

HAIWEN & PARTNERS

**Haiwen Finance and Asset Management Monthly
(Bilingual) (January 2025)**

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海问金融资管月刊(双语)(1月)

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引言

为便于业界及时了解金融资管行业热点，海问每月发布《海问金融资管月刊》，介绍并简评监管新规及行业动态。

2025年1月，**监管新规方面**，国家金融监督管理总局（以下简称“**金融监管总局**”）发布《保险公司监管评级办法》《金融租赁公司监管评级办法》及《小额贷款公司监督管理暂行办法》；中国证券监督管理委员会（“**中国证监会**”）发布《中国证监会行政处罚裁量基本规则》及《证券期货法律适用意见第19号——〈上市公司收购管理办法〉第十三条、第十四条的适用意见》；国务院发布《国务院关于规范中介机构为公司公开发行股票提供服务的规定》。

行业动态方面，中央金融委员会办公室（“**中央金融办**”）、中国证监会、财政部、人力资源社会保障部、中国人民银行、金融监管总局联合印发《关于推动中长期资金入市工作的实施方案》；同时海问总结部分中国证券投资基金业协会（“**基金业协会**”）2025年1月纪律处分案例以供了解。

一、新规速递

1. 金融监管总局发布《保险公司监管评级办法》

金融监管总局于2025年1月7日发布《保险公司监管评级办法》（“**《保险公司评级办法》**”），其主要内容包括：

(1) 适用范围与评级对象：《保险公司评级办法》适用于我国境内开业满一个完整会计年度以上的保险公司，包括保险集团（控股）公司、财产保险公司、人身保险公司、再保险公司及外国保险公司分公司。

(2) 评级要素与权重分配：评级要素涵盖公司治理、偿付能力、负债质量、资产质量（含资产负债匹配）、信息科技、风险管理、经营状况、消费者权益保护及其他。各要素权重之和为100%，其中公司治理、偿付能力权重均不低于15%；负债质量、资产质量、信息科技、风险管理权重均不低于10%；经营状况、消费者权益保护权重均不低于5%。保险集团（控股）公司可调整部分要素权重，再保险公司可不设置消费者权益保护要素。

(3) 评级结果分级与监管措施：评级结果分为1—5级和S级，数值越大风险越高，其中，针对1级/2级公司，监管机构无需采取特别措施，支持市场准入与业务创新；针对3级公司，监管机构提高非现场监管频率，限制分支机构增设及高风险业务；针对4级公司，监管机构采取限制高管薪酬、股东分红，责令增资或调整业务结构等措施；针对5级/S级公司，监管机构制定风险处置方案，推动重组或市场退出。

(4) 评级周期为一年，评价期间为每年1月1日至12月31日，原则上于次年3月底前完成。

海问简评

《保险公司评级办法》以系统性框架强化分类监管，体现了穿透式监管原则，其分级处置措施优化了监管资源配置。

2. 金融监管总局发布《金融租赁公司监管评级办法》

2025年1月23日金融监管总局发布《金融租赁公司监管评级办法》（“[《金融租赁公司评级办法》](#)”），对《中国银保监会办公厅关于印发金融租赁公司监管评级办法（试行）的通知》进行了多项重要修订，旨在进一步加强对金融租赁公司的监管，提升其风险防控能力。主要内容有：

(1) 评级要素调整：形成五大评级维度，即公司治理（20%）、资本管理（15%）、风险管理（30%）、专业能力（25%）、信息科技管理（10%），通过调整权重，持续突出风险管理和专业能力的重要性，同时新增信息科技管理以契合金融科技发展趋势，引导公司提升数字化管理水平。

(2) 监管评级级次优化：评级结果从优到劣划分为1-5级和S级，数值越大风险越高。出现重大风险的直接列为5级，于重组、被接管或市场退出阶段的列为S级，不参与当年评级。评级完成后，若公司发生重大情势变化（如重大风险事件或监管新发现），可动态调整评级结果，提升监管时效性。

(3) 强化评级结果运用：评级结果作为市场准入（如业务范围调整、机构设立）的审慎性条件，高评级公司可优先试点创新业务，低评级公司可能被暂停专项业务或面临高强度监管。对评级下降的公司，可暂停业务但给予一年观察期，期间业务暂不受影响，鼓励公司及时纠偏。

