6 April 2018

Institutional Department

China Securities Regulatory Commission

Fukai Building 19 Jinrong Avenue, Xicheng District

Beijing, China 100033

On behalf of its members, the Asia Securities Industry & Financial Markets Association ("**ASIFMA**") and the Securities Industry and Financial Markets Association ("**SIFMA**") are eager to engage with relevant government and regulatory bodies in China on this important milestone, on behalf of the businesses they represent. ASIFMA and SIFMA welcome the decision of the China Securities Regulatory Commission (the "**CSRC**") to seek comments from the public on the Draft Administrative Measures of Foreign Invested Securities Companies (the "**Draft Measures**"). Following deliberation and discussion among their members, ASIFMA and SIFMA would like to submit the comments below on the Draft Measures for consideration by the CSRC.

Whilst a key purpose of the Draft Measures is to implement the commitments made in November 2017 by the Chinese State Council in liberalising China's securities market to foreign investors, the Draft Measures also propose more wholesale revisions to the regime governing foreign-invested securities companies, including revising the qualifications overseas investors must satisfy when making investments in securities companies and the triggers for converting domestic-funded securities companies into foreign-invested securities companies. ASIFMA and SIFMA welcome this approach, and accordingly, the comments submitted below aim to cover the regulation of foreign investment in securities companies from a broad perspective.

ASIFMA and SIFMA believe that the high-level concerns of financial services firms, including their own members, with the Draft Measures include:

- the failure to incorporate a clear timetable for full liberalisation in the Draft Measures, notwithstanding the intent conveyed by the State Council;
- several new investor qualification requirements that are either insufficiently clear to determine whether they are satisfied in a particular case, or are likely to pose practical difficulties for applicants;
- the need to better define the range of transactions involving domestic-funded securities companies which will result in their conversion into foreign-invested securities companies, and thus require compliance with the Draft Measures by the target companies and transaction parties;
- the possibility of new requirements being imposed on overseas investors and foreign-invested securities companies that are not currently specified in the Draft Measures, but covered in other rules such as the Administrative Measure on Equity Interest in Securities Company (consultation draft);

- the need to take into account the overseas investor's group as a whole in assessing compliance with the new rules; and
- the ongoing restrictions on the management and operation of foreign-invested securities companies under the current regime.

Our detailed comments below, which set out the consolidated input from our members on these issues, are divided into two parts. Part 1 provides comments on specific provisions of the Draft Measures, and our proposals for revision to the extent appropriate. Part 2 provides general comments on the regulatory regime applicable to foreign-invested securities companies.

We strongly support continued dialogue and consultations between the industry and the authorities. As a general suggestion, ASIFMA and SIFMA urge the CSRC and the other regulatory bodies with which it is liaising on the Draft Measures to continue to consult with ASIFMA, SIFMA and other foreign stakeholders that can bring the unique benefit of insights from operating in multiple jurisdictions and other markets around the world and the experience of cross-border investments in the financial services sectors. In addition, to the extent that is feasible, we recommend that a timetable for the revision of further related rules and the release of new guidance be published separately. ASIFMA and SIFMA strongly believe that such a timeline, if published, would enable government departments and market participants to be even more engaged to reach a set of regulations that benefits all stakeholders, as well as allow both domestic and foreign-invested businesses to plan for regulatory change in their future equity transactions as appropriate.

ASIFMA and SIFMA greatly appreciate the CSRC's consideration of the issues raised above and would be pleased to discuss these comments in greater detail with the CSRC and other regulators' officers as appropriate. If you have any questions, please contact Wayne Arnold, ASIFMA's Executive Director and Head of Policy and Regulatory Affairs, at warnold@asifma.org or +852 2531 6500.

