

Detailed Rules for the Administration of Tiered Management of Debt Financing Instruments of Overseas Non-Financial Enterprises

Article 1 These Detailed Rules are promulgated with a view to promoting the open-up of the bond market and clarifying the relevant matters concerning tiered management with respect to overseas non-financial enterprises issuing debt financing instruments, and in accordance with the *Guidelines on Debt Financing Instruments of Overseas Non-Financial Enterprises (for Trial Implementation)* (《境外非金融企业债务融资工具业务指引（试行）》) and the *Rules and Procedures for Registration of Debt Financing Instruments of Non-Financial Enterprises for Public Issuance* (《非金融企业债务融资工具公开发行注册工作规程》) promulgated by the National Association of Financial Market Institutional Investors (“NAFMII”).

Article 2 In accordance with the *Rules and Procedures for the Registration of Debt Financing Instruments of Non-Financial Enterprises for Public Issuance*, the Secretariat of NAFMII, acting under the authorization of the Governing Council of NAFMII and upon the review and determination by the Bond Market Professional Committee of the NAFMII, hereby promulgates these Detailed Rules to specify the working mechanisms relating to the tiered management with respect to overseas non-financial enterprises.

Article 3 Overseas non-financial enterprises applying for the registration of issuances of debt financing instruments shall be categorized into overseas seasoned enterprises and overseas unseasoned enterprises based on the criteria such as their market recognition and the quality of their information disclosure and subject to the respective working mechanisms for the registration and issuances accordingly.

Where an overseas enterprise has defaulted on any debt securities or deferred payment of the principal or interest on any debt securities on the domestic or overseas market and such default or late payment still continues, such overseas enterprise shall not issue any debt financing instruments.

Article 4 An overseas non-financial enterprise meeting all of the following criteria shall be an overseas seasoned enterprise:

- (1) The enterprise enjoys high market recognition on the domestic or overseas markets and has a prominent industry position and good track of credit record;
- (2) The enterprise is in solid financial condition, and its size, capital structure and profitability meet the applicable requirements set forth in the Appendix;

- (3) The enterprise's equity securities are listed on one or more major overseas securities exchanges and the enterprise has made ongoing public disclosure during the past 12 months; and the enterprise is experienced in debt offerings and has issued at least RMB10 billion or its equivalent in aggregate principal amount of debt securities worldwide in the past 36 months (See additional requirements set forth in the Appendix);
- (4) In the past 36 months, the issuer (and the guarantor, if any) has not defaulted on any debt securities or any other material debt; and none of its controlling shareholder(s) and controlled subsidiaries has defaulted on any debt securities;
- (5) In the past 36 months, the issuer (and the guarantor, if any) has not been restricted from conducting equity or debt financing in any jurisdiction due to significant violation of laws or regulations, nor has it been subject to any penalties imposed by any domestic or overseas securities regulatory authorities or securities exchanges or warning or any other self-regulatory discipline higher than warning imposed by NAFMII; nor has the *de facto* controlling person(s) of the issuer (or the guarantor, if any) been subject to significant administrative or criminal penalties; and
- (6) Any additional requirements imposed by NAFMII for investor protection purposes.

Unless otherwise provided herein, each of the above-referenced requirements shall apply to the issuer. Where the debt financing instruments are to be issued by a subsidiary and guaranteed by the parent company who assumes joint liability thereunder, the above-referenced requirements shall apply to the guarantor.

Article 5 An overseas non-financial enterprise not meeting the criteria set forth in Article 4 shall be an overseas unseasoned enterprise.

Article 6 Overseas seasoned enterprises may prepare one set of registration documents covering multiple types of debt financing instruments, including super short-term commercial paper (SCP), commercial paper (CP), medium-term notes (MTN), perpetual notes (PN), asset-backed notes (ABN) and green notes (GN), and apply for universal registration (hereinafter referred to as “**DFI Registration**”). Alternatively, overseas seasoned enterprises may prepare registration documents for each type of debt financing instruments and separately register debt financing instruments by product. Overseas unseasoned enterprises shall separately register debt financing instruments by product.

Under the DFI Registration model, overseas seasoned enterprises shall not be

required to set a registration amount at the time of registration, and may determine the product type, offering size and tenor of each series of debt financing instruments at the time of offering. An overseas seasoned enterprise having obtained DFI Registration for the first time shall, prior to each offering of the first three series of debt financing instruments, report to NAFMII on the offering terms and use of proceeds of each series of debt financing instruments and complete the modification procedures.

