



DUBLIN CAYMAN ISLANDS HONG KONG NEW YORK TOKYO



■ IRISH FUNDS – GATEWAY TO THE CHINESE SECURITIES MARKETS

INTRODUCTION

The Qualified Foreign Institutional Investor ("QFII") scheme has since it was launched by the People's Bank of China ("PBOC"), the China Securities Regulatory Commission ("CSRC") and the State Administration of Foreign Exchange ("SAFE") in 2002¹ been the principal method for foreign investors to invest directly in the securities markets of China. It allows foreign institutional investors to invest in China's capital markets, subject to first obtaining a QFII license from the CSRC and then an investment quota allocated by the SAFE.

CSRC, PBOC and SAFE have taken a gradual approach to broadening the appeal of the QFII scheme to foreign investors by lowering the threshold requirements for applicants seeking QFII licences, expanding the universe of permissible investments available to QFIIs and increasing the total QFII quota in April 2012 by US \$50 billion to US \$80 billion and on 12 July 2013 from US \$80 billion to US \$150 billion.

Even with these refinements, current investments by QFIIs and by Renminbi Qualified Foreign Institutional Investors ("RQFIIs") are generally estimated to account for less than 2% of the total investments in China's A-share markets². In this memorandum we will provide you with both an overview of the QFII scheme and with its latest developments. We will also highlight how Irish regulated funds can utilise the QFII scheme as part of their investment strategy to gain direct exposure to securities listed in one of the world's largest and most important economies, where annual growth is currently in excess of 7%.

In addition, we will consider the recent developments with respect to the RQFII scheme which was originally introduced in December 2011 as a means of allowing the Hong Kong operations of mainland Chinese financial institutions to raise Renminbi ("RMB") in Hong Kong for investment in the Chinese capital markets. The changes to the RQFII scheme which have recently been announced open up the possibility of Irish regulated funds utilising this quota and provide another possible method for Irish funds to gain direct access to the Chinese capital markets.

¹ The Interim Administrative Measures for Securities Investments in China by Qualified Foreign Institutional Investors (1 December 2002).

² A-shares are equity shares subscribed and traded in Renminbi. QFIIs have traditionally focused on A-shares traded on the Chinese stock exchanges located in Shanghai and Shenzhen.

We have set out in this memorandum our understanding of the QFII and RQFII schemes and the interpretation of the rules of those schemes by PBOC, SAFE and CSRC as at July 2013. However, readers should be aware that the rules of both schemes have undergone rapid change and both the rules and interpretation thereof by the relevant authorities are subject to change.

We would like to thank Taylor Hui of Deacons for his valuable assistance with the preparation of this article.

QFII OVERVIEW

QFIIs and QFII products are broadly classified into three types for both the purposes of the SAFE regulations³ and for foreign exchange purposes:

- Long term investors such as pension funds, insurance funds, charitable foundations, endowment funds, government and monetary authorities ("Long-Term Funds");
- ii. Open-end China funds (essentially a type of fund product managed by a QFII) which are defined as open-end securities investment funds set up offshore by QFIIs via public placements, where at least 70% of their assets are invested in the securities market in China ("Open-end China Funds"); and
- iii. Mandates managed by a QFII, QFIIs' proprietary money if the QFII does not qualify as Long-Term Fund, funds managed by a QFII that do not qualify as Open-end China Funds, etc. ("Other Funds").

Under the QFII regulations⁴, QFIIs must generally within six months of having each investment quota approved⁵, remit the investment principal into China, and may not

³ See footnote 4.

The main regulations governing the QFII scheme are the revised "Administrative Measures on Domestic Securities Investment by Qualified Foreign Institutional Investors" issued by the CSRC, the PBOC and the SAFE in 2006 ("2006 QFII Measures") and the Provisions on the Foreign Exchange Administration of Domestic Securities Investments by Qualified Foreign Institutional Investors issued by the SAFE on 29 September 2009 ("2009 SAFE QFII Rules"). The 2009 SAFE QFII Rules set out detailed provisions on quota applications, remittance and repatriation of funds, QFII accounts, etc.

In 2012, the Chinese regulators sought to broaden the appeal of the QFII scheme to foreign investors. In July 2012, the CSRC issued the "Provisions on Relevant Matters concerning the Implementation of Measures for the Administration of Securities Investment within the Borders of China by Qualified Foreign Institutional Investors" ("2012 QFII Measures"), which revised the "Provisions on Relevant Matters concerning the Implementation of Measures for the Administration of Securities Investment within the borders of China by Qualified Foreign Institutional Investors" issued by CSRC in 2006, while in December, 2012, the SAFE revised its QFII rules by

commence investment operations until the remittance of US\$20 million or more as investment principal has occurred.

