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October 1st, 2020

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Via electronic submission to: fmi@pbc.gov.cn

关于：中国人民银行 中国证监会 国家外汇管理局 《境外机构投资者投资中国债券市场有关事宜的公告》（征求意见稿）

Re: Consultation Paper on PBOC CSRC SAFE Notice of Overseas Institutional Investors (OIs) to Invest in China's Bond Market

尊敬的先生/女士：
Dear Sir / Madam

道富集团（“道富”）很荣幸有机会递交关于中国人民银行、中国证监会、国家外汇管理局在2020年9月2日联合发布的《境外机构投资者投资中国债券市场有关事宜的公告》（征求意见稿）（“《征求意见稿》”）的意见。

State Street Corporation (“State Street”) appreciates the opportunity to provide comments to the Consultation Paper on the Notice of OIs to Invest in China's Bond Market (“Consultation Paper”), jointly issued by the People's Bank of China (“PBOC”), China Securities Regulatory Commission (“CSRC”) and State Administration of Foreign Exchange (“SAFE”) on September 2nd, 2020.

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2020年第二季度，道富托管资产达33.5万亿美元，管理资产达3.1万亿美元。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业务紧密相关。我们愿意从国际托管行的视角为本次征求意见提供观点。我们的疑问和建议主要涉及以下内容。

Headquartered in Boston, Massachusetts, State Street specializes in providing institutional investors with investment servicing, investment management, data and analytics, and investment research and trading.

With US\$33.5 trillion in assets under custody and/or administration and US\$3.1 trillion in assets under management as of Q2 2020, 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. We are able to provide views, taking into account the perspective from a global custodian. We have some comments and would like to seek further clarifications on the following aspects of the Consultation Paper.

第一条 适用范围

Article 1 Applicable Scope

第一条中所列示的各类境外投资机构者均被获准参与到中国银行间债券市场以及交易所债券市场。我们希望本公告中所列示的各类境外机构投资者也均可参与到债券通机制中。

There are more types of OIIs falling into the applicable scope which can invest into China's bond market including CIBM and the exchange traded bond market. We would like to see the same expanded OII scope that can also apply to the Bond Connect.

第四条 银行间债券市场及交易所债券市场的互联互通

Article 4 Interconnectivity Between CIBM and Exchange Traded Bonds

“境外机构投资者应当遵循交易、结算等金融基础设施关于境外机构投资者开户、交易、托管、结算的相关业务规定。”此要求是否意味着境外机构投资者仅需遵循其目前所投资的银行间或交易所债券市场各自的现行规则开展账户开立、交易、托管及结算业务，还是需要遵守在互联互通机制下另一市场的一整套业务规则。出于投资者便利性的考虑，我们希望QFII/RQFII可以在此互联互通机制下直接在银行间债券市场交易而无需进行额外的登记注册，同样的银行间债券市场的境外机构投资者可以直接进行交易所债券市场交易而无需取得QFII/RQFII资格。

OIIs should follow relevant rules on account opening, trading, custody and settlement enacted by financial market infrastructures. Does this mean, OIIs should follow the existing account opening, trading, custody and settlement rules to access CIBM and exchange traded bond market respectively, or if they will follow each other market's practices? What we would like to see is that QFII/RQFII can trade CIBM without further registration requirement with PBOC, also CIBM investor can invest into exchange traded bonds without QFII/RQFII qualification.

在账户结构方面，希望能够在细则层面进一步明确，现有银行间债券市场机构投资者是否还需要在中证登开立账户进行交易所债券市场的债券结算；现有QFII/RQFII是否需要在中债登/上清所开立账户用于银行间债券市场的债券结算，或者在互联互通机制下的名义持有人账户完成结算。

Regarding account structure, please further clarify in the implementation regulations, whether the CIBM investors are required to open account at CSDC for exchange traded bonds settlement. Whether the QFII/RQFII require account at CCDL/SHCH for CIBM settlement. Or is this aligned with an omnibus account structure?

此外，现有交易所债券市场的需要客户提前将资金划入结算资金账户中以保证清算交收，希望明确银行间债券市场投资者通过互联互通渠道交易交易所债券时是否适用同样规则。当境外机构投资者同时用“人民币+外币”投资银行间债券市场时，是否仍需遵守累计汇出外币金额不得超过累计汇入外币金额的1.1倍的汇出限制？

In addition, exchange traded bond market requires pre-funding for clearing and settlement, does this apply to CIBM investors when trading exchange traded bonds via interconnect channel? When OIIs trade CIBM via “RMB and foreign currency”, please clarify are they subject to the 110% repatriation restriction of they adopt multiple funding strategies?

第五条 投资范围

Article 5 Investment Product Scope

目前，主权类机构投资者在债券市场上的投资种类多于其他商业类机构投资者，我们希望监管部门在可投资范围方面能够考虑将两者进行统一。

Currently sovereign institutions can invest in more products than commercial institutions. We would like to see that PBOC, CSRC and SAFE can consider the same product scope for all types of investors.

第六条 结算代理人及境内托管银行角色

Article 6 Role of Bond Settlement Agent (BSA) and Domestic Custodian

债券结算代理人角色的取代，可以使得境外投资者能够通过“全球托管人+本地托管人”模式进入中国债券市场。征求意见稿规定境外机构投资者可以直接或通过其境外托管银行委托境内托管银行进行托管。这意味着境外机构投资者可以直接与本地托管人签约，也可以与全球托管人签约，由全球托管人与本地托管人签订次托管协议。后一种模式更加符合国际惯例且有明确的合同关系，因此我们希望可以逐渐过渡到后一种模式。

It is encouraging to see the removal of the role of Bond Settlement Agents (BSAs) which allows OIIs to access China bond market through a “global custodian + local custodian” model. Meanwhile, the consultation allows OIIs to either choose a local custodian directly or through a global custodian, which means OIIs can contract directly with local custodian, or OIIs can contract with global custodian and global custodian has sub-custodian agreement with the local custodian. We would prefer a gradual transition to the latter structure therefore within international practice and represents a clear contractual chain.