海问简评

本次修订通过整合评级要素、细化风险分级及动态调整机制，构建了更精准的金融租赁公司监管框架，体现了“风险为本”的监管理念。新增信息科技管理维度顺应了数字化转型趋势，而分级分类监管和观察期机制则平衡了风险防控与机构发展需求。

3. 金融监管总局发布《小额贷款公司监督管理暂行办法》

金融监管总局发布《小额贷款公司监督管理暂行办法》（“**《小额贷款公司监管办法》**”），旨在规范小额贷款公司（含网络小额贷款公司）的经营行为，强化监管，防范风险，促进行业健康发展。其主要内容如下：

(1) 规定贷款集中度与限额：小额贷款公司对同一借款人的贷款余额不得超过上年末净资产的10%，对同一借款人及其关联方的贷款余额不得超过15%；网络小额贷款公司单户消费贷款上限为20万元，生产经营贷款上限为1000万元，突出“小额、分散”的普惠定位。

(2) 加强合作机构管理：禁止将授信审查、风险控制等核心业务外包，不得与无放贷资质的机构合作发放贷款，与商业银行联合发放的网络贷款中的单笔出资比例不得低于30%；合作机构的网站、APP等需依法备案，并建立名单制准入机制。

(3) 明确禁止性行为：严禁出租、出借牌照，为无资质主体提供“通道”；不得使用合作机构预存保证金放贷；禁止暴力催收、诱导过度负债等。

(4) 明确融资杠杆限制：非标准化融资（如银行借款、股东借款）余额不得超过上年末净资产的1倍，标准化融资（如债券、资产证券化）余额不得超过4倍；股东借款需为自有资金，发行债券需满足连续三个会计年度盈利等条件。

（5）强化风险管理：逾期90天以上的贷款需划为不良贷款，并实施放贷资金专户管理，禁止通过个人账户操作资金；网络小额贷款需全流程线上操作，并建立数据驱动的风控体系。

（6）完善消费者权益保护：禁止先行扣费、捆绑销售、将贷款列为默认支付选项等行为；强化营销宣传规范，不得片面宣传低门槛、低利率，需保障客户知情权和信息安全。

海问简评

《小额贷款公司监管办法》的出台标志着小额贷款行业进入“强监管”时代，通过明确业务边界、限制融资杠杆、细化风险管控，系统性填补了监管空白。

4. 中国证监会发布《中国证监会行政处罚裁量基本规则》

中国证监会于2025年1月17日发布《中国证监会行政处罚裁量基本规则》（“**《裁量规则》**”），自2025年3月1日起施行。该规则旨在统一执法标准、规范裁量权行使，强化资本市场监管的透明性和公平性。主要内容如下：

（1）明确裁量阶次与适用情形：《裁量规则》将行政处罚分为六档裁量阶次：不予处罚、免予处罚、减轻处罚、从轻处罚、一般处罚、从重处罚，并细化各阶次的适用条件。

（2）细化处罚规则与责任认定：针对共同违法行为，采取“先整体认定后分别处罚”原则，根据各参与者的地位、作用分配责任；但法律已规定独立罚则的（如控股股东指使实施欺诈发行），按特殊规则处理；综合考量职务、知情程度、履职情况等因素确定单位责任人员处罚幅度；独立违法行为罚款累计计算，遵循“一事不二罚”原则。

（3）行刑衔接：先行后刑时，已没收违法所得或罚款的，移送司法机关时需载明情况；先刑后行时，被判处有期徒刑后不再重复罚款；免予刑事处罚但需行政处罚时，依法处理。

（4）监督与决策机制：对情节复杂或重大违法行为，需经中国证监会负责人集体讨论决定；若适用规则显失公平或情况变化，需经中国证监会主要负责人批准；中国证监会加强对派出机构处罚权行使的监督，确保执法统一。