Sincerely,

Mark Austen

Chief Executive Officer

Asia Securities Industry & Financial Markets Association

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Part 1 – Comments on Specific Provisions

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Article 2(2). The Draft Measures specify that a domestic-funded securities company shall be converted into a foreign-invested securities company as a result of an overseas investor acquiring, or subscribing for, equity interests. Article 7 provides that such a foreign invested securities company does not need to have a foreign shareholding of 25 per cent.	The Draft Measures do not specify if (i) the overseas listed shares of listed securities companies (for example, H shares) and (ii) the holdings of Qualified Foreign Institutional Investors ("**QFII**") and Renminbi Qualified Foreign Institutional Investors ("**RQFII**") in mainland listed securities companies would result in the conversion of such listed securities companies into foreign-invested securities companies. We believe it is not the intention of the new rules that the overseas listed shares, QFII and RQFII be sufficient to convert a domestic-funded securities company into a foreign-invested securities company irrespective of the size of the holding. The Draft Measures do not define the business scope of a foreign-invested securities company newly converted from a domestic-funded securities company. The Draft Measures do not specify the minimum percentage of foreign ownership above which a domestic-funded securities company will be converted into a foreign-invested securities company. This seems to suggest that only 1%	We suggest that Article 2(2) only be triggered by direct holdings in domestic-funded securities companies, not overseas listed shares or QFII/RQFII investments. Given that under the Draft Measures, a foreign invested securities company is no longer assigned a fixed business scope at establishment, we suggest that the new rules specify that the business scope of the new company will be the same as its business scope prior to the conversion. We suggest specifying the minimum percentage of foreign ownership above which a domestic-funded securities company will be converted into a foreign-invested securities company.

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	interest held by an overseas investor will lead to the conversion of a domestic securities company into a foreign -invested securities company.	
Article 2(3): The Draft Measures specify that a domestic-funded securities company whose shareholder's controlling shareholder or actual controller becomes an overseas investor will be deemed a foreign-invested securities company.	The Draft Measures apply to any acquisition of control by an overseas investor of any shareholder of a domestic-funded securities company. Control by an overseas investor of a small shareholder of the securities company with, for example, less than 5% of the equity interests will convert the domestic-funded securities company into a foreign-invested securities company.	We suggest that the word "shareholder" be defined by reference to a specific percentage. Only an acquisition of a controlling interest in the securities company by becoming the controlling shareholder or actual controller of a major shareholder of a domestic-funded securities company should be enough to justify conversion of the securities company to a foreign-invested securities company. CSRC may consider if it will be better for the new rules to provide for the converse case, for example, if the controlling shareholder of a foreign-invested securities company becomes Chinese-owned, then the status of the company should change from a foreign-invested securities company to a domestic-funded securities company.
Article 4. Foreign-invested securities companies shall not jeopardise the national security.	This new provision introduces uncertainty over the applicability and scope of national security reviews in the securities sector.	We suggest that any specific national security concerns should be defined, and the inclusion into the new rules of guidance on review scope, standards and process. To the extent it is contemplated that a separate national security review procedure be conducted

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		by the CSRC in addition to the review already conducted by the Ministry of Commerce ("**MOFCOM**") and National Development and Reform Commission, we suggest that this be set out in the new rules.
Article 5(3). The initial scope of business of a newly-established foreign-invested securities company must be compatible with the controlling shareholder or largest shareholder's experience of operating securities business.	(1) It is not clear if the Draft Measures require the new company's business to be compatible with all, or some only, of the securities businesses of the controlling shareholder or largest shareholder. Nor is the test of compatibility defined, which could give rise to difficulties in interpreting how to satisfy the requirement. The Draft Measures only refer to the business of the controlling shareholder or largest shareholder as a single entity. This does not reflect the reality of securities business being conducted by co-operation among the different members of a group. (2) The question of how to define the scope of business of an existing foreign-invested securities company seeking to expand its business scope, especially after the foreign investor holds a controlling interest in the securities company, is of key concern to existing Sino-foreign securities companies with foreign equity participation. The Draft Measures are silent on this issue, which would mean that an existing company is limited to	(1) We suggest that the requirements for compatibility be clearly spelt out, to provide a set of criteria which can be clearly defined in order to determine whether the newly established company meets the requirements. These criteria should be defined by reference to the business of the controlling shareholder's group as a whole. (2) For all existing foreign-invested securities companies seeking to expand their business scope, we suggest that the new rules provide that the expanded business scope of an existing securities company can be at least as broad as for a newly established securities company, i.e. include at least four distinct lines of business (as specified in Article 125 of the Securities Law) in its business scope which are compatible with the business of the controlling shareholder (as defined in accordance with Article 5(3)), provided that the existing securities company complies with the relevant capital, personnel, infrastructure and other requirements that apply to the proposed new businesses.

