

Capital Markets

CSRC Issued Stock Option Trading Regulation

On January 9, 2015, the Chinese Securities Regulatory Commission (“**CSRC**”) released the *Measures for Administration of Pilot Scheme on Stock Option Trading* (“**Pilot Measures**”) and the *Guidelines for Securities and Futures Operation Institutions to Participate in the Stock Option Trading Pilot Scheme* (“**Pilot Guidelines**”). At the same time, the Shanghai Stock Exchange (“**SSE**”) promulgated the *SSE Rules for Pilot Stock Option Trading*, the *SSE Guidance on Investor Suitability Management of Pilot Stock Option*, the *SSE Guidance on Market Maker Business of Pilot Stock Option*, and, jointly with China Securities Depository & Clearing Corp., Ltd. (“**CSDC**”), formulated the *Management Measures of SSE and CSDC on Risk Control for Pilot Stock Option Trading*. On the same day, the CSRC also approved the SSE to launch the first stock option trading pilot program - the first pilot product will be the SSE 50ETF Option and the formal listing date is set as Feb 9, 2015. The subject matter of the SSE 50ETF Option is the SSE 50ETF, managed by China Asset Management Co., Ltd., which, up to January 9, 2014, has 9.897 billion fund units with a scale of RMB 25 billion.

1. Stock Option Contracts and Qualified Underlying Stocks or ETFs

Stock option contracts are defined as the

standardized contracts that are uniformly formulated by the exchanges and under which buyers shall be entitled to buy or sell agreed stocks, exchange traded funds (“**ETF**”) tracking stock index or other subject matter at specific times and prices in the future. Stock options include both single stock options and ETF options. Currently, the stock option pilot program will be limited to ETF options only; single stock options are temporarily excluded and no timetable has been announced for introducing single stock options.

The Pilot Measures require that the subject matter of an option contract must have sufficient spot trading basis, be sufficient in market competitiveness, and have adequate volume available for delivery. In accordance with the *SSE Rules for Pilot Stock Option Trading*, only qualified stocks or ETFs may be selected as the subject matter of an option contract and certain conditions will apply, such as the underlying securities must be the subject matter of margin trading and securities lending, and the stocks have been listed or the funds have been set up for no less than 6 months etc.

2. Stock Option Operation Institutions

According to the Pilot Measures, the stock option

operation institutions include securities companies, futures companies and other financial institutions approved by the CSRC to engage in stock option business. Securities companies may engage in brokerage, proprietary trading, and market making of stock options; while futures companies may engage in brokerage of stock options and the brokerage of physical securities relating to covered call and exercise of stock options. Futures companies are prohibited from engaging in proprietary trading business or market making of stock options, while upon the CSRC's approval the subsidiaries of futures companies may engage in market making of stock options. Furthermore, futures companies may accept one or more securities companies' entrustment, introduce clients to it or them to participate in stock option trading, and provide other related services.

3. Option Market Making

The Pilot Measures stipulate that stock option trading may adopt market maker system. According to the *SSE Guidance on Market Maker Business of Pilot Stock Option* ("**Guidance on Market Maker**"), market makers refer to the institutions that provide bilateral consecutive quotations or bilateral responsive quotations and other services as stipulated by SSE or according to the market making agreement. Prime market makers shall provide all of the aforesaid market making services, while the services that can be provided by general market makers should not include providing investors with bilateral consecutive quotations. Market makers are required to engage in market making business by using their own funds. A single option contract may have multiple market makers offering services.

The Guidance on Market Maker also specifies market making indexes, including the maximum bid-ask spread, the minimum bid spread,

participation rate, contract covering rate, the maximum responding quoting time and the minimum reserve time for responding quoting. When specified situations occur, market makers may apply to the SSE for exemption of market making obligations. The Pilot Measures also require option market makers to establish and improve information isolation system and prevent any conflict of interests between market making business and other businesses.

4. Monitoring of Margin

As for the monitoring over safe deposit of margins, the China Securities Investor Protection Fund Corporation Limited and the China Futures Margin Monitoring Center shall respectively be responsible for monitoring the safe deposit of investors' funds involved in the stock option business of securities companies and futures companies.

5. Investor Suitability System and Brokerage Contract

An option broker will conduct stock option trading for investors in its own name as entrusted by investors and the trading results will be borne by investors. Investor suitability systems must be adopted by the brokers for stock option trading. Brokers shall evaluate the suitability of investors, establish investor suitability examination system, test investors' basic knowledge about options, and cautiously evaluate investors' risk bearing ability. The exchanges will formulate specific standards for stock option investors.