海问简评

《裁量规则》通过量化裁量标准、细化情节分类，显著提升了行政处罚的透明度和可预期性，体现了从严监管与过罚相当的平衡。

5 . 中国证监会发布《证券期货法律适用意见第19号——<上市公司收购管理办法>第十三条、第十四条的适用意见》

2025年1月10日，中国证监会发布《证券期货法律适用意见第19号——<上市公司收购管理办法>第十三条、第十四条的适用意见》（“**《适用意见》**”）。

根据《上市公司收购管理办法》（“**《收购办法》**”），投资者及其一致行动人持股达到5%后，其所持股份比例每增加或者减少5%，应当报告与公告，在该事实发生之日起至公告后三日内，不得再行买卖该上市公司的股票。在《适用意见》发布以前，实践中存在持股比例达到5%及其整数倍时（如10%、15%、20%、25%、30%等），暂停交易并披露和持股比例增减量达到5%时（如6%增至11%、12%减至7%），暂停交易并披露两种理解，本次《适用意见》明确应当采用第一种理解，即投资者占有持股比例达到5%、10%、15%等节点时须暂停交易，并进行报告和公告；《适用意见》同时明确“达到5%”不仅包含比例升至5%的情形，还包含比例降至5%的情形；最后《适用意见》明确因上市公司增发股份、减少股本、债转股等上市公司变化而被动触及披露刻度的投资者的披露免责以及对于《适用意见》施行前实施但施行后发现的违规行为，采取“从旧兼从轻”的原则进行新旧划断。

海问简评

《适用意见》明确《收购办法》第十三条和第十四条的适用细节，为投资者在股权比例变化时提供了清晰的报告指引，解决了实践中关于持股比例增减披露标准不同的问题，明确暂停交易及报告的情况。同时，设定了免责条款，并强调“从旧兼从轻”的原则，体现了监管的合理性与灵活性，进一步增强了法律适用的明确性与可操作性。

6 . 国务院发布《国务院关于规范中介机构为公司公开发行股票提供服务的规定》

2025年1月10日，国务院发布了《国务院关于规范中介机构为公司公开发行股票提供服务

的规定》（“**《规范中介规定》**”），该规定已于2025年2月15日施行。其主要内容有：

（1）适用范围：证券公司、会计师事务所、律师事务所等中介机构为境内公司境内公开发行股票提供付费服务的行为。

（2）禁止参与违法行为与信息披露义务：中介机构不得配合发行人实施财务造假、欺诈发行、违规信息披露等行为，且其出具的文件不得存在虚假记载、误导性陈述或重大遗漏；发行人需在招股说明书或其他文件中详细披露中介服务收费标准、金额及付费安排。

（3）收费规范：根据工作量、资源投入等因素合理收费，并在合同中明确约定；证券公司保荐业务、会计师事务所审计业务不得以股票发行上市结果或审计结果作为收费条件，律师事务所须统一收费，符合国务院司法行政部门规定；不得在合同外收取费用、规避监管调节收费，或通过入股、上市奖励等谋取不正当利益。

（4）监管措施：证券监管、财政、司法行政等部门协同监管，必要时可开展联合检查，依法查处违规行为；地方政府不得以股票上市结果为由给予发行人及中介机构奖励，违规奖励需追回并追责。

海问简评

《规范中介规定》通过明确执业边界、强化收费透明度和构建多部门协同监管框架，系统性规范中介机构的服务行为，有利于遏制财务造假、利益输送等乱象，提升资本市场公信力。《规范中介规定》实施后，中介机构需全面修订合同条款，加强内控合规，否则可能面临高额处罚及声誉风险。



二、行业动态

1. 中央金融办、中国证监会、财政部、人力资源社会保障部、中国人民银行、金融监管总局联合印发《关于推动中长期资金入市工作的实施方案》

2025年1月，中央金融办等机构联合印发《关于推动中长期资金入市工作的实施方案》

（“**《实施方案》**”），重点引导中长期资金（如商业保险资金、全国社会保障基金、基本养老保险基金、企（职）业年金基金、公募基金等）进一步加大入市力度，主要亮点有：

(1) 对国有保险公司经营绩效全面实行三年以上的长周期考核，净资产收益率当年度考核权重不高于30%，三年到五年周期指标权重不低于60%。

(2) 稳步提升全国社会保障基金股票类资产投资比例，推动有条件地区进一步扩大基本养老保险基金委托投资规模。细化明确全国社会保障基金五年以上、基本养老保险基金投资运营三年以上长周期业绩考核机制，支持全国社会保障基金理事会充分发挥专业投资优势。