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	applying for two new businesses in one application every six months. We believe that the existing securities joint ventures that have long been committed to China should receive equal, if not better, treatment than newly-established foreign-invested securities companies. By ensuring equal treatment and rewarding existing securities joint ventures with long track records, rather than placing them at a competitive disadvantage relative to newly-established foreign-invested securities companies, the CSRC would be encouraging long-term commitment to China. (3) For risk control, capital and commercial reasons, an overseas investor may want to cooperate with different partners for different business, similar to the model where a securities company may set up different subsidiaries for specific businesses. It is not clear from the Draft Measures whether it is possible for the same overseas investor to establish more than one foreign-invested securities companies with each company having a different scope of license which does not overlap.	After the new rules have become effective, we understand that the Trial Provisions on the Establishment of Subsidiaries by Securities Companies ("**Trial Provisions**") will no longer be applicable to those foreign-invested securities companies with 51% or above foreign shareholding seeking to expand their business scopes (as they will cease to be subsidiaries of domestic-funded securities companies). In addition, to ensure equal treatment of existing foreign-invested securities companies with 49% or less foreign ownership and newly-established foreign-invested securities companies, we further suggest that the Trial Provisions be expressly disapplied for all foreign-invested securities companies with 49% or less foreign ownership and a track record of five years that seek to expand their business scope. In order to ensure equal treatment of new and existing foreign-invested securities companies, we propose that all existing foreign-invested securities companies with a track record of five years be exempt from the restriction of applying for no more than two new lines of business in one application every six months. (3) We suggest that the new rules specify that the same overseas investor may choose to establish

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		more than one foreign-invested securities companies with each company having a different scope of license which does not overlap.
Article 5(4). A newly-established foreign-invested securities company may be required to meet other conditions, based on the principles of prudent supervision. Article 6(6). Each overseas investor must satisfy other requirements based on the principles of prudent supervision.	The Draft Measures are not clear on what additional requirements may be introduced based on the principles of prudent supervision.	We suggest providing further principles and guidelines on the meaning of "prudent supervision".
Article 6. Overseas shareholders of a foreign-invested securities company shall satisfy certain requirements.	The Draft Measures do not specify whether the qualification requirements apply to existing foreign-invested securities companies, or only to the three circumstances under Article 2. With the relaxation of the maximum foreign ownership limit of foreign-invested securities companies, we expect many foreign investors in the existing foreign-invested securities companies will be seeking to further increase their stakes in such companies. As existing securities joint ventures have already been approved by CSRC and the respective foreign investors would have passed CSRC review, the qualification requirements under the new rules should not apply retrospectively to the increase of foreign	We suggest clarifying that Article 6 does not apply to the increase of foreign investors' equity interest in existing foreign-invested securities companies. In addition, we suggest the new rules should specify the procedures that apply to foreign investors increasing their stakes and acquiring controlling interests in existing foreign-invested securities companies. We suggest most requirements of the existing rules should not apply in these circumstances, given such foreign investors would already have gone through an intensive CSRC approval process.

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	shareholding in an existing joint venture, whether by equity transfer or capital injection.	
Article 6(1) The country or region where the overseas shareholder is located has entered into a memorandum of securities regulatory cooperation with the CSRC or an agency recognised by the CSRC, and maintains effective regulatory cooperation with the CSRC or the agency.	The Draft Measures do not specify if multilateral MOUs for supervisory cooperation and information sharing satisfy this requirement.	We suggest clarifying that multilateral MOUs for supervisory cooperation and information sharing for example, Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("**MMoU**") of International Organisation of Securities Commissions ("**IOSCO**") should meet this requirement.
Article 6(2). Each overseas shareholder must be a financial institution whose financial indicators have, during the past three years, been compliant with the requirements of the laws and the requirements of the regulatory authorities of such country or region.	A regulated institution's compliance with financial indicators fluctuates with the changes to its asset and liability position on a daily basis.	We suggest the new rules specify that compliance with financial indicators should be measured at the end of each of the previous three years.
Article 6(3). Each overseas shareholder must not have been subject to severe punishment during the past three years, or be under investigation for alleged major violations of laws and regulations, by the relevant authorities.	A regulated institution is sometimes subject to investigations for alleged violations of laws and regulations conducted by other members of its group, the subject matter of which may not necessarily relate to the securities business. Any such investigations are also likely to be conducted on a highly confidential basis, which makes it difficult for a statement on the non-existence of such investigations to be issued.	We suggest that the new rules should not contain the reference to investigations, which is a new addition to the current rules. Instead, an overseas shareholder should only be disqualified if a key license of its main business is revoked or suspended or its main business ceases. If the reference is to be retained, we suggest that the new rules clearly define what constitutes an "investigation", with objectively defined materiality thresholds instead of "major violation".