第六条中规定“境外投资者通过境内托管银行买入的债券应当登记在境内托管银行名下”，从字面上理解，境内托管行将是登记在其名下债券的所有者，而投资者可能无法主张其享有的证券权益，从而大幅降低破产情况下对银行间债券市场投资者的保护。

Registering CIBM securities in the name of the domestic custodian per Article 6 is problematic – on its face, the domestic custodian as reflected in the account name would be deemed owner of the assets, and investors would not be able to claim the ownership of their assets. This would be a significant reduction of protections afforded to client CIBM investments in an insolvency event.

在其他市场中，多级托管模式及综合账户框架均有明确、可靠和透明的法律框架支持，使得客户资产在托管行破产时可以得到追偿。中国债券市场应当明确确立投资者所享有的证券权益。

In other markets, multi-layer custodian model and omnibus account structure generally follows consideration of clear, reliable and transparent legal standards establishing that client assets are recoverable in the event of insolvency. The ability of investors to establish and enforce their ownership interests over assets in China bond market should be clearly established.

如果债券托管账户是以境内托管人的名义开立的，应当明确定义境外机构投资者主张其对债券资产所有权的依据。征求意见稿要求境内托管人将其所托管的境外机构投资者财产与其固有财产及受托管理的各类财产严格分开保管，为保证境外投资者权益，在此处可以进一步明确资产隔离保管的具体措施，以及完善的隔离措施是否能够充分确立投资者享有的债券所有权。

If accounts at the depositories are in the name of domestic custodians, we should aim for clear definition of what constitutes evidence of ownership sufficient for investors to claim assets held in CIBM omnis. As you noted, the consultation paper requires domestic custodians to segregate proprietary and client assets, and we should seek additional clarity on how/where this will be done and whether evidence of segregation would be sufficient to establish investor ownership interests.

证券登记结算机构记录的名义持有人与其名下的证券权益拥有人的信息可以被视为投资者主张所有权的充分证据。在银行间债券市场多级托管模式下，应当更进一步完善确权体系，例如允许采用托管账簿及记录作为投资者主张其证券所有权的证据等。最理想的做法是不将境内托管人视为债券所有者。可以通过明确规定帐户资产是代客户持有或名义持有的，和/或以其他方式确定境内托管人不享有所有权权益。

CSDCC records of beneficial ownership disclosures required from nominees have been accepted by PRC courts as being sufficient evidence to claim ownership. We should aim for greater certainty re CIBM omnis, preferably allowing reliance upon custody books and records. It would be ideal to not have domestic custodians deemed to be owners in the first place. This could be achieved through explicit recognition that account assets are held on behalf of clients or as nominee and/or otherwise establishing that domestic custodians hold no ownership interest.

此外，在现有的结算代理人模式下，结算代理人的职责包括代为办理债券托管账户开户、销户手续，代为办理结算手续及债券利息支付和本金兑付等诸多职责。在多级托管模式下，对于“符合条件的境内托管银行”，希望能够在配套规章制度方面进一步明确境内托管银行的主要职责及履行各项职责所必须的资格条件。

In addition, under the existing BSA model, the responsibilities of the settlement agent include bond custodian account open/closure on behalf of clients, and handling trade settlement and bond interest payments and principal payments. In the multi-level custodian mode, for "eligible domestic custodian banks", we expect that the main responsibilities of domestic custodian banks and any necessary qualifications to perform each duties can be further clarified in the supporting rules and regulations.

第九条 不同债券投资机制之间债券及资金的双向过户/划转

Article 9 Fungibility of Bonds and Cash Between Different Bond Investment Schemes

征求意见稿允许境外机构投资者将其在QFII/RQFII项下的债券与本公告中所投资的债券进行双向非交易过户。我们希望该非交易过户可以采用FOP的形式，即仅存在债券的转移过户而不涉及资金转移。同时，我们理解在只要境外机构投资者有需求，在任何情况下均可进行双向转移，请进一步确认是否无其他限制。

The same OI can make two-way non-trade transfer of bond holdings between the bond accounts opened under QFII/RQFII scheme and the bond account opened under CIBM and exchange traded bond market. We would like to see free of payment (FOP) trades for bond transfer can be allowed. Meanwhile, we understand the two-way transfer can be conducted as long as there is OI's own investment needs and can be conducted under any circumstances, please confirm.

第十二条/十三条 监管报告义务

Article 12/13 Regulatory Reporting

在很多情形下，境外机构投资者作为多个基金/产品的管理人，同时与多个全球托管人有合作关系。从全球托管人的角度来讲，境外机构投资者本身并不是全球托管人的客户，而是在单只基金/产品层面与全球托管人存在合同关系，全球托管人无法掌握机构投资者的整体投资信息。因此，在要求全球托管人履行监管报告义务时，应明确该报告信息停留在基金/产品而非机构投资者层面。

In many instances, OI is an investment manager managing multiple funds/products engaging multiple global custodians. From global custodian's perspective, OI itself is not a client, but the fund/product has contractual relationship with global custodian. Therefore, if the regulators require global custodian to conduct regulatory reporting, it should be at fund level other than at OI level.

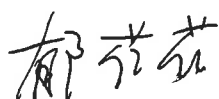
STATE STREET.

道富对有此机会提供意见再次表示感谢。我们赞赏人民银行对我们提出意见的考虑。如行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。

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.

敬祝商祺

Yours faithfully



郁蓓蓓

北京分行 代理行长

Emma Yu

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