

# Client Update

## A Monkey Wrench for the Year of the Monkey

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On the eve of the Year of the Monkey, the Asset Management Association of China (“AMAC”) threw a monkey wrench into the private equity works when it issued broad and detailed regulations effective immediately governing the operations of private equity firms in China. While these regulations clearly apply to all domestic private equity firms (including foreign firms sponsoring domestic funds), it is not clear whether the marketing-specific regulations will apply to foreign funds marketing to Chinese investors (an investor base—particularly Chinese insurers—which has grown in importance to foreign funds in the last year). Until AMAC provides some guidance as to whether these regulations apply to the marketing of foreign funds, foreign private equity sponsors offering their funds into China should be aware of the risk that their fund offerings may need to comply with these new and more onerous requirements. In particular,

- Marketing materials distributed to potential investors in China must be in Chinese, which will prevail over materials in any other language.
- Sponsors may not predict the investment performance of any funds being raised. (It is not clear whether “predictions” include performance targets with detailed assumptions and adequate disclaimers.)
- Any comparison of data points or performance criteria may only be made if the data or criteria are actually “comparable,” and they must otherwise be fair and accurate, with sources cited. It is not clear how this will be applied in practice.

We continue to monitor developments in this area, and are happy to consult with you at any time.

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