Where its DFI Registration documents provide for the relevant terms and disclosure arrangements for private placements, the overseas seasoned enterprise may issue debt financing instruments through private placement under the DFI Registration, and may disclose information in accordance with the applicable requirements for private placements as well as such disclosure arrangements set forth in its DFI Registration documents; where its DFI Registration documents do not so provide for such terms or disclosure arrangements or any of such terms or disclosure arrangements are to be modified, the overseas seasoned enterprise shall report to NAFMII accordingly and complete the modification procedures prior to the private placement. Overseas seasoned enterprises may also register private placements of debt financing instruments in accordance with the *Guidelines on Debt Financing Instruments of Overseas Non-Financial Enterprises (for Trial Implementation)* and the *Rules and Procedures for Registration of Debt Financing Instruments of Non-Financial Enterprises for Private Placement* (《非金融企业债务融资工具定向发行注册工作规程》).

An overseas seasoned enterprise that continues to meet the criteria for overseas seasoned enterprises during the validity period of its registration may file an updated set of DFI Registration documents within three months prior to the expiration of the existing DFI Registration.

Article 7 An overseas enterprise registering multiple types of debt financing instruments under a DFI Registration program or only registering super short-term commercial paper (SCP) may form a syndicate of principal underwriters at the time of registration. To change any member of the syndicate of principal underwriters, the enterprise shall provide an explanation therefor. Any new principal underwriter added to the syndicate shall conduct due diligence in accordance with applicable requirements and issue a letter of recommendation.

An overseas enterprise registering other types of debt financing instruments including short-term commercial paper (CP), medium-term notes (MTN) and/or perpetual notes (PN) separately may form a syndicate consisting of up to four principal underwriters at the time of registration, and may change any member of such syndicate pursuant to the requirements set forth above, subject to the above-referenced limit on the number of principal underwriter

syndicate members. No member of the principal underwriter syndicate may be removed unless such principal underwriter discontinues its business of acting as a principal underwriter due to being imposed administrative penalties or self-regulatory disciplines.

Article 8 An overseas enterprise forming a syndicate of principal underwriters may mandate up to four principal underwriters and joint lead underwriters for an offering of a single series of no less than RMB5 billion debt financing instruments, and up to three principal underwriters and joint lead underwriters for an offering of a single series of less than RMB5 billion but no less than RMB3 billion debt financing instruments, and up to two principle underwriters and joint lead underwriters for any other offering of debt financing instruments.

Article 9 For registration and issuance of each series of debt financing instruments, at least one principal underwriter shall have a subsidiary or branch in the country or region where the enterprise is incorporated or the principal place of its business is located, or make other necessary arrangements, to ensure that such principal underwriter have the capability to perform its duties including conducting due diligence.

Article 10 Where an overseas enterprise having registered debt financing instruments pursuant to the requirements applicable to overseas seasoned enterprises no longer meets the criteria set forth in Article 4 after the Registration Meeting of NAFMII and before the establishment of the creditor-debtor relationship in connection with its debt financing instruments, the following mechanism shall apply:

- (1) If the overseas enterprise fails to meet the criteria set forth in Articles 4(1), 4(4), 4(5) or 4(6) or its equity securities are no longer listed on a securities exchange, such overseas enterprise shall be treated as an overseas unseasoned enterprise for the purpose of registration and issuance of debt financing instruments. If such enterprise has registered debt financing instruments under a DFI Registration program, it shall modify the products, registration amount, principal underwriters and other relevant terms of debt financing instruments in accordance with the rules and regulations applicable to the registration of debt financing instruments by product. If the overseas enterprise has received a Notice of Acceptance of Registration for a DFI Registration program, NAFMII shall re-issue a Notice of Acceptance of Registration with the same expiration date as that of the replaced Notice of Acceptance of Registration, based on the modified terms.
- (2) If the overseas enterprise fails to meet the criteria set forth in Articles 4(2) or 4(3) but continues to meet other criteria set forth in Article 4, it may continue to issue debt financing instruments under its existing DFI

Registration (except where its equity securities are no longer listed on a securities exchange).