Where a QFII does not remit the full amount of the investment quota within the above timeframe, this will result in the unremitted portion of the quota being forfeited unless an approval allowing an extended period for remittance has been granted.

The QFII regulatory regime also imposes significant restraints upon repatriation of assets from China with the nature of the restrictions on repatriation varying according to the type of QFII making the repatriation or the QFII product to which the repatriation relates (i.e. Long-Term Funds, Open-end China Funds and Other Funds).

All investment amounts invested through the QFII channel are subject to a lock-up period during which QFIIs are prohibited from remitting such funds out of China. The lock-up period is calculated from the date when the investment principal is remitted in full or when the sixmonth remittance period falls due, whichever is earlier.

Under the 2009 SAFE QFII Rules, a three month lock-up period applied to Open-end China Funds and Long-Term Funds, while for Other Funds the lock-up period was one year.

Once the initial lock-up period was over, the 2009 SAFE QFII Rules provided that an Openend China Fund may remit funds to or repatriate funds from China without SAFE's approval on a monthly basis depending on the net subscriptions or redemptions of the fund and provided that the net remittance to or repatriation from China did not exceed US\$50 million per month.

For Long-Term Funds and Other Funds, which intended to repatriate either principal or profits following the applicable lock-up period, prior approval of SAFE was required on a case-by-case basis. Any repatriation of principal by funds other than Open-end China Funds results in the QFII quota being reduced by an amount equivalent to the repatriated principal amount.

The custody of assets held by all QFIIs has also given rise to concerns. Under the QFII regime prior to the introduction of the 2012 QFII Measures, QFIIs were required to hold client assets apart from the assets of Open-end China Funds in a single securities account, which gave rise to significant custody and asset segregation risks for QFII clients.

issuing the "Provisions on Foreign-Exchange Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors." ("2012 SAFE QFII Rules").

⁵ We understand that QFII licences and quotas are specific to each QFII and not transferable between entities, even within a group, however a QFII may delegate the QFII investment management function to another group entity.



RECENT CHANGES TO THE QFII SCHEME

A number of important changes to the QFII scheme were made during 2012 which were intended to continue the process of opening China's securities markets to foreign investors. We have set out the principal changes below:

Easing of Requirements for Applicants

The 2012 QFII Measures have substantially eased the requirements which applicants for a QFII quota have to meet. This has opened up the possibility of obtaining a QFII quota to a much broader pool of potential applicants. Appendix 1 sets out these reduced criteria.

Increase in QFII Investment Quota

Under the 2009 SAFE QFII Rules, all QFIIs were subject to a maximum investment quota per investor of US\$1 billion. The 2012 SAFE QFII Rules remove the US\$1 billion ceiling for three types of QFIIs, namely sovereign wealth funds, central banks and monetary authorities. The ceiling still applies to other QFIIs.

Expansion of the Scope of Investment

Previously, QFIIs could only invest in (i) stocks, bonds, warrants traded in or transferred in stock exchanges; (ii) securities investment funds; and (iii) other financial instruments permitted by the CSRC. The 2012 QFII Measures permit QFIIs to invest in stock-index futures and fixed-income products traded on the inter-bank bond market. While this expansion in the scope of investments is welcome, it should be noted that the requirement that at least 50% of a QFIIs assets be invested in listed equities remains.

The 2012 QFII Measures also loosened the restriction on the cap of the aggregated amount of China A shares that all foreign investors may hold in a listed company from not exceeding 20% to 30%. The cap of the amount of China A shares that a single investor may hold remains unchanged at 10%.

Relaxation of the limits on Repatriation/Remittance of Funds by QFIIs

The 2012 SAFE QFII Rules continue to distinguish between Long-Term Funds, Open-end China Funds and Other Funds in connection with foreign exchange controls while introducing a number of important changes to the QFII scheme.

Open-end China Funds

Open-end China Funds are now allowed to remit into or repatriate out of China the net difference between subscription and redemption amounts on a weekly basis, compared with a monthly basis under the 2009 SAFE QFII Rules.

