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Via electronic submission to: zibensi@mail.safe.gov.cn

2023年12月8日

资本项目管理司资本市场处
国家外汇管理局
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电子邮件通过: zibensi@mail.safe.gov.cn

Re: Consultation on the PBOC and SAFE Administrative Provisions on the Domestic Securities and Futures Investment Funds of Overseas Institutional Investors

关于：中国人民银行、国家外汇管理局《境外机构投资者境内证券期货投资资金管理规定》（征求意见稿）

Dear Sir / Madam
尊敬的先生/女士：

Headquartered in Boston, Massachusetts, State Street Corporation ("State Street") specializes in providing institutional investors with investment servicing, investment management, data and analytics, and investment research and trading. With US\$40 trillion in assets under custody and/or administration and US\$3.7 trillion in assets under management as of September 30, 2023, State Street operates in more than 100 geographic markets globally. In mainland China, State Street provides business functions including but not limit to client service, FX trading, fund accounting, operations, which makes this Consultation Paper highly relevant to us.

道富集团（“道富”）总部位于美国马萨诸塞州，波士顿市，致力于为机构客户提供投资服务，投资管理，数据分析，以及投资研究和交易。截至2023年9月30日，道富托管资产达40万亿美元，管理资产达3.70万亿美元。道富目前在全球100多个市场运营。在中国大陆，道富提供客户服务、外汇交易、基金会计、运营等一系列服务。本次征求意见稿的内容与道富在华运营紧密相关。

State Street Bank and Trust Company Beijing Branch appreciates the opportunity to provide comments to the People's Bank of China ("PBOC") and State Administration of Foreign Exchange ("SAFE") on the proposed consultation paper on the Administrative Provisions on the Domestic Securities and Futures Investment Funds of Overseas Institutional Investors ("Consultation Paper") issued on November 10, 2023 to solicit public comments. In general, we welcome the PBOC and SAFE's efforts to deepen reform in QFI foreign exchange management, promote the unification and simplification of capital management rules on onshore market access channels. We have some comments and would like to seek further clarifications on the following aspects of the Consultation Paper.

美国道富银行有限公司北京分行很荣幸有机会递交中国人民银行（“央行”）、国家外汇管理局（“外管局”）2023年11月10日发布的《境外机构投资者境内证券期货投资资金管理规定》（征求意见稿）（“《征求意见稿》”）的意见。总体来说，我们十分赞赏央行、外管局进一步深化合格境外投资者外汇管理改革，推进在岸开放渠道资金管理规则统一。同时，我们注意到仍有一些尚未明确的问题亟待央行、外管局的进一步澄清。我们的建议主要涉及以下内容：

Article 6(2) Commitment Letter

第六条第二款 承诺函

Article 6 Item 2 of the consultation paper prescribes that QFI applicants shall provide a legal commitment letter along with other required materials through local custodian, in order to register with SAFE. For QFI applicants and their local custodian's better practice, we would appreciate SAFE could provide standard legal commitment letter template, other than allow each financial institution to provide their own different template.

征求意见稿第六条第二款要求，合格投资者向主报告人提交包括法律承诺函在内材料以完成业务登记。我们希望外管局能够提供标准的法律承诺函模板，以方便合格境外投资者及主报告人的实际操作，而不是由市场各家机构提供不同的模板。

Article 16 Inbound and Outbound Remittance

第十六条 资金汇入与汇出

Article 16 of the consultation paper provides requirement on the remittance currency by a QFI for onshore securities and futures investment, and requirement on preventing cross-currency arbitrage. Meanwhile, the article is not clear regarding whether this remittance currency requirement applies to cross-border inbound and outbound remittance.

We understand that this article shall apply to cross-border funds, for the better understanding of QFIs and the relevant counterparties, we suggest SAFE amends Article 16 as: *"In principle, the **cross-border** remittance for inbound and outbound by a QFI for onshore securities and futures investment shall be in the same currency. Cross-currency arbitrage between RMB and foreign currencies shall not allow."*

征求意见稿第十六条对合格投资者境内证券期货投资汇兑币种，以及币种之间套利做出要求。但是，本条并未澄清所指资金的汇出与汇入要求，是否即指“跨境”资金汇出与汇入要求。

我们理解本条要求针对“跨境”资金，为便于合格投资者及相关参与方理解，我们建议对征求意见稿进行如下修改：
*“合格投资者境内证券期货投资**跨境**汇出与汇入的资金币种原则上应保持一致，不得进行人民币和外币间的跨币种套利。”*

Article 22 Spot Trade and Settlement Filing

第二十二条 即期交易备案

According to Article 19(1) and Article 20(1), as a client, a QFI shall be able to conduct spot foreign exchange sales and settlement, as well as foreign exchange derivatives trade, with a custodian or other onshore financial institutions directly. Article 22 further indicates the filing requirements for above mentioned "foreign exchange derivatives trade", that a QFI shall file the list of financial institutions to trade with, with the China Foreign Exchange Trade System (CFETS) by itself or through its custodian; and any adjustment to such list shall be filed with CFETS in advance. However, the consultation does not include any requirement for "spot foreign exchange sales and settlement" filing, we would suggest SAFE to further clarify whether there is any requirement. In particular, we would like to clarify the download channel for spot and derivative trade filing documents in the consultation or detailed implementation rules.