(3) 引导上市公司加大股份回购力度，落实一年多次分红政策。推动上市公司加大股份回购增持再贷款工具的运用。允许公募基金、商业保险资金、基本养老保险基金、企业年金基金、银行理财等作为战略投资者参与上市公司定增。在参与新股申购、上市公司定增、举牌认定标准方面，给予银行理财、保险资管与公募基金同等政策待遇。进一步扩大证券基金保险公司互换便利操作规模。

2. 近期基金业协会重要纪律处分案例

2025年1月，基金业协会共发布纪律处分案例二十余例，值得关注的有：

(1) 中基协处分〔2024〕495号案例中，管理人因两项违规行为被基金业协会警告：一是未如实报告其接受委托代持某数码公司股权的事实，产品备案信息与实际不符；二是未及时向基金业协会报告股东、注册地、办公地等变更信息，违反相关规定。

(2) 中基协处分〔2024〕483号案例中，基金业协会根据管理人基金产品的托管户银行流水认定基金产品于2018年7月受让管理人股东持有的某信息科技有限公司的股权，属于私募基金以基金财产与管理人关联方发生直接交易的行为。管理人未就该关联交易进行临时报告，也未在2018年年度报告中进行披露。管理人认为该股东仅作为基金投资者参与认购该基金产品，不属于私募股权基金的关联交易行为，协会最终未认可该申辩意见。

(3) 中基协处分〔2024〕506号案例中，管理人自认未对部分投资者履行特定对象确认程序。管理人申辩其并未向不特定对象宣传推介私募基金，此部分投资者为管理人运营人员前同事及多年好友，系特定对象间的民间借贷关系，因此申请减轻纪律处分。基金业协会最终未认可该项理由。

信息来源：

• <https://www.nfra.gov.cn/cn/view/pages/ItemDetail.html?docId=1195501&itemId=915&generaltype=0>

- <https://www.nfra.gov.cn/cn/view/pages/ItemDetail.html?docId=1196824&itemId=915&generaltype=0>
- <https://www.nfra.gov.cn/cn/view/pages/ItemDetail.html?docId=1195504&itemId=915&generaltype=0>
- <http://www.csrc.gov.cn/csrc/c100028/c7534325/content.shtml>
- <http://www.csrc.gov.cn/csrc/c100028/c7532784/content.shtml>
- <http://www.csrc.gov.cn/csrc/c100028/c7533734/content.shtml>
- <http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/5574170/index.html>
- https://www.gov.cn/zhengce/202501/content_7000850.htm
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Haiwen Finance and Asset Management Monthly (January 2025)

Introduction

To make the finance and asset management industry keep abreast of the latest industry developments, Haiwen prepares the “Haiwen Finance and Asset Management Monthly”. This monthly reading aims to introduce and provide brief comments on regulatory development and industry news.

In January 2025, regarding regulatory updates, the National Financial Regulatory Administration (“**NFRA**”) issued the Measures for the Supervision and Rating of Insurance Companies, the Measures for the Supervision and Rating of Financial Leasing Companies, and the Interim Measures for the Supervision and Administration of Microfinance Companies. The China Securities Regulatory Commission (“**CSRC**”) issued the Basic Rules for Administrative Penalty Discretion of the CSRC and the Opinions on the Application of Securities and Futures Laws No. 19 - Interpretation of Articles 13 and 14 of the Administrative Measures for the Acquisition of Listed Companies. The State Council issued the Regulations on Standardizing the Services Provided by Intermediary Institutions for Companies’ Public Issuance of Stocks.

Regarding industry developments, the Central Financial Commission Office (“**CFCO**”), CSRC, Ministry of Finance (“**MOF**”), Ministry of Human Resources and Social Security (“**MHRSS**”), People’s Bank of China (“**PBC**”), and NFRA jointly issued the Implementation Plan for Promoting the Entry of Medium- and Long-Term Funds into the Market. Additionally, Haiwen summarized some disciplinary cases from the Asset Management Association of China (“**AMAC**”) in January 2025 for reference.



I Latest Rules and Regulation

1. NFRA Issued the Measures for the Supervision and Rating of Insurance Companies

On January 7, 2025, the NFRA issued the Measures for the Supervision and Rating of Insurance Companies (“**Insurance Company Rating Measures**”), with the following key points:

(1) Scope of Application and Rating Targets: The Insurance Company Rating Measures apply to insurance companies operating in China for at least one full fiscal year, including insurance groups (holding companies), property insurance companies, life insurance companies, reinsurance companies, and branches of foreign insurance companies.