In addition, fund remittances and repatriations by Open-end China Funds are no longer subject to SAFE's prior approval, regardless of the amount involved, whereas, under the 2009 SAFE QFII Rules, SAFE's prior approval was required where the net amount remitted or repatriated exceeded US \$50 million. Fund repatriation by an Open-end China Fund under the 2012 SAFE QFII Rules remains however subject to a monthly cumulative limit of 20% of the total onshore assets of that fund as of the previous year. This limit is, we understand, calculated separately from other products managed by the same QFII.

Long-Term Funds and Other Funds

Previously, the repatriation of both investment principal and profits by Long-Term Funds and Other Funds required SAFE's approval. The 2012 SAFE QFII Rules however, remove the approval requirement for profit repatriation by Long-Term Funds and Other Funds. As a result, profits may now be repatriated by Long-Term Funds and Other Funds without SAFE's prior approval subject to all required documents being in place.

Under the 2012 SAFE QFII Rules a cap is imposed on total monthly repatriation (principal and profits) by Long-Term Funds and Other Funds, which is set at 20% of its total onshore assets as at the end of the previous year. As mentioned, any repatriation of principal by funds other than Open-end China Funds results in the QFII quota being reduced by an amount equivalent to the repatriated principal amount.

QFII Account Structure

The 2009 SAFE QFII Rules introduced a multiple bank account structure. A QFII was permitted to open a foreign exchange account and a corresponding RMB special account for proprietary funds and client funds respectively and was required to open a foreign exchange account and a corresponding RMB special account for each Open-end China Fund. While this provided for segregation of the QFII's assets from client assets, it meant that for QFII clients other than Open-end China Funds their assets were contained in one omnibus securities account, which invariably gave rise to serious custody and segregation concerns and risks.

Under the 2012 QFII Measures and the 2012 SAFE QFII Rules, the QFII account structure was amended in such a manner as to address some of these concerns regarding custody

and asset segregation by permitting a QFII to open up to six "RMB special deposit accounts" for its clients. Further to the implementation of the 2012 QFII Measures and the 2012 SAFE QFII Rules, the rules regarding accounts which can be opened and operated are as follows:

- a QFII is required to open a separate segregated securities account for its own proprietary capital;
- (ii) a QFII is required to open a separate segregated securities account for its clients' assets. Client assets (other than assets of Open-end China Funds and Long-Term Funds) are contained in this single omnibus client account. Such a securities account may be named as "QFII-Client Name";
- (iii) when a QFII opens a securities account for a Long-Term Fund under its management, the account may be named as "QFII Fund (or Insurance Fund, etc.) Name" and the assets in that account will belong to the Fund (or Insurance Fund, etc) and shall be independent from the QFII and the custodian.
- (iv) when a QFII opens a foreign exchange account and a RMB dedicated deposit account for an Open-end China Fund, it shall open a separate account for each Open-end China Fund:
 - Accordingly where a QFII opens a separate segregated foreign exchange account in respect of an Open-end China Fund, a corresponding segregated RMB dedicated deposit account and securities account will also be required to be opened. While these separate segregated securities accounts may be opened in respect of individual funds, the accounts will be in the joint name of the QFII and the fund. However, pursuant to the 2012 QFII Measures, the Open-end China Fund will be the sole legal owner of the securities held in the account.
- (v) QFIIs may open up to six "RMB special deposit accounts" which are permitted to be linked to a RMB securities account for its clients. Funds are not transferrable between these RMB special deposit accounts. This will allow QFIIs to segregate and distinguish some of its clients' assets from the assets of other clients and address the aforementioned custody and segregation issues for certain clients. This may provide QFIIs with the ability to meet the concerns of clients who are not Open-end China Funds or Long-Term Funds regarding the segregation of their assets from other clients' assets managed by the same QFII.

In summary, the implementation of the 2012 SAFE QFII Rules and the 2012 QFII Measures provide additional flexibility to QFIIs regarding account opening.

For QFII clients other than Open-end China Funds and Long Term Funds, the ability of QFIIs to now open up to six RMB special deposit accounts should assist in addressing the custody and segregation concerns which exist with regard to the assets of various clients of the same QFII being held in an omnibus client account.

ROFII SCHEME

Overview

The RQFII scheme was launched in China on 16 December 2011 pursuant to the promulgation of the *Pilot Measures for Onshore Securities Investment by Fund Management Companies and Securities Companies that Qualify as RMB Qualified Foreign Institutional Investors* by the CSRC, PBOC and SAFE and the issue of the corresponding implementing rules by the CSRC (the "2011 Rules"). The implementation of the RQFII scheme was supplemented by circulars issued by the SAFE and the PBOC on 23 December 2011 and 4 January 2012 respectively.