我们赞赏征求意见稿第十九条第一项、第二十条第一项之明确规定，合格投资者可以“作为客户与托管人或境内其他金融机构直接开展即期结售汇和外汇衍生品交易”。征求意见稿第二十二条进一步提出开展上述“外汇衍生品交易”的备案要求，即合格投资者应自行或通过托管人将金融机构名单向外汇交易中心备案；调整金融机构的，应向外汇交易中心备案。但征求意见稿并未明确“即期结售汇”是否也有备案的相关要求，我们建议进一步明确。同时，我们建议在征求意见稿或相关细则中明确即期及衍生品交易的备案表之下载方式。

Chapter 3 Account and Remittance Management

第三章 账户和汇兑管理

According to the SAFE Circular on the Improvement of Foreign Exchange Risk Management by Foreign Institutional Investors in the Interbank Bond Market ("Circular") (Huifa No. 2 [2020]) Policy Q&A, the current policies governing RMB and foreign-currency accounts of foreign investors allow "funding transfer without account". When a foreign investor trades "foreign exchange derivatives" with a non-settlement agent, the receipts and payments may be conducted directly through a settlement agent special account in a manner agreed by the relevant parties. This regulation is currently effective for CIBM.

To promote the unification of capital management rules for onshore market access channels, we suggest to include the similar regulation in the consultation or related circular, and importantly, the similar regulation shall apply to "spot foreign exchange sales and settlement" as well. We suggest to add one paragraph in Chapter 3 as below: **"the current policies governing RMB and foreign-currency accounts of foreign investors allow "funding transfer without account". When a QFI conducts "spot foreign exchange sales and settlement" and "foreign exchange derivatives" business with a non-settlement agent, the receipts and payments may be conducted directly through a settlement agent special account in a manner agreed by the relevant parties."**

根据《国家外汇管理局关于完善银行间债券市场境外机构投资者外汇风险管理有关问题的通知》（“《通知》”）汇发 2020 年 2 号政策问答中规定，现行境外机构人民币及外币账户管理政策允许“资金不落地划转”，境外机构投资者在非结算代理行开展的“外汇衍生品交易”，可以通过结算代理行的专用账户直接办理外汇衍生品交易项下的资金收付，具体操作方式由相关各方协商。此规定对于银行间债券市场现行有效。

为推进在岸开放渠道资金管理规则统一，我们建议在征求意见稿或进一步的通知中加入此规定，并对“即期结售汇”适用。我们建议第三章加入如下一段修改：**“现行境外机构人民币及外币账户管理政策允许“资金不落地划转”，合格投资者在非结算代理行开展的即期结售汇与外汇衍生品交易，可以通过结算代理行的专用账户直接办理外汇衍生品交易项下的资金收付，具体操作方式由相关各方协商。”**

Chapter 3 Account and Remittance Management **第三章 账户和汇兑管理**

The Circular requires foreign investors to submit a commitment letter to comply with the hedging principle to the onshore financial institutions or CFETS before making its first foreign exchange derivatives trade. No mandatory requirement for actual demand verification by onshore financial institutions.

Similarly, for the purpose to promote onshore market access channel regulation unification, we suggest to include the similar regulation in the consultation or related circular, and apply to "spot foreign exchange sales and settlement" as well. We suggest to add one paragraph in Chapter 3 as below: **"before making its first spot foreign exchange sales and settlement as well as foreign exchange derivatives trade, QFIs shall submit a commitment letter to onshore financial institutions or CFETS, confirming that all transactions shall follow actual demand and hedging principals. Actual demand verification shall not be mandatory for onshore financial institutions."**

据《通知》规定，首次开展外汇衍生品交易前，境外机构投资者应向境内金融机构或中国外汇交易中心提交遵守套期保值原则的书面承诺，境内金融机构可以不实施具体的实需审核。

同样，为推进在岸开放渠道资金管理规则统一，我们建议在征求意见稿或进一步的通知中加入此规定，并对“即期结售汇”适用。我们建议第三章加入如下一段修改：**“首次开展即期结售汇与外汇衍生品交易前，合格投资者应向境内金融机构或中国外汇交易中心提交遵守实需与套期保值原则的书面承诺，境内金融机构可以不实施具体的实需审核。”**

Explanatory Notes III Further Simplify Remittance Management **《起草说明》第三条 进一步简化汇兑管理**

We appreciate SAFE's efforts to further simplify QFI remittance management. According to the Item 3 of Explanatory Notes, QFIs shall use the legal commitment letter for taxation compliance initially submitted at registration, to replace the tax commitment letter that QFIs have to provide each time when repatriating profit. This regulation will further enhance the remittance management efficiency, we would suggest the Explanatory Notes to further clarify that the regulation shall apply to both new QFIs and existing QFIs. In practice, the existing QFIs shall allow to submit the legal commitment letter for taxation compliance, meanwhile, the tax commitment letter is no longer required at profit repatriation.

我们感激外管局在进一步简化合格投资者汇兑管理进程中做出的努力。《起草说明》第三条允许，以初次办理登记时提交的遵守税务相关法律法规的一次性承诺函，替代每次办理收益汇出业务时需提交的完税承诺函等相关材料。此项政策将大力加强汇兑管理效率，我们建议起草说明进一步明确，此项规定适用于新增合格投资者及现行合格投资者。在操作中，现行合格投资者也可以被允许递交一次性遵守税务相关法律法规的承诺函，而不是每次办理收益汇出业务时需提交的完税承诺函。

Thank you again for the opportunity to provide our comments. We appreciate your consideration of this letter and the recommendations we propose. Please feel free to contact me if you wish to discuss State Street's submission in further details.

道富对有机会提供意见再次表示感谢。我们赞赏央行、外管局对我们提出意见的考虑。如局里希望讨论道富提交意见的相关细节欢迎随时与我行工作人员联系。

Yours faithfully
敬祝商祺



State Street Bank and Trust Company Beijing Branch
美国道富银行有限公司北京分行