

China Securities Regulatory Commission, Order No. 8

The Regulations on the Establishment of Securities Companies with Foreign Equity Participation are hereby promulgated, and shall be effective from July 1, 2002

Zhou Xiaochuan, Chairman

June 1, 2002

**Regulations on the Establishment of Securities Companies
with Foreign Equity Participation**

- Article 1 These Regulations are promulgated in accordance with the relevant provisions of the Company Law and Securities Law to meet the requirements of opening the securities market and strengthening and perfecting the supervision and management of securities companies with foreign equity participation, and to specify the conditions and procedures for the establishment of securities companies with foreign equity participation.
- Article 2 In these Regulations securities companies with foreign equity participation include securities companies converted from domestic securities companies in which foreign investors have received equity interests by transfer or subscription, and securities companies established through joint contributions by foreign shareholders and domestic shareholders.
- Article 3 The China Securities Regulatory Commission (the "CSRC") is responsible for the examination and approval and supervision of securities companies with foreign equity participation.
- Article 4 The organizational form of a securities company with foreign equity participation shall be a limited liability company.
- The name, registered capital, and organizational structure on establishment and functions of securities companies with foreign equity participation shall comply with the Company Law, Securities Law and relevant CSRC regulations.
- Article 5 Securities companies with foreign equity participation may engage in the following businesses:
- (1) stock underwriting (including Renminbi common shares and foreign-capital shares) and bond underwriting (including government bonds and corporate bonds);

- (2) brokerage of foreign-capital shares;
- (3) brokerage of and proprietary operations with bonds (including government bonds and corporate bonds);
- (4) other businesses approved by the CSRC.

The aforementioned foreign-capital shares include domestically-listed foreign capital shares (B-shares) and overseas-listed foreign capital shares.

Securities companies shall apply to the CSRC for a scope of business in accordance with the first paragraph of this Article. To engage in lead stock underwriting business, qualification as a lead stock underwriter shall be obtained in accordance with the CSRC's regulations on the administration of lead stock underwriter qualifications for securities companies.

Article 6

Securities companies with foreign equity participation shall satisfy the following conditions:

- (1) registered capital complying with the registered capital provisions of the Securities Law for comprehensive securities companies;
- (2) shareholders possessing the qualifications specified by these Regulations and contributing capital in percentages and manner in compliance with the requirements of these Regulations;
- (3) not less than 50 personnel who have obtained qualifications to engage in securities business in accordance with CSRC regulations, and necessary accounting, legal and computer professionals;
- (4) sound internal management and risk control, separate management systems for the structure, personnel, information and business operations of underwriting, brokerage and proprietary operations, etc., and appropriate internal control technology systems;
- (5) place of operations satisfying requirements and qualified trading facilities;
- (6) other prudential qualifications under CSRC regulations.

Article 7

Foreign shareholders of securities companies with foreign equity participation shall possess the following qualifications:

- (1) domiciled in a country with comprehensive securities laws and supervisory system whose securities regulatory authority has signed a memorandum of understanding on cooperation in

securities regulation and maintains an effective cooperative relationship with respect to supervision with the CSRC;

- (2) legal license to engage in securities business in the country of its domicile, at least 10 years experience in the financial industry without major sanctions by the securities regulatory authority or judicial organs during the three most recent years;
- (3) each risk control indicator must have satisfied the requirements of law and the securities regulatory authority in its country of domicile during the three most recent years;
- (4) sound internal control system;
- (5) good reputation and business record in international securities markets;
- (6) other prudential qualifications under CSRC regulations.

Article 8

Domestic shareholders of securities companies with foreign equity participation must possess the qualifications the CSRC requires of shareholders in securities companies.

The domestic shareholders of a securities company with foreign equity participation must include at least one domestic securities company; however, this restriction does not apply to securities companies with foreign equity participation converted from domestic securities companies.

Article 9

Domestic shareholders may contribute cash and tangible assets necessary for operations. Foreign shareholders shall contribute in freely convertible currency.

Article 10

The total (including directly and indirectly held) percentage of foreign-held shares or foreign equity interests in a securities company with foreign equity participation held by a foreign shareholder may not exceed one-third.

Among the domestic shareholders who are domestic securities companies, the shareholding percentage or equity interest of at least one shall be not less than one-third of the equity interest of the securities company with foreign equity participation.

After conversion of a domestic securities company into a securities company with foreign equity participation, the shareholding percentage of at least one domestic shareholder shall be not less than one-third.

Article 11

The chairman of the board of directors, general manager and deputy general manager(s) of a securities company with foreign equity participation shall possess the qualifications required by the CSRC for senior managers of securities companies.

Article 12 To apply to establish a securities company with foreign equity participation, the representative jointly appointed by all shareholders or the entrusted agent shall submit the following documentation to the CSRC:

- (1) application form jointly signed by the legal representatives or authorized representatives of the domestic and foreign shareholders;
- (2) draft contract and articles of association for establishment of the securities company with foreign equity participation;
- (3) professional qualifications application forms for those chosen to be chairman of the board, general manager and deputy general manager(s) of the securities company with foreign equity participation;
- (4) copies of the business licenses or registration certificates and securities business qualifications certificates of shareholders;
- (5) audited financial statements for the foreign and domestic shareholders for the year prior to application;
- (6) letter from the securities regulatory authority in the country of the foreign shareholder's domicile stating whether or not such shareholder satisfies the conditions specified in Article 7(2) and (3) of these Regulations;
- (7) legal opinion issued by a securities-related business qualified Chinese law firm.

