

# CLIENT UPDATE

## LONG-AWAITED CHINESE FUNDRAISING RULES TAKE EFFECT

### HONG KONG

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On August 22, 2014, the China Securities Regulatory Commission (“CSRC”) issued long-awaited rules for private equity fundraising from Chinese investors (the “Rules”). The Rules became effective immediately.<sup>1</sup>

The Rules apply to all types of investment funds privately raised in China, including private equity funds, debt funds, venture capital funds, funds of funds, hedge funds and the like (“Private Funds”) and their managers (“Managers”). The Rules provide that Managers and Private Funds formed under Chinese law (even if controlled by non-Chinese persons) are subject to the Rules. The Rules are silent about managers and private funds formed outside of China, even if they raise money in, or operate or invest in, China. We believe the best reading of this silence is that these managers and funds are not covered by the Rules.

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<sup>1</sup> We have previously reported on the emerging regulation of fundraising in China.

[Important Deadline Approaches for Domestic Chinese Private Equity Managers, March 2014](#)  
[New Registration and Filing Requirements for Private Equity Funds and Managers in China, January 2014](#)

[Who Will Regulate Private Equity Funds in China? It Just Tipped in the CSRC’s Favor, July 2013](#)

The most important provisions of the Rules are as follows:

**Reporting is required.** Licenses are not required to form a Manager or a Private Fund. After establishment, however, a Manager must register with the Asset Management Association of China (“AMAC”). AMAC is a national fund industry self-regulatory organization authorized by the CSRC. After the final closing of a Private Fund, its Manager will be required to file with AMAC information on such Private Fund’s investment focus and size, as well as such Private Fund’s limited partnership or other governing agreement, its private placement memorandum (if available) and similar documents and information.

**Offering must be private and made only to Qualified Investors.** The Rules confirm that offerings of interests in a Private Fund must be made privately and provide more clarity on what constitutes a private offering. The Rules further provide that offerings may be made only to sophisticated and high net worth investors (“Qualified Investors”); spell out detailed criteria on what constitutes a “Qualified Investor”; and give examples of prohibited offering activities.

**The number of investors is limited to 49.** Generally speaking, under the Rules, the number of investors in a Private Fund may not exceed 49. Moreover, vehicles formed for the purposes of pooling smaller investors to invest in a Private Fund will be “looked-through” in counting the number of investors.

**Disclosure to investors and AMAC.** The Rules spell out the kinds of disclosure that investors may want to seek in fund documents, such as investment activities, allocation of investment returns, fund expenses, conflicts of interests and the like. Managers will also be required to report to AMAC material changes in the investment teams and investment activities of the Private Funds they manage.

The regulatory framework that the CSRC is establishing is expected to provide more certainty and clarity to the Chinese private fund industry going forward. We will continue to monitor the Rules as they are implemented.

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Please do not hesitate to contact us with any questions.

August 25, 2014