(2) Rating Elements and Weight Distribution: The rating elements include corporate governance, solvency, liability quality, asset quality (including asset-liability matching), information technology, risk management, operating conditions, consumer rights protection, and others. The total weight of all elements is 100%, with corporate governance and solvency each accounting for no less than 15%; liability quality, asset quality, information technology, and risk management each accounting for no less than 10%; and operating conditions and consumer rights protection each accounting for no less than 5%. Insurance groups (holding companies) may adjust the weights of certain elements, while reinsurance companies may exclude the consumer rights protection element.

(3) Rating Results and Supervisory Measures: Rating results are divided into Levels 1–5 and Level S, with higher numbers indicating higher risk.

- For Level 1/2 companies, regulators do not impose special measures and support market entry and business innovation.
- For Level 3 companies, regulators increase off-site supervision frequency, restrict branch expansion, and limit high-risk business activities.
- For Level 4 companies, regulators impose measures such as restricting executive compensation and shareholder dividends, requiring capital increases, or adjusting business structures.
- For Level 5/S companies, regulators develop risk resolution plans to facilitate restructuring or market exit.

(4) The rating cycle is one year, covering the period from January 1 to December 31, with results generally finalized by the end of March of the following year.

Haiwen Comments

The Insurance Company Rating Measures strengthen classified supervision. This reflects the principle of penetrating supervision, while the tiered resolution measures optimize the allocation of regulatory

resources.

2. NFRA Issued the Measures for the Supervision and Rating of Financial Leasing Companies

On January 23, 2025, the NFRA issued the Measures for the Supervision and Rating of Financial Leasing Companies (“**Financial Leasing Company Rating Measures**”), introducing significant revisions to the Notice of the General Office of the China Banking and Insurance Regulatory Commission on Issuing the Trial Measures for the Supervision and Rating of Financial Leasing Companies. These revisions aim to further strengthen the supervision of financial leasing companies and enhance their risk prevention and control capabilities. The key points are as follows:

(1) Adjustment of Rating Elements: The rating framework now consists of five key dimensions:

- Corporate Governance (20%);
- Capital Management (15%);
- Risk Management (30%);
- Professional Competence (25%);
- Information Technology Management (10%).

By adjusting the weight distribution, the revisions emphasize the importance of risk management and professional competence, while introducing information technology management to align with the development of financial technology. This addition aims to guide companies in improving their digital management capabilities.

(2) Optimization of Supervisory Rating Levels: The rating results are categorized into Levels 1–5 and Level S, ranked from best to worst, with higher numbers indicating higher risk. Companies with significant risks are directly classified as Level 5, while those undergoing restructuring, being taken over, or exiting the market are classified as Level S and excluded from the annual rating process. After the rating is completed, if a company experiences significant changes (e.g., major risk events or new regulatory findings), the rating results can be dynamically adjusted to enhance regulatory responsiveness.

(3) Strengthened Application of Rating Results: The rating results serve as prudential conditions for market access, such as adjustments to business scope or the establishment of institutions. Companies with high ratings may be prioritized for piloting innovative businesses, while low-rated companies may face suspension of specific business activities or heightened regulatory scrutiny. For companies with downgraded ratings, business operations may be temporarily suspended, but they are granted a one-year observation period during which their business activities remain unaffected, encouraging timely corrective actions.

Haiwen Comments

This revision integrates rating elements, refines risk classification, and introduces a dynamic adjustment mechanism, creating a more precise supervisory framework for financial leasing companies. It reflects a “risk-based” regulatory philosophy. The addition of the information technology management dimension aligns with the trend of digital transformation, while the tiered and categorized supervision, along with the observation period mechanism, strikes a balance between risk prevention and the development needs of institutions.

