

Notice of China Banking Regulatory Commission on the Specific Issues Concerning the Implementation of the Measures for the Administration of Trust Companies and the Measures for the Administration of Trust Companies' Trust Plans of Assembled Funds

Promulgation date: 02-24-2007
Effective date: 02-24-2007
Department: CHINA BANKING REGULATORY COMMISSION
Subject: FINANCE & BANKING

Notice of China Banking Regulatory Commission on the Specific Issues Concerning the Implementation of the Measures for the Administration of Trust Companies and the Measures for the Administration of Trust Companies' Trust Plans of Assembled Funds

All banking regulatory bureaus and trust and investment companies directly under the supervision of China Banking Regulatory Commission:

The Measures for the Administration of Trust Companies and the Measures for the Administration of Trust Companies' Trust Plans of Assembled Funds (hereinafter collectively referred to as New Measures) will come into force as of March 1st, 2007. In order to promote trust and investment companies to operate in accordance with the relevant provisions of the New Measures and make transition stable, we hereby further notify the relevant issues as follows:

1. The New Measures are promulgated and implemented for the purpose of promoting trust and investment companies to truly transform from "financing platform" to professional institutions that do financing work for people upon their entrustment, to make business adjustment and innovation in light of market needs and their actual situation and to develop themselves into professional financial institutions that can control risks, abide by laws and regulations, innovate constantly and have core competitiveness. The CBRC actively encourages trust and investment companies to strengthen competition, optimize the allocation of trust resources and enhance the sustainable and sound development and safe operation of trust industry.

2. Any trust and investment company that can operate in accordance with the New Measures and satisfies the requirements prescribed in Article 3 of this Notice shall apply to the CBRC for changing the company name, business scope or any other issue within 2 months since the date when this Notice is issued. While other trust and investment companies shall be subject to the arrangement of transitional period. The transitional period shall be at most 3 years since the date when the New Measures come into force.

The banking regulatory bureau of the place where the trust and investment company is located shall be responsible for the preliminary examination of the application, and a new financial license shall be issued to the company after the application is reported to, examined and approved by the CBRC.

All banking regulatory bureaus shall put forward preliminary examination opinions on the application submitted by a trust and investment company and report it to the CBRC for

examination and approval within 15 workdays since the date when the application is received.

3. To apply for changing the company name and reissuing a new financial license, a trust and investment company shall satisfy the following requirements:

- (1) It has sound corporate governance, inner control mechanism, regulation-compliance mechanism and risk management mechanism.
- (2) It has good reputation and performance, and a normative information disclosure system.
- (3) It has the senior managers and professionals as required by its business operation.
- (4) It has no gross illegal or irregular act within the latest three years.
- (5) All its due trust products can be subject to normal liquidation and the operation of its current trust products is stable.
- (6) The value of its net assets after withdrawing all kinds of loss reserves in full amount is not less than 300 million yuan.
- (7) It has no such issues as great pending litigation, etc. and
- (8) Other requirements for prudence as prescribed by the CBRC.

4. To apply for changing the company name and reissuing a new financial license, a trust and investment company shall file the following documents and materials (in triplicate):

- (1) Application form for changing the company name, business scope or any other issue.
- (2) Plan for clearing the industrial investments under the inherent items.
- (3) Plans for adjusting current business, including the plan for compressing such businesses as trust loans, guarantee and inter-bank loans of assembled funds, and the plan for regulating affiliated transactions, etc.
- (4) Resolution of the board of directors on approving the plan for clearing industrial investment or adjusting current business, and the legal letter issued by a qualified law firm on the plan.
- (5) Explanation on the operation status of each trust plan of assembled funds that continue to exist, and fluidity arrangement plan.
- (6) Photocopy of its business license, the draft of the articles of association to be amended and the resolution of the shareholders' meeting.
- (7) List of the senior managers and professionals, and their resumes.
- (8) Letter of commitment made by the chairman of the board of directors and the general managers of the company on the authenticity, accuracy and integrity of the materials reported. And
- (9) Other documents and materials required by the CBRC.