Initially, the RQFII scheme allowed the Hong Kong subsidiaries of Chinese fund management companies and securities companies to apply for RQFII licences and quotas to invest RMB funds raised in Hong Kong into the domestic Chinese securities market. Currently, approximately twenty seven Hong Kong subsidiaries of Chinese fund management companies and securities companies have been granted RQFII licenses, with a total approved investment quota of approximately RMB 70 billon. In the past year, twenty four RQFIIs have established RQFII funds. These funds, with an aggregate investment quota of RMB 27 billon were, due to the requirements of the RQFII scheme, which restricted the investment portfolio of such funds, structured such so that no less than 80% of their assets were invested in fixed income securities with the balance of up to 20% of their assets in China A shares. The investment restrictions were relaxed in 2012 to permit RQFII Exchange Traded Funds ("ETF's"), which saw the launch of four RQFII ETFs with an accumulated investment quota of RMB 43 billon.

Each RQFII can remit RMB funds into mainland China within its investment quota⁶ approved by the SAFE through its Chinese custodian who is responsible for supervising onshore investments made by the RQFII and for fulfilling the reporting requirements to the mainland Chinese authorities.

⁶ We understand that RQFII quotas are specific to each RQFII and not transferable between entities, even within a group.

RQFIIs are permitted to repatriate the principal capital and investment proceeds denominated in RMB or in foreign currencies. For open-ended funds⁷ launched by a RQFII, the RQFII can process the remittance into China and the repatriation back to Hong Kong based on the net subscription /redemption amount on a daily basis which makes the operation of ETFs possible. Funds other than open-ended funds enjoy monthly liquidity.

RQFIIs are obliged to engage a domestic Chinese commercial bank, which is qualified as a RQFII custodian, to act as its onshore Chinese custodian, and onshore securities companies to act as its brokers for securities trading. RQFIIs are permitted to open three types of special deposit accounts with their custodian banks for the purposes of (i) interbank bond market investment, (ii) on-exchange bond investment and listed shares investment and (iii) stock futures trading. A RQFII is obliged to open separate special accounts for open-ended funds it manages, each of which should correspond with a securities account.

Recent Enhancements to the RQFII Scheme

With a view to further expanding the Chinese capital markets and enhancing RMB internationally, the CSRC, SAFE and PBOC promulgated the *Trial Measures for Domestic Securities Investment made by RMB Qualified Foreign Institutional Investors* on 1 March 2013 (the "**New RQFII Rules**") which replaced the 2011 Rules.

The New RQFII Rules provide that a licensed RQFII may raise RMB funds offshore whereas the 2011 Rules required that RMB be raised in Hong Kong. Considering the development of the RMB market outside China and Hong Kong, this change was widely welcomed as it raises the possibility that non-Hong Kong based RMB investors will be in a position to invest in China's securities market through non-Hong Kong domiciled investment vehicles managed by RQFIIs.

The New RQFII Rules also extend the scope of qualifying RQFIIs from Hong Kong subsidiaries of Chinese fund management companies and securities companies only, to Hong Kong subsidiaries of Chinese commercial banks and insurance companies, or financial institutions which are domiciled in and have their principal places of business in Hong Kong. As a result of the new rules, other financial institutions which are registered and domiciled in Hong Kong (which are not Hong Kong subsidiaries of Chinese fund management companies and securities companies) can, if they hold a Type 9 licence issued by the Securities and Futures Commission in Hong Kong ("SFC"), also apply for a RQFII licence from the CSRC.

⁷ We understand that SAFE currently views open-ended funds under the new RQFII rules as open-ended authorised funds. There is under the RQFII scheme, unlike the requirement under the QFII scheme for Open-end China Funds, no requirement for open-ended funds to invest at least 70% of their assets into China.

Under the New RQFII Rules, an applicant for a RQFII licence must fulfill the following conditions:

- (i) have a Type 9 (asset management) licence issued by the SFC and conduct asset management business;
- (ii) be in a stable financial condition and have a good credit standing;
- (iii) have an effective corporate governance and internal control system. It's relevant professionals must satisfy the relevant eligibility requirements applicable under local law;
- (iv) not have had any material penalty imposed by the relevant local regulator since its establishment (if it has a track record period of less than three years) or in the last three years; and
- (v) satisfy such other requirements of the CSRC as it may stipulate in accordance with the principle of prudential regulation.

