

## 金融法律热点问题

### 基金业协会接受港股通香港投资顾问机构备案

2018年9月19日，中国证券投资基金业协会(以下简称“**基金业协会**”)发布通知，表示其拟于近日接受港股通香港投资顾问机构的备案。

根据中国证券监督管理委员会(以下简称“**证监会**”)于2018年6月29日发布的《证券基金经营机构使用香港机构证券投资咨询服务暂行规定》(以下简称“**《暂行规定》**”),拟为内地证券公司和证券基金管理公司提供投资顾问服务的香港机构应按照国家基金业协会的规定备案基本信息。基金业协会的上述通知明确了备案的信息要求和备案程序。备案分为首次备案、重要信息变更备案和年度信息备案。首次备案的审查时限是收到香港机构递交的申请材料之日起五个工作日,且备案信息将在协会网站(<http://www.amac.org.cn>)进行公示。香港机构提交重要信息变更备案的时限是七个工作日,而年度信息备案的时限是该自然年度结束后六个月。

#### 我们的观察

基金业协会发布该通知意味着香港持牌机构可立即启动备案申请以满足向境内相关机构提供港股投资顾问服务的前提条件。鉴于香港机构对开

发内地庞大的财富管理市场有浓厚兴趣,我们预计有相当多的机构将完成备案。如我们在2018年7月5日发布的Client Briefing中所述,该业务实质上是允许香港持牌机构间接向中国内地投资者提供证券投资咨询服务,这代表着我国向跨境资产管理业务监管规范的完善迈出了重要一步。从长远来看,该业务有助于加深内地和香港两地金融业务的合作,并可能成为跨境金融服务市场进一步开放的试验田。

尽管投资顾问服务的范围包括公募和私募基金产品,但目前能接受香港投资顾问服务的内地机构仍仅限于内地的证券公司和公募基金基金管理公司。由此引申的问题是内地机构的范围是否可以延伸至其他资产管理机构,如私募基金管理人、银行系资管子公司等,这一点仍尚待观察。同时,香港投资顾问服务的范围仅限于港股通,目前尚无迹象可能延伸至其他境外交易品种。我们认为,随着互联互通机制及金融市场开放举措的深入开展,以及证监会跨境监管合作的加强,预期未来在内地机构的类型和香港投资顾问的服务范围方面有进一步扩展的空间。

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## Financial

### AMAC Accepts Hong Kong Institutions Filing to Advise on Southbound Trading

On September 19, 2018, the Asset Management Association of China (“AMAC”) released a circular (“Circular”), stating that it will soon accept the filings of Hong Kong institutions intending to advise mainland institutions’ southbound trading under the Stock Connect Program (“**Southbound Trading**”). Pursuant to the *Interim Provisions on Securities and Fund Operation Institutions’ Engagement of Hong Kong Domiciled Institutions to Provide Securities Investment Advisory Services* issued by the China Securities Regulatory Commission (“CSRC”) on June 29, 2018, Hong Kong institutions that intend to provide investment advisory services to either mainland securities companies or mutual fund management companies are required to file their basic information in accordance with the rules of the AMAC. The filing procedures specified in the Circular are straightforward and there are clear requirements about the information to be filed. There are three filing categories: initial filing, important information change filing, and annual filing. For the initial filing, upon submission of the application materials by Hong Kong institutions, there will be a review period of five working days. Once it has been accepted, the filing information will be publicized on the AMAC website (<http://www.amac.org.cn>). Any changes to

important information should be filed within seven working days, while the time limit for annual filing is six months after the end of the natural year.

#### Our Observation

The release of the Circular means that Hong Kong licensed institutions are now able to initiate their application for filing in order to meet the requirement to advise the mainland institutions on Southbound Trading. In light of Hong Kong institutions’ keen interest to participate in the mainland’s sizeable wealth management market, we expect that many of them will complete their filings with the AMAC. As discussed in an earlier Client Briefing dated July 5, 2018, this move to open up marks a significant step in the improvement of China’s cross-border asset management regulations. This type of activity is likely to deepen the cooperation between mainland China and Hong Kong financial markets, and could be a pilot for future opening up of cross-border financial services.

Mainland institutions can engage a Hong Kong investment advisor for either public or private asset management product under their management, however, to date, the mainland institutions that have been allowed to engage

such a Hong Kong investment advisor have been limited to securities companies and mutual fund management companies. The question arises whether the scope of mainland institutions will be extended to include other types of asset managers, such as private fund managers or the asset management subsidiaries of commercial banks. Besides, it is notable that the investment advisory services are limited to providing advice about Southbound Trading, and there is no

indication that the scope of services will be extended to other offshore stocks or assets. In our view, with growing participation in the Stock Connect Programs, the further opening up of financial markets and improving cross-border regulatory cooperation by the CSRC, we expect to see future expansions in both the type of participating mainland institutions and scope of services.

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