Article 13 The CSRC shall in accordance with relevant laws and administrative regulations and these Regulations examine the application documentation specified in the above Article, issue a decision on whether or not to approve within 45 working days after receipt of the application documentation that complies with requirements, and provide written notice to the applicant. If not approved, a written explanation of the reasons shall be provided.

Article 14 Within six months after issuance of the CSRC approval document, the shareholders shall fully contribute their capital contributions or fulfill their agreed terms of cooperation, elect a board of directors, appoint senior management and apply for registration with the industry and commerce administration organ and obtain a business license.

Article 15 Within 15 working days after issuance of the business license, the chairman of the board or authorized representative of the securities company with foreign equity participation shall submit the following documentation to the CSRC to apply for a Securities Business License:

- (1) copy of the business license;

- (2) company's articles of association;
- (3) capital verification report issued by a securities-related business qualified Chinese accounting firm;
- (4) namelist and resumés of the directors, supervisors, and senior managers and namelist of key business personnel and copies of their certificates of qualifications to engage in securities business;
- (5) internal control system documentation;
- (6) explanation of the place of operations and trading facilities.

Article 16 The CSRC shall in accordance with relevant laws and administrative regulations and these Regulations examine the application documentation specified in the above Article and make a decision within 15 working days after receipt of application documentation that complies with requirements. If the specified conditions are satisfied, a Securities Business License shall be issued. If the required conditions are not met, one shall not be issued and a written explanation of the reasons shall be provided.

Article 17 A securities company with foreign equity participation that has not obtained a Securities Business License issued by the CSRC may not commence operations and may not engage in securities business.

Article 18 A domestic securities company that applies for conversion to a securities company with foreign equity participation shall possess the qualifications specified in Article 6 of these Regulations.

Foreign shareholders who purchase shares or become equity participants in domestic securities companies shall possess the qualifications specified in Article 7 of these Regulations, and the percentage of shares purchased or the percentage of contributions shall comply with the requirements of Article 10 of these Regulations.

Article 19 A domestic securities company that applies for conversion to a securities company with foreign equity participation shall submit the following documentation to the CSRC:

- (1) application form signed by its legal representative;
- (2) shareholders' resolution regarding conversion to a securities company with foreign equity participation;
- (3) company's draft amended articles of association;
- (4) equity transfer agreement or capital contribution agreement (share subscription agreement);

- (5) nameslist and resumés of personnel to be appointed to positions in such securities company by foreign investors;
- (6) copies of the business licenses or registration certificates and securities business qualification certificates of foreign shareholders;
- (7) audited financial statements for the foreign shareholders for the year prior to application;
- (8) letter from the securities regulatory authority in the country of the foreign shareholder's domicile stating whether or not such shareholder satisfies the conditions specified in Article 7(2) and (3) of these Regulations;
- (9) plan for handling business in which a securities company with foreign equity participation cannot legally engage;
- (10) legal opinion issued by a securities-related business qualified Chinese law firm.

Article 20

The CSRC shall in accordance with relevant laws and administrative regulations and these Regulations examine the application documents in the above Article, issue a decision whether or not to approve within 30 working days after receipt of application documentation that complies with requirements, and provide written notice to the applying securities company. If not approved, a written explanation of the reasons shall be provided.

Article 21

A securities company which obtains approval for conversion shall within six months after issuance of the CSRC approval document handle matters for the share transfer or increase in capital, wind up businesses in which a securities company with foreign equity participation may not legally engage, and apply to the industry and commerce administrative organ for amended registration and exchange of business licenses.

Article 22

Within 15 working days after amending registration, a securities company which has obtained approval for conversion shall submit the following documentation to the CSRC and apply to exchange its Securities Business License:

- (1) copy of its business license;
- (2) securities company with foreign equity participation articles of association;
- (3) original and duplicate of the company's Securities Business License;

- (4) capital verification report issued by a securities-related business qualified Chinese accounting firm;
- (5) report on the wind up of businesses in which a securities company with foreign equity participation may not legally engage;
- (6) legal opinion and verification report issued by a securities-related business qualified law firm and accounting firm regarding the task of cleaning up the matters in the foregoing clause.

Article 23 The CSRC shall in accordance with relevant laws and administrative regulations and these Regulations examine the application documentation specified in the above Article and make a decision within 15 working days after receipt of application documentation that complies with requirements. If the conditions are met, the Securities Business License shall be exchanged; if the conditions are not met, it shall not be exchanged and a written explanation of the reasons shall be provided.

Article 24 If a securities company is newly established or remains in existence after the merger of securities companies with foreign equity participation or of a securities company with foreign equity participation and a domestic securities company, it shall possess the qualifications specified in these Regulations for establishment of a securities company with foreign equity participation, and its scope of business and percentage of shares or equity interests held by the foreign shareholder(s) shall comply with the provisions of these Regulations.

If a foreign shareholder is among the shareholders of a securities company created after the division of a securities company with foreign equity participation, its scope of business and the percentage of shares or equity interest held by the foreign shareholder(s) shall comply with the provisions of these Regulations.

Article 25 The application documentation submitted to the CSRC and materials given to the CSRC in accordance with these Regulations must be in Chinese. Documents and materials prepared in a foreign language by foreign shareholders and the securities regulatory institution of their country of domicile shall have attached a Chinese-language translation consistent with the content of the original text. If the documents and materials submitted by applicants cannot completely explain the applicant's situation, the CSRC may require the applicant to provide supplementary explanations.

Article 26 These Regulations shall be applied by reference to equity participation in securities companies by investors from the Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan region.

Article 27 If these Regulations do not address matters concerning the establishment, modification, termination, business activities and supervision of securities companies with foreign equity participation, other relevant regulations of the CSRC shall be applied.

Article 28 These Regulations shall be effective from July 1, 2002.