The CSRC has sixty days after receiving a complete application to determine whether the applicant satisfies the criteria for the award of a RQFII licence and to either approve or reject the application.

The New RQFII Rules' substantial broadening of the potential pool of RQFII applicants to include all financial institutions which are registered and domiciled in Hong Kong which hold a Type 9 license from the SFC and not just the Hong Kong subsidiaries of Chinese fund management companies and securities companies, opens up the opportunity for the nine hundred holders of Type 9 licences to obtain a RQFII quota. As such, this raises the possibility of international asset management groups who already have a Type 9 licence from the SFC, applying for a RQFII quota and allocating that quota to Irish regulated funds within its group as there are no restrictions (subject to the SAFE and the CSRC having approved the allocation plan contained in the business plan which is required to be submitted to them as part of the RQFII quota application process) on what type of products may utilise the RQFII quota. This development will certainly prompt many international asset managers to consider applying for Type 9 licences in Hong Kong.

Moreover, the New RQFII Rules permit RQFII funds to adopt different investment strategies. As stated above, during the initial stage of the RQFII scheme, only fixed income funds or ETFs were permissible. The New RQFII Rules have relaxed the restrictions on RQFII asset allocation and allow the RQFIIs to decide, based on market conditions, the type of products that they will bring to the market. RQFIIs may now invest in a broad range of RMB equity and debt instruments traded on a mainland China stock exchange, currently the Shanghai Stock Exchange and the Shenzhen Stock Exchange, or the Interbank Bond Market and can

trade stock index futures to hedge its holding of China A shares. Certain investment restrictions do still apply however. These are:

- (i) a single RQFII cannot hold more than 10% of any listed company's total share capital; and
- (ii) offshore investors cannot, in aggregate, hold China A shares of any listed company which exceed 30% of the company's total share capital.

While the New RQFII Rules have in many respects relaxed the requirements of the RQFII scheme, on 11 March, 2013 the SAFE did issue a "Circular on Issues Concerning the RQFII Pilot Program" which clarified the lock-up periods which apply to a RQFII. For RQFII funds other than open-ended funds the lock-up period is one year, which is similar to the QFII scheme where the lock-up period for Other Funds is also one year.

Essentially, the CSRC's initiatives as enshrined under the New RQFII Rules broaden the investment channels available to offshore RMB funds and allow product differentiation in order to satisfy investors' demand.

ESTABLISHING AN IRISH REGULATED FUND TO INVEST INTO CHINA A SHARES

The Central Bank of Ireland has previously approved several CSRC regulated asset managers to promote Irish regulated funds. They will also approve CSRC regulated asset managers to manage Irish regulated funds once it has been established that the regulatory regimes of both regulators are equivalent. We understand that an exercise is currently underway to establish this. In the meantime several SFC regulated managers are managing both Irish UCITS and Qualifying Investor Funds ("QIFs). From 22 July 2013 with the implementation of the Alternative Investment Fund Managers Directive ("AIFMD"), QIFs will be known as Qualified Investor Alternative Investment Funds ("QIAIFs") and all references to a QIF in this paper from that date should be read as a reference to a QIAIF.

Ireland offers a range of regulated fund structures that can accommodate a China A Shares investment strategy such as the QIF and the non-UCITS retail fund. The QIF provides the greatest flexibility for Irish authorised funds as the investment, borrowing and leverage restrictions which apply to Irish retail funds are dis-applied for a QIF⁸.

The QIF has the further advantage of offering a solution for compliance with the requirements of AIFMD. The establishment of a QIF may therefore be attractive for Asian managers who are considering whether they wish to avail of the passporting benefits of AIFMD.

Ireland is also one of the leading domiciles for the establishment of UCITS funds. For Irish UCITS structured as Open-end China Funds, the initial lock-up period and the limits on repatriations of the QFII scheme will need to be considered on a case by case basis. However, the new QFII and RQFII rules do give rise to new opportunities for direct exposure to China A shares.

Opportunities for the Irish Regulated Funds to utilise the QFII Scheme

Under the QFII scheme, Open-end China Funds enjoy more flexibility than other QFII funds in relation to the length of the initial lock-up period and the limits on remittances into and repatriations from China. They also have more certainty as regards the custody and segregation of their assets from the assets of other clients of the same QFII.