5. A trust and investment company that has been approved to change its company name and be reissued a new financial license shall observe the following provisions:

- (1) The clearing of its industrial investments under the inherent items shall be finished before December 31st, 2007. Each industrial investment to be cleared shall be listed and reported separately every month, and it is necessary to make explanations on the asset quality status and the time limit for clearing.

As for a financial industrial investment within 20% of equity investment, with no control, joint control or great influence, with good asset quality and remarkable investment yield, upon approval, the time limit for clearing such investment may be prolonged to March 1st, 2010.

During the period for clearing industrial investments, a trust and investment company may not have any affiliated transaction with any of the invested entities, but an affiliated transaction related to the clearing work may be conducted after being reported to and approved by the CBRC or the banking regulatory bureau of the place where the company is located.

After finishing the clearing of the industrial investments under the inherent items, a trust and investment company's net assets shall not be less than 300 million yuan after withdrawing all kinds of loss reserves in full amount.

(2) Gradually compressing the scale of its inter-bank loan business and guarantee business. Before satisfying the relevant requirements of the New Measures, no trust and investment company may conduct any new loan or guarantee business.

(3) The balance of its newly occurred assembled fund trust loan business by the end of year shall be evaluated by taking the newly occurred assembled fund trust business as the cardinal number and in accordance with the proportion prescribed by the New Measures.

(4) The newly occurred business shall strictly follow the newly approved business scope and the relevant provisions of the New Measures.

The banking regulatory bureau of the place where the trust and investment company is located shall urge the companies to clear the industrial investments under the inherent items and honor the trust plans of assembled funds, and evaluate the corresponding situation. As for a trust company which has been approved to be reissued a new financial license fails to finish clearing the industrial investments before December 31st, 2007, the banking regulatory bureau shall adopt such regulatory measures as suspending its business and canceling its qualification for part business in accordance with the relevant laws and regulations.

6. The CBRC encourages the trust and investment companies which have been approved to be reissued new financial licenses to initiatively propose trial plans in terms of business innovation and organizational management and, in accordance with the procedure for examination and approval, gives priority to their such innovative business as personal equity investment trust, asset securitization, overseas financing upon entrustment and real estate investment trust, etc. Any reform measure that promotes the innovation and development of trust and investment companies and institutional supervision will be tried out on them firstly.

7. A trust and investment company to be subject to the arrangement of transitional period shall file the following documents and materials (in triplicate) with the CBRC or the banking regulatory bureau of the place where it is located within 2 months since the promulgation of this Notice:

(1) Plan for transitional period, which shall include the duration of the transitional period it will be subject to, the plan for clearing its industrial investments under the inherent items, the plan for adjusting and regulating its business, disposal or arrangement of the connection between the business continuing to exist upon the end of the transitional period with the New Measures, the

explanation on the operation status of each trust plan of assembled funds continuing to exist, and the liquidity arrangement plan, etc.

(2) Resolution of the board of directors on approving the implementation of the plan for transitional period, and the legal letter issued by a qualified law firm on the plan. And

(3) Other documents and materials required by the CBRC.

The banking regulatory bureau of the place where the company is located shall urge, supervise and evaluate the relevant issues of the company in accordance with the plans for transitional period.

8. A trust and investment company that is in the transition period shall observe the following provisions:

(1) It shall gradually clear the industrial investments under the inherent items in accordance with the progress determined in the plan for transitional period and finish the clearing work before the end of the transitional period.

During the period for clearing industrial investments, it may not conduct any affiliated transaction with any of the invested entities, but an affiliated transaction related to the clearing work may be conducted after being reported to and approved by the CBRC or the banking regulatory bureau of the place where the company is located.

(2) Gradually compressing the scale of its inter-bank loan business and guarantee business. Before satisfying the relevant requirements of the New Measures, no trust and investment company may conduct any new loan or guarantee business.