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	In securities markets (both domestic and foreign), it is not uncommon for regulators to initiate an investigation that may take many years to reach a decision and very often results in no action against the subject of the investigation. Where sanctions do result, many do not necessarily have a material adverse impact on the overall good standing of the sanctioned entity, nor its ability to serve as a sound and responsible significant shareholder of a securities company. As a result, we believe that the CSRC should have discretion to approve the qualifications of a foreign shareholder based on its assessment and review of materials submitted, rather than providing a narrowly defined set of conditions or thresholds for the qualification of a foreign shareholder in the Draft Measures. What constitutes "severe" punishment also lacks clarity and gives rise to concerns over the extent of sanctions received that would disqualify a shareholder. The location of the "relevant authorities" is not specified. A global financial institution could find it practically difficult to comply with this requirement given the multiple jurisdictions in which it operate.	We suggest that a potential foreign investor in a foreign-invested securities company should only be disqualified for ongoing investigation if the investigation is material and may result in the investor failing to satisfy any other qualification requirement specifically provided for in the new rules. We suggest that the definition of "severe" punishment be given more clarity and exclude as a basis for disqualifying a foreign investor, for example, pure monetary penalties or any other violations that do not affect the investor's ability to meet the CSRC's "fit and proper" test. We suggest the definition of "authorities" be limited to the authorities of the jurisdiction where the shareholder is incorporated. Corresponding amendments would be made to Articles 8(6), 15(8) and 16(5), in accordance with the above suggestions.
Article 6(4). Each overseas shareholder must have a comprehensive internal control system.	We support the notion that an overseas investor should have a sound internal control framework. However, in our experience, regulators do not	We suggest this requirement could be replaced by a requirement that the shareholder's systems

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	typically give endorsements of the internal controls of the institutions they regulate, or draw any conclusion on the adequacy of such systems.	comply with all mandatory audit requirements imposed by the regulators in its local jurisdiction.
Article 6(5). During the past three years, each overseas investor must have achieved business scale, revenue and profits at the top level on the international stage and maintained a high long-term credit rating.	We support the notion that an overseas investor in a foreign-invested securities company ought to have a sound financial performance. However, the criteria of Article 6(5) do not take into account the multiple methods of measuring financial soundness. There are various methods of measuring the profitability of individual securities businesses and across different business lines (for example, some businesses focus on the absolute amount of profits while others focus on return on equity), making it difficult to apply a consistent set of criteria to all applicants. A lack of a credit rating may be reflective of a streamlined group structure or a highly profitable business of small scale, and does not necessarily imply that the relevant overseas investor is not financially sound.	We suggest that the criteria in this section be replaced by more objectively definable criteria with clearer guidance, for example, the overseas investor's main business license has not been revoked or suspended, nor has any of its main business lines ceased, during the track record period. As financial institutions typically operate on a global basis, we suggest that in any assessment of financial soundness, the financial performance of the group or other companies within the group should be taken into account, not limited to the shareholding entity. We suggest that the reference to the credit rating be removed, and if included, to function solely as an alternative test for shareholders who are unable to satisfy the specific financial criteria. It may also be preferable to further specify the requirements of a high long-term credit rating (for example, investment grade, and the range of permissible rating agencies).