3. NFRA Issued the Interim Measures for the Supervision and Administration of Microfinance Companies

The NFRA issued the Interim Measures for the Supervision and Administration of Microfinance Companies (“**Microfinance Company Supervision Measures**”), aiming to regulate the operations of microfinance companies (including online microfinance companies), strengthen supervision, mitigate risks, and promote the healthy development of the industry. The key provisions are as follows:

(1) Loan Concentration and Limits: The loan balance of a microfinance company to a single borrower must not exceed 10% of its net assets at the end of the previous year, and the loan balance to a single borrower and its related parties must not exceed 15%. For online microfinance companies, the maximum limit for individual consumer loans is RMB 200,000, and the maximum limit for production and business loans is RMB 10 million, emphasizing the inclusive finance principle of “small-scale and diversified” lending.

(2) Strengthened Management of Partner Institutions: Core business functions such as credit review and risk control must not be outsourced. Microfinance companies are prohibited from partnering with

institutions that lack lending qualifications to issue loans. For online loans jointly issued with commercial banks, the microfinance company's contribution to each loan must not be less than 30%. Partner institutions' websites, apps, and other platforms must be legally registered, and an admission mechanism with a whitelist system must be established.

(3) Prohibited Practices: It is strictly forbidden to lease or lend licenses or provide "channels" for unqualified entities. Microfinance companies must not use pre-deposited guarantee funds from partner institutions to issue loans. Practices such as violent debt collection and inducing excessive borrowing are explicitly prohibited.

(4) Financing Leverage Limits: The balance of non-standard financing (e.g., bank loans, shareholder loans) must not exceed 1x the net assets at the end of the previous year. The balance of standardized financing (e.g., bonds, asset securitization) must not exceed 4x the net assets. Shareholder loans must come from self-owned funds, and bond issuance requires meeting conditions such as profitability for three consecutive fiscal years.

(5) Enhanced Risk Management: Loans overdue for more than 90 days must be classified as non-performing loans. Loan funds must be managed through dedicated accounts, and personal accounts must not be used for fund operations. Online microfinance loans must be fully processed online, with a data-driven risk control system in place.

(6) Improved Consumer Protection: Practices such as upfront fee deductions, bundled sales, and setting loans as default payment options are prohibited. Marketing and promotional activities must comply with strict standards, avoiding misleading claims such as "low thresholds" or "low interest rates." Companies must ensure customers' right to information and protect their data security.

Haiwen Comments

The issuance of the Microfinance Company Supervision Measures marks the beginning of a "strict supervision" era for the microfinance industry. By defining business boundaries, limiting financing leverage, and refining risk management practices, the measures systematically address regulatory gaps and strengthen oversight of the sector.

4. CSRC Issued the Basic Rules for Administrative Penalty Discretion of the CSRC

On January 17, 2025, the CSRC issued the Basic Rules for Administrative Penalty Discretion of the CSRC (“**Discretion Rules**”), which will take effect on March 1, 2025. The Discretion Rules aim to unify enforcement standards, regulate the exercise of discretionary power, and enhance the transparency and fairness of capital market regulation. The key provisions are as follows:

(1) Clarification of Discretionary Levels and Applicable Circumstances: The Discretion Rules divide administrative penalties into six levels of discretion: no penalty, exemption from penalty, mitigation of penalty, lenient penalty, general penalty, and aggravated penalty, with detailed conditions for each level.

(2) Detailed Penalty Rules and Responsibility Allocation: For joint violations, the principle of “overall determination first, followed by individual penalties” is adopted, with responsibility allocated based on the roles and contributions of participants. However, if specific laws provide independent penalty provisions (e.g., controlling shareholders directing fraudulent issuance), those provisions will apply. Factors such as position, level of knowledge, and performance of duties are comprehensively considered when determining penalties for responsible personnel within an entity. Fines for independent violations are calculated cumulatively, adhering to the principle of “no double punishment for the same offense.”

(3) Coordination Between Administrative and Criminal Penalties: In cases where administrative penalties precede criminal penalties, any confiscated illegal gains or fines imposed must be documented when transferring the case to judicial authorities. In cases where criminal penalties precede administrative penalties, no additional fines will be imposed if a criminal fine has already been issued. If criminal penalties are exempted but administrative penalties are still required, they will be imposed in accordance with the law.

(4) Supervision and Decision-Making Mechanisms: For complex or major violations, decisions must be collectively discussed by CSRC leadership. If applying the rules would result in obvious unfairness or if circumstances change, approval from the CSRC’s principal leadership is required. The CSRC will strengthen supervision over the exercise of penalty discretion by its regional offices to ensure consistent enforcement.