Same as futures trading, a brokerage contract and a written risk disclosure are required to be executed by investors. The brokerage contract shall include: (i) the risk management measures adopted by the operation institution in respect of the investor, (ii) the methods for handling the circumstances where there is default of delivery or insufficiency of margins on the part of the

investor, (iii) the relevant terms relating to forcible position closing, and (iv) the relevant implementation process for the exercise of options.

6. Option Account Opening

According to the *SSE Rules of Pilot Stock Option Trading*, investors must use an account system independent from that of the spot market. The securities depository and clearing institutions are designated to be responsible for allocating and distributing the codes for investors' derivatives contract accounts. Investors should apply to option operation institutions to open derivative contract accounts and corresponding margin accounts. Investors who apply to open option contract accounts must have already had their own SSE securities accounts, and the registration information of the derivatives contract account of an investor shall be consistent with that of the RMB common stock account of the same investor.

7. Premiums and Margins

Buyers of stock options shall pay premiums while sellers of stock options shall collect premiums and pay margins in accordance with the provisions of the exchanges and the securities depository and clearing institutions. Margins must be paid in cash or securities recognized by the exchanges and the securities depository and clearing institutions.

8. Mark-to-market Clearing and Tiered Clearing

In accordance with the Pilot Measures, stock option clearing participants are defined as institutions qualified as clearing participants in stock option clearing business of the securities depository and clearing institutions. The securities depository and clearing institution, as the common counterparty of all stock option

clearing participants, shall provide multilateral netting services for stock option business and conduct clearing of option exercise in accordance with the delivery-versus-payment principle.

Mark-to-market clearing system is adopted for stock option trading. The securities depository and clearing institution shall promptly notify the clearing results to clearing participants on the same day and the clearing participants shall conduct clearing for investors based thereon and notify the investors of the clearing results timely in a manner agreed with the investors.

Where a clearing participant has insufficient margin or defaults in delivery, the securities depository and clearing institution shall have the right to take measures against it. Similarly, where an investor has insufficient margin or defaults in delivery, the operation institution may take certain measures against the investor in accordance with the relevant business rules and the brokerage contract. Furthermore, a clearing participant may authorize the securities depository and clearing institution to transfer the securities suspended from delivery to an investor to the securities disposal account of the clearing participant for disposal.

9. Risk Control Systems

The Pilot Measures require that, for stock option trading activities, the exchanges shall establish margin, price limit, position limit, large position reporting, risk reserve and risk alert systems as well as other risk management systems prescribed by the CSRC and shall specify in the business rules the requirements for directors, supervisors, senior managers or shareholders whose shareholding reach certain threshold, of listed companies, to engage in stock option trading; the securities depository and clearing institutions shall establish margin, mark-to-market, forcible position closing, clearing guarantee, risk

reserve systems as well as other risk management systems prescribed by the CSRC. The *SSE Management Measures on Risk Control for Pilot Stock Option Trading* further provide detailed rules on risk control measures such as

margin, position limit, large position reporting, forcible position closing, trading cancellation, clearing guarantee and risk alert systems etc.

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资本市场法律热点问题

证监会发布股票期权交易管理办法

2015年1月9日，中国证监会正式发布《股票期权交易试点管理办法》（以下简称“《试点办法》”）和《证券期货经营机构参与股票期权交易试点指引》（以下简称“《试点指引》”）。与此同时，上海证券交易所（以下简称“上交所”）正式发布《上海证券交易所股票期权试点交易规则》（以下简称“《股票期权试点交易规则》”）、《上海证券交易所股票期权试点投资者适当性管理指引》、《上海证券交易所股票期权试点做市业务指引》，并和中国证券登记结算有限责任公司联合发布了《上海证券交易所、中国证券登记结算有限责任公司股票期权试点风险控制管理办法》。同日，中国证监会批准上交所开展股票期权交易试点，试点产品为上证50ETF期权，正式上市交易日为2015年2月9日。上证50ETF期权的标的是由华夏基金作为管理人的上证50ETF。据报道，截止2015年1月9日，上证ETF的基金份额为98.97亿份，基金规模为250亿元。

1. 股票期权合约及合格标的股票或ETF

股票期权合约是指由证券交易所统一制定的、规定买方有权在将来特定时间按照特定价格买入或者卖出约定股票或者跟踪股票指数的交易型开放式指数基金（以下简称“ETF”）等标的物的标准化合约。股票期权包括个股期权和ETF期权两类。据了解，现阶段股票期权将从ETF期权开始试点，暂不包括个股期权。目前尚不清楚下一步何时推出个股期权。

《试点办法》要求股票期权交易品种必须具有充分的现货交易基础，市场竞争充分，可供交割量充足。根据上交所《股票期权试点交易规则》的规定，股票及ETF作为期权合约的标的，应当满足一定的条件，例如标的股票应属于融资融券标的、股票上市或基金成立时间不少于6个月等。

