Global Financial Services Regulatory Guide - China

1. Who regulates banking and financial services in your jurisdiction?

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In the past, the supervision over the banking, securities and insurance industries was all carried out by the central bank of China, that is, the People’s Bank of China (PBOC). With the establishment of the China Securities Regulatory Commission (CSRC) in 1992, the China Insurance Regulatory Commission (CIRC) in 1998 and the China Banking Regulatory Commission (CBRC) in 2003, the regulatory and supervisory functions of the three industries have been officially taken over from the PBOC and assumed by these respective authorities. In 2004, the CSRC, CIRC and CBRC entered into the Memorandum of the Three Financial Supervisory Commissions concerning the Division of and Cooperative Supervision over the Financial Industry, which clarified the division of the regulatory and supervisory functions of the three industries. In 2018 the CBRC and CIRC merged, and the China Banking and Insurance Regulatory Commission (CBIRC) was formed to regulate both banking and insurance industries.

China has a civil law legal system based largely on the continental model, which mainly includes: (a) laws at the state level; (b) regulations published by the State Council; (c) local regulations; and (d) rules published by the governmental agencies.

With few exceptions, foreign investors are generally required to obtain appropriate approvals from competent Chinese regulators before they can set up a business presence or carry on business or marketing activities in China.

China has two regulators responsible for the authorization and supervision of banks, insurers, securities firms and other financial institutions. The allocation of responsibilities between the CBIRC and the CSRC is as follows:

The CBIRC is responsible for supervising banks, finance companies, trust companies, financial lease companies, financial assets management companies, consumer finance companies, auto finance companies, other deposit-taking financial institutions, insurance companies, and other insurance-related institutions in China.

The CSRC is responsible for supervising securities products and services providers in China, such as listed companies, securities companies, securities investment fund management companies, and stock exchanges.

The PBOC also plays an important role in supervising the financial services, such as making the monetary policies and supervising the interbank bond market and interbank clearing system.

Non-financial institution payment service providers ("**Payment Service Providers**") in China are regulated and supervised by the PBOC.  In 2010, the PBOC started to allow Payment Service Providers to operate upon securing a payment service permit.  The PBOC is also responsible for regulating anti-money laundering and anti-terrorism financing activities in China. Financial institutions and Payment Service Providers are required to develop and implement robust and effective internal control policies against anti-money laundering and anti-terrorism financing activities and report any such cases to the PBOC.  In case of any non-compliance, the PBOC may impose penalties (including warning and monetary fines).

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