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		Corresponding amendments would be made to Articles 8(7), 15(9) and 16(6), in accordance with the above suggestions.
Article 7. The aggregate of the direct and indirect shareholding percentages held by overseas shareholders in a foreign-invested securities company may not exceed the percentage committed for the opening up of the Chinese securities market, and in principle shall not be lower than 25%.	In CSRC's official explanation on the Draft Measures, it is noted that the purpose of the reference to the commitment to open up the Chinese securities market is to implement the statement reached at the 2017 meeting between the Chinese and U.S. heads of state that the foreign ownership limit be relaxed to 51%, with full foreign ownership within 3 years as mentioned in the government's official statements in November 2017. However, there is no reference in the Draft Measures to a specific percentage or timeline. In relation to the 51% foreign ownership limit, under the Foreign Investment Industrial Guidance Catalogue, the maximum foreign ownership of securities companies is 49%, which is inconsistent with the above commitment on foreign ownership. It is important to define "indirect" stake in order to determine whether the foreign ownership limit is breached, or the minimum 25% foreign ownership is met. However, the Draft Measures do not provide further guidance on the meaning of an "indirect" stake. In this regard, a key issue is whether the overseas listed shares of listed securities companies (for example, H shares), and	For clarity, we suggest that the percentage and timing commitment of the liberalisation of foreign ownership restrictions be set out in the text of the new rules, including a reference to the new 51% foreign ownership limit to take effect at the same time as the new rules and provision of further clarity as to whether the remaining restrictions to full 100% foreign ownership will be lifted incrementally over the 3-year period, or in one go at the end of the 3-year period without any track record, as this will help foreign investors plan their investment and capital allocation strategies accordingly. The same proposal applies to Article 22. Given that the increase in a foreign-invested securities company's foreign ownership to the new maximum would require MOFCOM approval, we suggest that the foreign ownership limit of securities companies under the Foreign Investment Industrial Guidance Catalogue ought to be amended in parallel with the CSRC's commitment on timing of the new ownership limit. We suggest specifying the principles for determining indirect ownership of a securities

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	holdings of QFII and RQFII investors in mainland listed securities companies, are to be included in determining the securities company's percentage foreign ownership. Clarification on the above is especially important for existing foreign-invested securities companies, many of which have been established with listed Chinese securities companies as joint venture partners. When the foreign partners in such companies contemplate increasing their equity interest, the impact of the overseas listed and QFII/RQFII portions on the maximum direct foreign ownership percentage will become a key issue.	company, for example, by multiplying the ownership percentage through each level in the corporate chain down to the level of the securities company shareholding. As the beneficial ownership of overseas listed shares or QFII/RQFII investments could either be domestic or foreign, there are considerable difficulties with taking such shareholdings into account when determining the size of the foreign ownership percentage. We suggest that such investments should not be considered as foreign shareholding.
Article 8(3). The CVs of the chairman, general manager and chief compliance officer must be submitted to the CSRC when applying to establish a foreign-invested securities company.	This requirement is unduly burdensome on foreign investors, due to the difficulty of finding suitable professionals in the market to fill these positions.	We suggest postponing this requirement until the time of the securities company's securities business permit application or commencement of business.
Article 8(6). An explanatory letter issued by the overseas shareholder's home jurisdiction regulator, certifying that the overseas shareholder complies with law and financial indicators, has not been subject to severe punishment and is not under investigation and has a sound internal control system, is required for applying to establish a foreign-invested securities company.	In our experience, regulators are unlikely to provide certifications or confirmations to this level of detail, or at all. Details of severe sanctions and high-profile investigations are likely to be available in the public domain in any event, without requiring specific disclosure by the overseas shareholder or its home jurisdiction regulator.	We suggest that the overseas shareholder should only be required to provide a statement on its current general regulatory status, or a no-objection letter, from its home jurisdiction regulator.