2. 股票期权经营机构

《试行办法》规定的股票期权经营机构包括证券公司、期货公司以及证监会批准经营股票期权业务的其他金融机构。其中，证券公司可以从事股票期权经纪业务、自营业务、做市业务；期货公司可以从事股票期权经纪业务、与股票期权备兑开仓以及行权相关的证券现货经纪业务。期货公司不能从事股票期权的自营业务或做市业务，但期货公司子公司经过证监会批准可以从事股票期权做市业务。此外，期货公司可以接受一家或者多家证券公司的委托，为其介绍客户参与股票期权交易，并提供其他相关服务。

3. 期权做市

《试行办法》规定股票期权交易可以实行做市商制度。根据上交所《股票期权试点做市业务指引》（以下简称“《做市商指引》”）的规定，做市服务包括向投资者提供双边持续报价、对投资者询价提供双边回应报价及交易所规定或做市协议约定的其他业务。主做市商应提供上述所有做市服务，

而一般做市商仅提供除向投资者提供双边持续报价服务之外的服务。做市商必须使用自有资金开展做市业务。单个合约品种可以有多个做市商提供做市服务。

《做市商指引》对做市指标进行了明确规定，包括报价的最大买卖差价、最小报价差价、参与率、合约覆盖率、回应报价的最长回应报价时间以及最短保留时间等。在规定情形出现时，做市商可以向上交所申请豁免做市义务。《试点办法》还规定期权做市商应当建立信息隔离制度，防范做市业务与其他业务之间的利益冲突。

4. 保证金监管

就保证金安全存管的监控，中国证券投资者保护基金公司、中国期货保证金监控中心将分别负责对证券公司、期货公司开展股票期权业务涉及的投资资金安全存管实施监控。

5. 投资者适当性制度和经纪合同

期权经纪商接受投资者委托以自己的名义为投资者进行股票期权交易，交易结果由投资者承担。股票期权交易实行投资者适当性制度。经纪商应当对投资者进行适当性评估，建立投资者资质审查制度，测试投资者的期权基础知识，审慎评估投资者的风险承受能力。交易所将制定股票期权投资者的具体标准。

如同期货交易一样，投资者需签署经纪合同和风险揭示书。经纪合同中必须包括经营机构对投资者采取的风险管理措施、投资者出现交收违约或者保证金不足情形的处理方式以及强行平仓和行权操作等事项。

6. 期权账户开立

根据上交所《股票期权试点交易规则》的规定，投资者须使用独立于现货市场的账户体系。证券登记结算机构将分配和发放投资者衍生品合约账户号码。投资者应向期权经营机构申请开立衍生品合约账户及相应保证金账户。投资者申请开立合约账

户的，应当拥有上交所证券账户。投资者衍生品合约账户应当与其人民币普通股票账户的相关注册信息一致。

7. 权利金和保证金

股票期权的买方应当支付权利金，而股票期权的卖方收取权利金，并应当根据证券交易所、证券登记结算机构的规定交纳保证金。保证金应当以现金、证券交易所及证券登记结算机构认可的证券方式交纳。

8. 当日无负债结算和分级清算

根据《试点办法》，股票期权结算参与者被界定为具有证券登记结算机构股票期权结算业务结算参与人资格的机构。证券登记结算机构作为股票期权结算参与者（以下简称“**结算参与者**”）的共同对手方，为股票期权业务提供多边净额结算服务，并按照货银对付原则实施期权行权结算。

股票期权交易实行当日无负债结算制度。证券登记结算机构应当在当日及时将结算结果通知结算参与者，结算参与者据此对投资者进行结算，并应当将结算结果按照与投资者约定的方式及时通知投资者。

结算参与者出现保证金不足、交收违约情形的，证券登记结算机构对结算参与者采取措施。投资者出现保证金不足、交收违约情形的，经营机构可以根据相关业务规则及经纪合同的规定，对投资者采取措施。结算参与者还可以委托证券登记结算机构将暂不交付给投资者的证券划付至结算参与人的证券处置账户内进行处置。

9. 风控制度

《试行办法》规定，证券交易所应当建立保证金、涨跌停板、持仓限额、大户持仓报告、风险准备金、风险警示制度以及证监会要求的其他风险管理制度，并在业务规则中明确上市公司董事、监事、高级管理人员及持股达到一定比例的股东从事股票期权交易的规范要求；证券登记结算机构应建立

保证金、当日无负债结算、强行平仓、结算担保金、
风险准备金以及证监会要求的其他风险管理制度。
上交所《股票期权试点风险控制管理办法》对保证

金制度、持仓限额制度、大户持仓报告制度、强行
平仓制度、取消交易制度、结算担保金制度、风险
警示制度等风控措施做出了详细的规定。

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