Given that additional flexibility offered to Open-end China Funds, meeting the requirements of an Open-end China Fund will be important to any Irish regulated fund seeking to invest a substantial portion of their assets directly in China A shares through the QFII scheme.

⁸ Appendix II sets out in more detail some of the key characteristics of the QIF

Non-UCITS retail funds or QIFs should, with appropriate structuring of dealing days/redemption days and the use of redemption gates where required, be in a position to address the liquidity issues presented by the initial lock-up period of the QFII scheme.

For an Irish UCITS fund structured as an Open-end China Fund, the liquidity considerations mentioned above will need to be considered on a case by case basis. Consideration should be given by each UCITS fund to its investor profile and whether the directors and promoters of that UCITS fund can satisfy themselves, given the particular facts of their fund, that they can address the issues raised by the initial lock-up period and the limitation on repatriations.

The 2012 QFII Measures and the 2012 SAFE QFII Rules also go some way to addressing the custody and segregation issues which exist with the QFII scheme for QFII clients who are not Open-end China Funds by providing that a QFII may open separate segregated accounts for any fund considered by the CSRC and the SAFE to be Long-Term Funds and by permitting the opening of six "RMB special deposit accounts" and corresponding securities accounts by QFIIs (other than Open-end China Funds and Long-Term Funds).

In summary, while the rules of the QFII scheme have been substantially liberalized in the later part of 2012, the initial lock-up period and the limitation on monthly cumulative repatriations mean that there are liquidity issues that need to be considered by a UCITS fund on a case by case basis where it is looking to invest a substantial part of its assets in China A Shares.

For QIFs and non-UCITS retail funds that can meet the requirements necessary to be considered an Open-end China Fund, the QFII regime presents an opportunity to gain direct access to the China securities market provided that the liquidity issues and limits on repatriation are fully considered at the time the fund is being structured so as to ensure that the fund complies with both the requirements of the QFII scheme and the relevant Irish regulatory regime.

For UCITS funds, non-UCITS retail funds and QIFs which do not constitute either Open-end China Funds (by virtue of the fact that they will not be investing at least 70% of their assets in the securities markets in China) or Long-Term Funds and are thus subject to the one year lock-up, consideration could be given to those funds making a smaller allocation to China A shares which will provide the funds and their clients with exposure to this vitally important market and enable the funds to meet their liquidity obligations.

In those situations the funds can seek to manage liquidity in a number of ways. One option is the use of liquidity buffers. Another option, depending on the relevant fund documentation, is to defer redemptions, while the use of borrowing facilities (limited in the case of UCITS to



10% of the fund) to meet redemptions and the soft closing of funds to manage liquidity and redemption requests are other options.

Opportunities for Irish Regulated Funds within the RQFII Scheme

The ability of open-ended funds launched by a RQFII to process remittances into China and repatriations back to Hong Kong based on the net subscription/redemption amount on a daily basis means that the liquidity issues which exist with the QFII scheme do not arise with the RQFII scheme.

In an Irish regulated funds context, this means that the RQFII scheme could satisfy the liquidity requirements of non-UCITS retail funds, QIFs and UCITS.

Until the recent amendments to the RFQII scheme however, only the Hong Kong-based subsidiaries of the mainland Chinese asset management and securities firms could apply for a RQFII quota in respect of offshore RMB which could only be raised in Hong Kong. The widening of the RQFII scheme to offshore RMB wherever raised and to applicants other then the Hong Kong based subsidiaries of the mainland Chinese asset management and securities firms, means that there is an opportunity for international asset management with operations in Hong Kong to apply for RQFII quota and allocate it to their Irish regulated funds.

This is a substantial widening of the RQFII scheme and presents a big opportunity for those funds managed by a RQFII that may be able to avail of the RQFII's quota to gain direct access to the Chinese securities markets. For Irish UCITS funds in particular, the latest changes to the RQFII scheme present an opportunity for them to gain much desired direct access to the Chinese securities markets while fulfilling their liquidity obligations.

CONCLUSION

Irish regulated funds are ideally placed to benefit from the relaxation of the rules in respect of both the QFII and RQFII schemes.

For Irish QIFs and retail-non UCITS funds, the QFII and RQFII schemes present opportunities to offer investors direct access to one of the world's largest and most dynamic economies.