Haiwen Comments

The Discretion Rules significantly enhance the transparency and predictability of administrative

penalties by quantifying discretionary standards and refining the classification of circumstances.

5. CSRC Issued the Opinions on the Application of Securities and Futures Laws No. 19—Interpretation of Articles 13 and 14 of the Administrative Measures for the Acquisition of Listed Companies

On January 10, 2025, the CSRC issued the Opinions on the Application of Securities and Futures Laws No. 19 - Interpretation of Articles 13 and 14 of the Administrative Measures for the Acquisition of Listed Companies (“**Opinions on Article 13 and 14**”).

According to the Administrative Measures for the Acquisition of Listed Companies (“**Acquisition Measures**”), when an investor and its concerted parties hold 5% or more of a listed company’s shares, any subsequent increase or decrease in their shareholding by 5% must be reported and disclosed. During the period from the occurrence of such a fact to three days after the disclosure, the investor is prohibited from trading the shares of the listed company. Before the issuance of the Opinions on Article 13 and 14, there were two interpretations in practice regarding the disclosure and trading suspension requirements: (1) Suspension and disclosure were required when the shareholding ratio reached 5% and its multiples (e.g., 10%, 15%, 20%, 25%, 30%). (2) Suspension and disclosure were required when the shareholding ratio increased or decreased by 5% (e.g., from 6% to 11% or from 12% to 7%). The Opinions on Article 13 and 14 clarify that the first interpretation should be adopted. Specifically, investors must suspend trading, report, and disclose when their shareholding ratio reaches 5%, 10%, 15%, and other multiples of 5%.

Additionally, the Opinions on Article 13 and 14 specify the following: The term “reaching 5%” includes both cases where the shareholding ratio increases to 5% and decreases to 5%. Investors are exempt from disclosure obligations if their shareholding ratio passively reaches a disclosure threshold due to changes in the listed company, such as share issuance, capital reduction, or debt-to-equity conversion. For violations that occurred before the implementation of the Opinions on Article 13 and 14 but are discovered afterward, the principle of “applying the old rules while adopting leniency” will be followed to distinguish between old and new regulations.

Haiwen Comments

The Opinions on Article 13 and 14 provide detailed guidance on the application of Articles 13 and 14 of

the Acquisition Measures, offering clear reporting instructions for investors when their shareholding ratios change. It resolves discrepancies in practice regarding disclosure standards for shareholding increases or decreases and clarifies the circumstances requiring trading suspension and reporting. Furthermore, the inclusion of exemption clauses and the emphasis on the principle of “applying the old rules while adopting leniency” reflect the reasonableness and flexibility of the regulatory approach, enhancing the clarity and operability of the legal framework.

6. The State Council Issued the Regulations on Standardizing the Services Provided by Intermediary Institutions for Companies’ Public Issuance of Stocks

On January 10, 2025, the State Council issued the Regulations on Standardizing the Services Provided by Intermediary Institutions for Companies’ Public Issuance of Stocks (“**Regulations on Intermediary Institutions**”), which came into effect on February 15, 2025. The key provisions are as follows:

(1) Scope of Application: The regulations apply to the services provided by intermediary institutions such as securities companies, accounting firms, and law firms for domestic companies conducting public stock offerings within China.

(2) Prohibition of Participation in Illegal Activities and Information Disclosure Obligations: Intermediary institutions are prohibited from assisting issuers in engaging in financial fraud, fraudulent issuance, or illegal information disclosure. Documents issued by intermediary institutions must not contain false records, misleading statements, or material omissions. Issuers are required to disclose detailed information about intermediary service fees, including standards, amounts, and payment arrangements, in their prospectuses or other relevant documents.

(3) Fee Standards: Fees must be determined reasonably based on workload and resource input and must be explicitly stipulated in contracts. Securities companies’ sponsorship services and accounting firms’ auditing services must not tie fees to the results of stock issuance, listing, or audit outcomes. Law firms must adopt unified fee standards in compliance with regulations set by the State Council’s judicial administrative departments. Intermediary institutions are prohibited from charging fees outside of contracts, circumventing regulatory fee adjustments, or seeking improper benefits through equity participation, listing rewards, or other means.