(3) The assembled fund trust business may not be recommended at any place other than the place where it is located.

(4) When conducting assembled fund trust business, the following transitional measures may be applied:

a. The number of the trustors of each assembled fund trust plan may not exceed 200, the value of each contract shall not be less than 200,000 yuan (including 200,000 yuan).

b. The value involved in each transfer of beneficiary right shall not be less than 200,000 yuan (including 200,000 yuan), the beneficiary right of an institutional investor may not be transferred to a natural person, the transferred beneficiary rights of each assembled fund trust plan shall not exceed 200 during the period of continual existence.

c. To conduct any assembled fund trust business, a trust and investment company shall report it to the CBRC or the local banking regulatory bureau in advance. If the CBRC or the local banking regulatory bureau presents no objection within 20 workdays, the company may recommend the assembled fund trust plan.

(5) The newly occurred assembled fund trust loan business shall take the newly occurred assembled fund trust business as the cardinal number, and the requirement on proportion as prescribed in the New Measures shall be satisfied before the end of the transitional period.

(6) The assembled fund trust business shall be conducted in accordance with the provisions of this Article, while the other newly occurred business shall be conducted in strict accordance with the relevant provisions of the New Measures.

9. The CBRC shall not accept the application filed by any trust and investment company that is in the transitional period for the qualification of engaging in such innovative business as asset securitization and overseas financing upon entrustment, etc.

10. A trust company that is subject to the arrangement of transitional period may apply to the CBRC for ending the transitional period, changing the company name or business scope or any other issue ahead of schedule after it finishes the clearing of industrial investments and adjusts its business as required by the New Measures. The net assets of a trust and investment company applying for ending the transitional period after withdrawing all kinds of loss reserves in full amount shall not be less than 300 million yuan.

The administrative licensing procedure for the above-mentioned issues shall be governed by Article 2 of this Notice.

11. A trust and investment company applying for ending the transitional period and reissuing a new financial license shall file the following documents and materials (in triplicate):

(1) The documents and materials required by Items (1), (5), (6), (7), (8) and (9) of Article 4 of this Notice.

(2) Situation on the implementation of the plan for transitional period, including the situation on the clearing of the industrial investments under the inherent items and the situation on the adjustment of current business (including the situation on the compression of such business as trust loan, guarantee and inter-bank loans of assembled funds and the situation on regulating affiliated transactions, etc.), etc. and

(3) Other documents and materials as required by the CBRC.

12. The banking regulatory bureau of the place where a trust and investment company is located shall prudently examine and approve the company's application for changing its business scope and reissuing a new financial license in strict accordance with the New Measures and the relevant provisions of this Notice, in light of the trust and investment company's overall operation status, system construction and arrangement of professionals and on the basis of such elements as the clearing effects of the industrial investment under the inherent items, the business adjustment and the liquidity arrangement for assembled fund trust plans, which continues to exist, etc.

As for the examination and approval of the qualification for engaging in such innovative business as asset securitization and overseas financing upon entrustment, etc, if it is prescribed otherwise by the CBRC, the otherwise provisions shall apply.

13. After the New Measures come into force, a trust and investment company may continue to conduct the business conducted during the implementation period of a contract till the end of the

contract.

14. Since the date when the New Measures officially come into force, a trust and investment company subject to the arrangement of transitional period shall conduct business in accordance with the requirements of this Notice; a trust and investment company applying for the change of company name, business scope or any other issue shall conduct business within the originally approved business scope in accordance with the relevant provisions of the New Measures.

15. A trust and investment that is being reorganized or plans to introduce qualified strategic investors shall be governed by the relevant provisions of the New Measures.

16. Any trust and investment company that still fails to finish the clearing of the industrial investments under the inherent items or fails to conduct business in accordance with the requirements of the New Measures after March 1st, 2010 shall be ordered to conduct reorganization or quit the market in accordance with the relevant laws and regulations.

February 14th, 2007