- (3) Upon the occurrence of any of the events specified in the *Form Requirements for Registration Documents for Debt Financing Instruments of Overseas Non-Financial Enterprises* (《境外非金融企业债务融资工具注册文件表格》) triggering refiling by the issuer (and the guarantor, if any) and review by the Registration Meeting of NAFMII, a determination will be made by the Registration Meeting of NAFMII on whether the existing registration shall remain valid in accordance with the relevant requirements.

Article 11 NAFMII may review relevant documents for the issuance of debt financing instruments of overseas enterprises during or after the registration or issuance process and take disciplinary actions on any violation of applicable requirements under the relevant rules or guidelines based on the results of such review.

Article 12 If the NAFMII reviewers find the information disclosure in the registration documents incomplete, the lead reviewer shall collect all the opinions of the reviewers and issue a letter to the overseas enterprise or relevant intermediary institutions requesting the submission of additional information (the “**Comment Letter**”). Where an overseas enterprise registers debt financing instruments for the first time, the Comment Letter shall be issued within ten (10) business days after NAFMII’s acceptance of the registration documents. Where an overseas enterprise has previously registered debt financing instruments, the Comment Letter shall be issued within five (5) business days after NAFMII’s acceptance of the registration documents.

If, upon the receipt by the departments of registration and issuance of NAFMII of the supplemental documents from the overseas enterprise or relevant intermediary institutions, the reviewers are still of the view that the information disclosure supplemented by such supplemental documents is incomplete, the lead reviewer shall collect all the opinions and issue a Comment Letter. The Comment Letter to an overseas seasoned enterprise shall be issued within three (3) business days after NAFMII’s receipt of the supplemental documents; and the Comment Letter to an overseas unseasoned enterprise shall be issued within five (5) business days after NAFMII’s receipt of the supplemental documents. After the reviewers conclude that the information disclosure as so supplemented is complete under relevant rules and guidelines, the lead reviewer shall prepare a review report and submit such report together with the registration documents so reviewed to the Registration Meeting.

Article 13 Unless otherwise specified, issuances of debt financing instruments by overseas non-financial enterprises through private placement shall be

governed by the *Guidelines on Debt Financing Instruments of Overseas Non-Financial Enterprises (for Trial Implementation)* and the *Rules and Procedures for Registration of Debt Financing Instruments of Non-Financial Enterprises for Private Placement*, not by these Detailed Rules.

Article 14 These Detailed Rules shall become effective on the date of the promulgation thereof. Debt financing instruments registered before the promulgation of these Detailed Rules shall continue to be governed by the relevant rules and regulations in effect at the time of the registration.

Appendix: Additional Requirements for Overseas Seasoned Enterprises

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I. Requirements on Operating and Financial Conditions

An overseas seasoned enterprise must meet one of the following criteria:

1. its total assets greater than RMB100 billion or its equivalent, debt to asset ratio lower than 85%, and return on total assets ratio more than 3%; or
2. its total assets greater than RMB100 billion or its equivalent, debt to asset ratio lower than 75%, and operating income larger than RMB20 billion or its equivalent.

Notes:

1. If the amount of total assets, the debt to asset ratio, and the return on total assets ratio calculated based on either the audited financial data of the latest financial year or the average of the audited financial data of the past three financial years meet the above-referenced criteria, such criteria shall be deemed being met. Return on total assets ratio (%) = EBIT/average total assets x 100%; EBIT = gross profit + interest expense under financial expenses.
2. For overseas enterprises whose total assets exceed RMB300 billion or its equivalent with high market recognition on the domestic or overseas markets, prominent industry position, good track of credit record and high quality of information disclosure, the requirements on the debt to asset ratio, return on total asset ratio and/or operating income may be relaxed appropriately.

II. Requirements on Debt Financing Experience

An overseas seasoned enterprise shall have issued at least RMB10 billion or its equivalent in aggregate principal amount of debt securities worldwide in the past 36 months. All types of debt securities with a tenor of at least ninety (90) days (including, among others, convertible bonds, perpetual bonds and asset-backed securities, and excluding syndicated loans) that are tradable and transferrable among certain investors can be included in the calculation of issue size, regardless of whether the debt securities were issued through public offering or private placement. Debt securities issued directly by the enterprise, debt securities issued by its subsidiaries and guaranteed by such enterprise who assumes joint liability thereunder, debt securities issued by merged or acquired entities and debt securities acquired through debt assumption can be included in the calculation of issue size.