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	In addition, any information on enforcement actions would also be shared by regulators through the bilateral MOUs or other multilateral MOUs such as the MMoU of IOSCO.	
Article 14 (first paragraph). If an overseas shareholder becomes a shareholder of a domestic-funded securities company, its shareholding percentage shall comply with Article 7.	The Draft Measures do not specify if Article 14 applies to overseas listed shares and QFII/RQFII shareholdings. Clarification on the above is especially important for existing foreign-invested securities companies, many of which have been established with listed Chinese securities companies as joint venture partners. When the foreign partners in such companies contemplate increasing their equity interest, the impact of the overseas listed and QFII/RQFII portions on the maximum direct foreign ownership percentage will become a key issue.	We suggest, as is consistent with the current rules, that the percentage for compliance with Article 7 be specified as the maximum foreign ownership percentage in a foreign-invested securities company. As the beneficial ownership of overseas listed shares or QFII/RQFII investments could either be domestic or foreign, there are considerable difficulties with taking such shareholdings into account when determining the size of the foreign ownership percentage. We suggest that such investments should not be considered as foreign shareholding.
Article 14 (second paragraph). Where the controlling shareholder or actual controller of a shareholder of a domestic-funded securities company becomes an overseas investor, Articles 6 and 7 must be complied with. Any non-compliance must be rectified within three months, or where the equity cannot be transferred due to suspension of trading or lock-up period restrictions	Acquisition of control by an overseas investor of a small shareholder of the securities company with, for example, 5% of the equity interests will require the overseas investor to comply with Article 6. This may be unduly burdensome for a financial investor who does not intend to play a key role in the management of the securities company.	We suggest that Article 6 should only apply if the acquisition of control would result in an effective direct and indirect foreign shareholding of 25% in the securities company (consistent with Article 7). We suggest, as is consistent with the current rules, that the percentage for compliance with Article 7 be specified as the maximum foreign ownership

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on listed shares, within three months after the suspension/ restrictions have been removed.	No method of rectification is specified in the Draft Measures, resulting in uncertainty as to how to comply with the requirement.	percentage in a foreign-invested securities company. We suggest specifying the method of rectification that is required within three months (e.g. an undertaking to dispose of the equity in the securities company within a period of time), with the extent of action required being reasonable in relation to the maximum period allowed for rectification. The same proposal applies to Article 22.
Article 15. An overseas shareholder acquiring a stake in a domestic securities company, resulting in the securities company converting into a foreign-invested securities company, must provide a range of documents to the CSRC.	The Draft Measures do not specify if these documents must be submitted by (i) holders of overseas listed shares of listed securities companies (for example, H shares) and (ii) the holdings of QFII and RQFII investors. We believe it is not the intention of the new rules that investors in mainland securities companies through overseas listed shares, QFII and RQFII be required to satisfy the CSRC of their qualifications to invest.	We suggest that holders of overseas listed shares and QFII/RQFII investors be exempt from Article 15.
Article 21. A foreign-invested securities company that is newly established, or surviving, following a merger shall satisfy the requirements of the Draft Measures, and the shareholding percentage of the overseas shareholders shall comply with the Draft Measures.	Not all requirements of the Draft Measures will apply to the merged entity. For example, Article 6 should not be applicable, given that the qualifications of the overseas shareholders will have been examined by CSRC before the parties to the merger are established, and Article 5(3)	We suggest specifying the provisions of the new rules to be satisfied by the merged entity should be set out. In this regard we suggest specifying Articles 5(2), 5(4) and 7 of the Draft Measures.

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Where there are overseas shareholders among the shareholders of a securities company established following the division of a foreign-invested securities company, the shareholding percentage of the overseas shareholders shall comply with the provisions of these Measures.	should not be applicable, given that the parties to the merger will already have commenced business.	
Article 22. An overseas investor holding 5% or more of the shares (including through direct holding or indirect control) of a listed domestic-funded securities company must comply with Article 6. The percentage of the issued shares of a listed domestic-funded securities company held by a single overseas investor shall not exceed 30%. The percentage of shares held by all overseas investors shall not exceed the commitments made by China in relation to the opening-up of the securities industry.	Given the additional qualification requirements imposed by Article 6 it is important to define what constitutes an "indirect" stake when determining whether the 5% foreign ownership threshold is met. However, the Draft Measures do not provide further guidance on the meaning of an "indirect" stake. Article 22 does not specify the percentage of foreign ownership above which a listed domestic-funded securities company will be converted into a foreign-invested securities company.	We suggest specifying the principles for determining indirect ownership of a securities company, for example, by multiplying the ownership percentage through each level in the corporate chain down to the level of the securities company shareholding. We suggest specifying the percentage of foreign ownership above which a listed domestic-funded securities company will be converted into a foreign-invested securities company.
Article 2. The Draft Measures provide three definitions of a foreign-invested securities company: (i) a securities company newly established by foreign and domestic shareholders; (ii) a domestic-funded securities company with overseas investment; and (iii) a domestic-funded securities company whose	The definitions of a foreign-invested securities company in the Draft Measures only cover investments by overseas shareholders in securities companies (or their shareholders), not securities companies invested by overseas-controlled domestic entities.	We suggest that the new rules should clarify whether a securities company with an investment by an overseas-controlled Chinese entity, and no other overseas investment, should be considered a foreign-invested securities company; and (ii) whether an investment in a securities company by

