personnel, the relevant personnel shall not become a shareholder, partner or actual controller of a private fund manager, or serve as a director, supervisor, senior management personnel or practitioner of a private fund manager within the restricted period.

第十八条 私募基金管理人通过登记备案电子系统办理登记备案和信息变更等相关业务。私募基金管理人因《登记备案办法》第二十五条第二款规定被终止办理私募基金管理人登记, 或者被协会按照规定暂停办理私募基金备案的, 协会在相关期限届满前关闭其登记备案电子系统登记备案相关业务报送端口, 并说明理由, 对其提请办理的登记备案相关材料不予接收。

Article 18 A private fund manager shall handle the relevant businesses such as registration, filing and change of information through the electronic registration and filing system. Where the registration of a private fund manager is terminated due to any of circumstances in the second paragraph of Article 25 of the Registration and Filing Measures, or the filing of private fund is suspended by AMAC according to relevant provisions, AMAC will, before the expiration of the relevant period, close the submission portal for the relevant registration and filing services at the electronic registration and filing system, and explain the reasons, and will not accept the relevant registration and filing materials submitted by such private fund manager.

第十九条 本指引自 2023 年 5 月 1 日起施行。

Article 19 These Guidelines shall be implemented from May 1, 2023.