For Irish UCITS funds, while issues need to be addressed on a case by case basis before they can access the China A shares market through the QFII scheme, it may as previously stated be possible to address those issues. The latest developments in the RQFII scheme

however offer new possibilities for those funds to take substantial direct exposure to the China A share market.

APPENDIX 1 - REQUIREMENTS FOR QFII APPLICANTS

TYPE OF APPLICANT	OLD QFII CRITERIA	NEW QFII CRITERIA
Fund Management	Require at least 5 years	Require at least 2 years
(including PE firms but	asset management	asset management
excluding Hedge funds) and	experience and AuM of at	experience and AuM of at
Insurance Companies	least US\$5 billion.	least US\$500 million.
Securities Companies	Require at least 30 years	Require at least 5 years
	asset management	asset management
	experience, AuM of at least	experience, AuM of at least
	US\$10bn and paid up share	US\$5 billion and net capital
	capital of at least US\$1	of at least US\$500 million.
	billion.	
Commercial Bank	Must be ranked by total	Require Banking business
	assets within global top 100	experience of at least 10
	with	years,
	securities under	Tier 1 capital of at least
	management of at least	US\$300 million and
	US\$10 billion.	securities under
		management of at least
		US\$5 billion.
Other institutional investors	Must be established for at	Must be established for at
(such as pension funds,	least 5 years with securities	least 2 years with securities
charitable foundations,	held or under management	held or under management
endowments, trust	of at least US\$5 billion	of at least US\$500 million
companies, sovereign		
wealth funds, etc.)		



APPENDIX II - KEY CHARACTERISTICS OF A QIF

QIF REQUIREMENTS	CRITERIA	
Minimum Investment	QIFs are subject to a minimum subscription	
	requirement of Euro 100,000 per investor.	
Qualified Investors	An investor in a QIF must be either:	
	(a) an investor who is a professional client within the meaning of Annex II of Directive 2004/39/EC (Markets in Financial Instruments Directive) ("MiFID"); or	
	(b) an investor who receives an appraisal from an EU credit institution, a MiFID firm or a UCITS management company that the investor has the appropriate expertise, experience and knowledge to adequately understand the investment in the QIF; or	
	(c) an investor who certifies that they are an informed investor by providing the following:	
	confirmation (in writing) that the investor has such knowledge of and experience in financial and business matters as would enable the investor to properly evaluate the merits and risks of the prospective investment; or	
	 confirmation (in writing) that the investor's business involves, whether for its own account or the account of others, the management, acquisition or disposal of property of the same 	

	kind as the property of the QIF.
Principal Legal Structures	Variable capital investment companies, unit
	trusts, investment limited partnerships and common contractual funds.
	Common contractual runus.
	Umbrella type investment companies can be
	established with statutory based segregated
	liability between sub-funds within the
	umbrella.
	Segregated liability between sub-funds within
	umbrella unit trusts is based on the concept of
	each fund being a separate trust.
Liquidity Options	QIFs can be structured as open-ended, open-
. , ,	ended with limited liquidity, limited liquidity or
	closed-ended schemes. Gates, deferred
	redemptions, holdbacks, in-kind redemptions
	and side pockets can all be facilitated within
	these types of funds.
Investment Restrictions	QIFs structured as investment companies
	must comply with the principle of spreading
	investment risk. It is left to the discretion of the
	Board of Directors to determine actual
	diversification with reference to particular
	strategies.
	QIFs may invest up to 100% of assets in
	underlying regulated or unregulated funds but
	in general no more than 50% of net assets in
	a single underlying unregulated fund.
Leverage Restrictions	For QIFs, borrowing and leverage are not
	subject to regulatory limit. It is a matter of
	prospectus disclosure only.

APPENDIX III - COMPARISION BETWEEN QFII SCHEME AND RQFII SCHEME

<u>Criteria</u>	QFII		<u>RQFII</u>
EP-21 In the CO. Co	LO. A. A. L. L. I	T 1 . 1	
Eligible institutions	See Appendix 1.		pelow are the new requirements
			r the amended RQFII scheme.
		_	Kong based subsidiaries of fund
			agement companies and securities
			panies incorporated in Mainland
			a have been eligible to apply for
			II quota since the scheme's
			tion in 2011. Applicants must:
		(i)	have a Type 9 (asset
			management) licence from the
			SFC and conduct asset
			management business;
		(ii)	be in a stable financial condition
			and have a good credit standing;
		(iii)	have an effective corporate
		()	governance and internal control
			system, and its relevant
			professionals must satisfy the
			relevant eligibility requirements
			= ' '
			applicable under local law;
		(iv)	not have had any material
			penalty imposed by the relevant
			local regulator since its
			establishment (if it has a track
			record period of less than three
			years) or in the last three years;
			and
		(v)	satisfy such other requirements
			of CSRC as it may stipulate in
			accordance with the principle of
			prudential regulation.
			,