(4) Regulatory Measures: Regulatory authorities, including securities regulators, financial

authorities, and judicial administrative departments, will collaborate to supervise intermediary institutions. Joint inspections may be conducted when necessary, and violations will be investigated and punished in accordance with the law. Local governments are prohibited from providing rewards to issuers or intermediary institutions based on stock listing results. Any illegal rewards must be recovered, and accountability will be pursued.

Haiwen Comments

The Regulations on Intermediary Institutions systematically standardize the service behavior of intermediary institutions by clarifying professional boundaries, enhancing fee transparency, and establishing a multi-department collaborative regulatory framework. These measures aim to curb financial fraud, improper benefit transfers, and other irregularities, thereby improving the credibility of the capital market. Following the implementation of the regulations, intermediary institutions will need to comprehensively revise contract terms and strengthen internal compliance controls to avoid significant penalties and reputational risks.

II Industry New

1. CFCO, CSRC, MOF, MHRSS, PBC, and NFRA Jointly Issued the Implementation Plan for Promoting the Entry of Medium- and Long-Term Funds into the Market

In January 2025, the CFCO and other institutions jointly issued the Implementation Plan for Promoting the Entry of Medium- and Long-Term Funds into the Market (“**Implementation Plan**”), focusing on guiding medium- and long-term funds (such as commercial insurance funds, the National Social Security Fund, basic pension funds, enterprise annuities, occupational annuities, and public funds) to further increase their participation in the capital market. The key highlights are as follows:

(1) A comprehensive long-term performance evaluation system of three years or more will be implemented for state-owned insurance companies. The weight of the current year’s return on net assets in the evaluation will not exceed 30%, while the weight of three- to five-year cycle indicators will be no less than 60%.

(2) Gradually increase the proportion of equity asset investments by the National Social Security Fund. Encourage regions with favorable conditions to further expand the entrusted investment scale of basic pension funds. Establish detailed long-term performance evaluation mechanisms for the National Social Security Fund (over five years) and basic pension funds (over three years), supporting the National Council for Social Security Fund in leveraging its professional investment expertise.

(3) Guide listed companies to increase the scale of share buybacks and implement policies for multiple dividend distributions within a year. Promote the use of refinancing tools such as share buybacks and equity increases by listed companies. Allow public funds, commercial insurance funds, basic pension funds, enterprise annuities, occupational annuities, and bank wealth management products to participate as strategic investors in private placements by listed companies. Provide equal policy treatment for bank wealth management, insurance asset management, and public funds in areas such as IPO subscriptions, private placements by listed companies, and shareholding increase recognition standards. Further expand the scale of swap facilities between securities, fund, and insurance companies to enhance operational convenience.

2. Recent Key Disciplinary Cases by the AMAC

In January 2025, the AMAC issued over 20 disciplinary cases, among which the following are noteworthy:

(1) Case No. AMAC Disciplinary [2024] 495: The fund manager received a warning from AMAC for two violations: First, the manager failed to truthfully report the fact that it had accepted a mandate to hold equity on behalf of a digital company, resulting in discrepancies between the product filing information and the actual situation. Second, the manager failed to promptly report changes to shareholder information, registered address, and office location to AMAC, violating relevant regulations.

(2) Case No. AMAC Disciplinary [2024] 483: AMAC determined, based on the bank transaction records of the fund product's custodial account, that in July 2018, the fund product acquired equity in an information technology company held by the fund manager's shareholder. This was deemed a direct transaction between private fund assets and related parties of the fund manager. The manager failed to submit an interim report on this related-party transaction and did not disclose it in the 2018 annual report. The manager argued that the shareholder participated in the subscription of the fund product

solely as an investor and that the transaction did not constitute a related-party transaction under private equity fund regulations. However, AMAC rejected this defense.

(3) Case No. AMAC Disciplinary [2024] 506: The fund manager admitted that it had failed to conduct the required suitability verification process for certain investors. The manager argued that it had not marketed or promoted the private fund to unspecified persons. The investors in question were former colleagues and long-time friends of the manager's operational staff, and the transactions were personal lending relationships among specific individuals. The manager requested leniency in disciplinary actions on this basis. However, AMAC ultimately did not accept this reasoning.

Source of Information:

- <https://www.nfra.gov.cn/cn/view/pages/ItemDetail.html?docId=1195501&itemId=915&generaltype=0>
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2025-02-28