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shareholder's controlling shareholder or actual controller becomes an overseas investor.		an overseas-controlled Chinese entity should be considered as foreign shareholding.
Article 7. Overseas shareholders may make capital contribution in freely convertible currencies.	The types of possible currencies for capital contribution are not specified. The Draft Measures do not provide for non-cash forms of capital contribution.	We suggest specifying that RMB capital contribution is also permitted, given the internationalisation of the RMB. We suggest permitting overseas shareholders to contribute to the capital of foreign-invested securities companies both in cash and in kind. This will help mitigate systemic risk given the overseas shareholder's responsibility for the securities company's risk management, capital and liquidity replenishment measures, especially when it is the controlling shareholder. More flexibility for non-cash capital injections will strengthen the capital base of securities joint ventures, and we believe this proposal is also consistent with current policies for foreign bank subsidiaries in China.
Article 8. List of documentary requirements for the establishment of a foreign-invested securities company.	The list is relatively detailed as compared with the requirements imposed by, for example, the China Banking Regulatory Commission ("**CBRC**") on the establishment of new banks, which only require the foreign investor to provide a photocopy of the business licence or financial business permit issued by the financial regulatory authority of the	We suggest reducing the length and scope of this list, in line with the CBRC approach. We also suggest specifying the prescribed content which is required for the legal opinions under the new rules.

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	investor's country or region, and a written opinion on its application. It is unclear from the Draft Measures what must be covered under the legal opinions.	

Part 2 – General Comments

1. Restrictions on Foreign Senior Management Personnel ("SMP")

We believe the removal of foreign SMP restrictions is in line with the Chinese government's commitment to increasing foreign ownership in a foreign-invested securities company to 51% now, and to removing foreign ownership restrictions in three years.

We suggest CSRC (i) permits securities companies to have a greater proportion of foreign SMP, in order to facilitate the faster transfer of knowledge and expertise to China; and (ii) removes restrictions on the number of foreign SMP for a foreign majority-controlled joint venture securities company.

It is also suggested that the application of the qualification requirements under CSRC rules to foreign SMP be clarified, in accordance with the different requirements of their respective home jurisdictions, and that an option to take the qualifying test in English be provided.

2. Leveraging on Offshore Infrastructure

System segregation between the offshore shareholder's group and the foreign-invested securities company, as required by the current rules, incurs significant costs and creates operational difficulties. Allowing more operational integration will:

- ease inflow of foreign investments and assist the efforts of securities joint ventures in bringing more products onshore. This in turn would help with the further development of China's capital markets, so that they better serve the needs of the real economy; and
- enhance the risk management capability of foreign-invested securities companies, which will in turn assist the Chinese government's efforts to reduce financial risks.

We suggest CSRC permits foreign-invested securities companies to leverage more of their foreign shareholders' advanced technology, management experience and developed infrastructure.

3. Further cooperation between securities joint ventures and their overseas shareholders

Better regulatory coordination between CSRC, and relevant authorities such as the People's Bank of China and the State Administration of Foreign Exchange, would enable the overseas shareholders of foreign-invested securities companies to have feasible channels to provide the securities companies with capital, liquidity, credit support and deliverable risk assumptions. As part of such a cross-regulatory initiative, overseas shareholders could be permitted to provide subordinated loans to their securities companies to supplement their capital, or guarantee the domestic loans obtained by their securities companies.