Currency of funds to	US dollar, UK pound, Japanese	RMB (repatriation can be in a freely
be remitted into and	yen, HK dollar and Euro.	exchangeable foreign currency).
outside China		
Maximum quota	US \$1 billion save for sovereign	No maximum quota.
available to each	funds, central banks and	
applicant	monetary authorities.	
Permissible	Scope of permissible	Same as QFII
Investments	investments:	
	Shares, bonds and warrants	
	listed or transferred on stock	
	exchange;	
	Fixed-income products traded	
	in the inter-bank bond market;	
	,	
	Securities investment funds;	
	Stock index futures; and	
	Other financial instruments permitted by CSRC.	
Deadline for	The investment principal must be	Save for open-ended funds, the
remittance of	remitted within six months after	investment principal must be remitted
investment principal	the quota is obtained from SAFE.	within six months after obtaining the
		quota from SAFE.
		For open-ended funds, the quota must
		be "effectively utilised" within one year
		after being granted by SAFE.
		and being granted by O/11 L.
	The minimum amount to be	No minimum amount is specified.
	remitted is US \$20 million.	, i
Lock-up period	Three months for Long-Term	None for open-ended funds.
	Funds and Open-end China	

	Funds.	
	One year for Other Funds.	For all other funds one year following (i) the date on which the investment principal is fully remitted into Mainland China, or (ii) if the investment principal has not been fully remitted into Mainland China within one year following the date on which the RQFII quota is granted, the expiry date of such one year.
Repatriation of funds	Weekly liquidity for Open-end	Daily liquidity for open-ended funds
Tropaliation of failed	China Funds based on net subscription or redemption.	based on net subscription or redemption.
	Monthly liquidity for Long-Term Funds and Other Funds.	Monthly liquidity for other funds.
	There is a monthly net repatriation cap, being 20% of the total onshore assets of a QFII or fund (in case of Open-end China Funds) as of the end of the preceding year.	
Repatriating investment principal	SAFE approval is required (except for Open-end China Funds).	No SAFE approval is required.
	Investment quota will be reduced accordingly except for Open-end China Funds.	Investment quota will be reduced accordingly except for open-ended funds.

Date: July 2013

Author: Paul Moloney, Brian Dillon, Brian Kelliher, Brian Higgins,

CONTACT US

Our Offices

Dublin

33 Sir John Rogerson's Quay Dublin 2 Ireland

Tel: +353 1 667 0022 Fax: +353 1 667 0042

Cayman Islands

Landmark Square West Bay Road, PO Box 775 Grand Cayman KY1-9006 Cayman Islands Tel: +1 345 949 0022

Fax: +1 345 945 0042

Hong Kong

604, 6/F, Printing House 6 Duddell Street Central Hong Kong

Tel: +852 35210352

New York

245 Park Avenue 39th Floor New York, NY 10167 United States Tel: +1 212 792 4166

Fax: +1 212 792 4167

Tokyo

12th Floor, Yurakucho Itocia Building 2-7-1 Yurakucho, Chiyoda-ku Tokyo 100-0006, Japan Tel: +813 6860 4885 Fax: +813 6860 4501

e-mail: enquiries@dilloneustace.ie website: www.dilloneustace.ie

Contact Points

For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the team members below.

Paul Moloney

E-mail: paul.moloney@dilloneustace.ie

Tel: + 852 3521 0352

Brian Dillon

E-mail: brian.dillon@dilloneustace.ie

Tel: + 353 1 673 1713 Fax: + 353 1 667 0042

Brian Kelliher

E-mail: brian.kelliher@dilloneustace.ie

Tel: + 353 1 673 1721 Fax: + 353 1 667 0042

Brian Higgins

E-mail: brian.higgins@dilloneustace.ie

Tel: + 353 1 673 1891 Fax: + 353 1 667 0042

DISCLAIMER:

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

Copyright Notice:

© 2013 Dillon Eustace. All rights reserved.



DUBLIN CAYMAN ISLANDS HONGKONG NEWYORK TOKYO