

# Internet finance in China

by Wan Jun, *Han Kun Law Offices* and *Practical Law China*

Practice note: overview | **Maintained** | China

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An overview of the regulatory regime governing internet finance in China. It introduces the licensing and compliance requirements for key types of internet finance business, including online payment, P2P lending, crowdfunding and internet asset management.

## Scope of this note

The development of internet technology has deeply penetrated the financial model, and the combination of the internet and finance has spawned the innovative internet finance sector, which increasingly becomes a supplement to the traditional financial system. However, the rapid development of internet finance is accompanied by a series of problems.

This note introduces the evolving regulatory regime governing internet finance in [China](#). It discusses key types of internet finance business, and specifically addresses the licensing and compliance requirements for typical internet finance activities, including online payment, P2P lending, crowdfunding and internet asset management.

## Regulatory framework for internet finance

While China's traditional financial system operates under a sophisticated regulatory regime, the regulatory framework for internet finance has only developed since 2010. The government initially adopted a relatively lenient approach to internet finance to encourage innovation among market participants and improve lending to start-ups. However, the unregulated growth in internet finance led to substantial financial losses (for example, several online lending platforms were found to misappropriate funds or become insolvent), which drove the government to move quickly to regulate this sector.

The [Guiding Opinions on Promoting the Healthy Development of Internet Finance 2015](#) (2015 Internet Finance Guidelines) are the first formal and comprehensive guidelines to regulate the emerging internet finance industry. The guidelines explain how China's financial and internet regulations would apply to the country's growing internet finance industry. Before the guidelines, there was no high-level legislation systematically addressing the framework and regulatory principles in this field. The fact that the [People's Bank of China](#) (PBOC) and other nine regulatory agencies jointly issued the guidelines represents the importance that the Chinese government has placed on the development of internet finance. For more information, see [Legal update, China publishes internet finance guidelines](#).

In 2016, the [State Council](#) released the [Plan to Implement Special Rectification Work on Internet Finance Risks 2016](#) (互联网金融风险专项整治工作实施方案) (2016 Internet Finance Rectification Plan). The plan seeks to standardise the regulation and supervision of internet finance by balancing the often competing goals of protecting consumers and encouraging financial innovation and intends to launch a nationwide campaign to deal with non-compliance in this area. (For more information of the plan, see [Legal update, State Council releases online finance rectification plan](#).)

As the 2015 Internet Finance Guidelines and the 2016 Internet Finance Rectification Plan are high-level principles only, details of the regulatory regime are provided in a complicated patchwork of implementing legislation published subsequently by various regulatory agencies within their respective jurisdictions.

## What is internet finance?

The [2015 Internet Finance Guidelines](#) define internet finance as a new financial business model whereby traditional financial institutions and internet enterprises use internet technology together with information and communications technology to provide financing, payment, investment and information intermediary services, including:

- Third party payment service.
- Online lending, that is, individual online peer-to-peer (P2P) lending.
- Equity crowdfunding.
- Online fund sales.

- Online insurance.
- Online trust.
- Online consumer finance.

(Articles 1-2.)

### Regulators

Under the [2015 Internet Finance Guidelines](#):

- China's existing financial regulators exercise jurisdiction over internet finance businesses as they do over traditional finance businesses.
- The [Ministry of Industry and Information Technology](#) (MIIT) and the [Cyberspace Administration of China](#) (CAC) exercise jurisdiction over matters concerning telecoms networks, internet information and content services.

The guidelines specify corresponding regulators for specified categories of internet finance business as follows:

Category of business	Regulator
Third party payment service	PBOC
P2P lending	<a href="#">China Banking Regulatory Commission</a> (CBRC)
Equity crowdfunding	<a href="#">China Securities Regulatory Commission</a> (CSRC)
Online fund sales	CSRC
Online insurance	<a href="#">China Insurance Regulatory Commission</a> (CIRC)
Online trust	CBRC
Online consumer finance	CBRC

### ICP licence

A common feature of internet finance services is that they are considered to be a type of value-added telecoms service (VATS) as they all involve the provision of information (content) through the internet. Therefore an internet finance service provider must obtain an internet content provider (ICP) licence from a competent office of the MIIT

before providing services. (For more information on ICP licence, see [Practice note: overview, Regulation of internet content services in China: Obtaining an ICP licence](#).)

There are limited exceptions to this ICP licence requirement. For example, where the website of a fund sales institution sells public funds or where the website of an insurance institution sells insurance products, the website is only required to complete an ICP filing procedure (see [Online sale of public funds](#) and [Proprietary network platform](#)). This is because the sale of funds or the sale of insurance products is within the permitted scope of business of the fund sales institution or the insurance institution respectively. (For the distinction between ICP licence and ICP filing, see [Practice note: overview, Regulation of internet content services in China: ICP licence or ICP filing?](#).)

In addition, depending on the specific type of internet finance service to be provided, a service provider may need to obtain corresponding industry licences from respective industry regulators (for example, a payment business licence from the PBOC for engaging in any third party payment service (see [Payment business licence](#))).

### Maximum foreign shareholding cap

The telecoms sector (in particular the internet) is a sensitive area in China and falls into the “restricted category” under the [Catalogue of Industries for Guiding Foreign Investment \(2017 Revision\)](#) (effective from 28 July 2017).

With limited exceptions, foreign investment in the telecoms sector in China is subject to a maximum foreign shareholding cap of 50% for VATS. That is, the investment vehicle must be a [Sino-foreign equity joint venture company](#) (EJV) or a [Sino-foreign co-operative joint venture company](#) (CJV) and the foreign shareholding ratio in the joint venture is capped at 50% for VATS. This foreign shareholding cap can be exempted in some circumstances, including, for certain types of telecoms services (for example, operating for-profit e-commerce platforms), or for businesses in selected pilot areas, or for Hong Kong or Macau service providers (see [Practice note: overview, Telecommunications and internet content regulation in China: Exceptions to foreign shareholding cap](#)).

This maximum foreign shareholding cap should apply to any foreign investment into the Chinese internet finance industry where an ICP licence is required.

### Third party payment service

Third party payment originated from e-commerce, starting from Alipay (which was set up in December 2004). The traditional payment mechanism led by banks could not satisfy the actual business need, which left the existent space for the rapid development of third party payment as a supplementary payment mechanism in the market.

After several years of unregulated development, the government gradually realised the deep relation between payment services and finance safety. Accordingly, the regulators promulgated the [Measures for the Administration of Payment Services of Non-Banking Institutions 2010](#) (2010 Payment Services Measures) to officially launch the regulatory regime for third party payment, which is followed by several regulations and rules to further implement the supervision of this area from different perspectives.

### Types of third party payment service

Third party payment services are payment services provided by non-financial institutions, where these institutions act as intermediaries between payees and payers to provide money transfer services including:

- Online payment (see [Online payment](#)).

- Prepaid cards issuance and acceptance.
- Bank cards acceptance.

(Article 2, [2010 Payment Services Measures](#).)

### **Payment business licence**

To provide any third party payment service, a non-financial institution must obtain a payment business licence (支付业务许可证) from the PBOC. Without the approval of the PBOC, no non-financial institution or individual can engage in any third party payment business directly or covertly. (Article 3, [2010 Payment Services Measures](#).)

### **Suspending the issuance of new payment business licence**

The [2010 Payment Services Measures](#) provide that the rules for the establishment of foreign-invested payment institutions should be formulated by the PBOC separately and then approved by the State Council (Article 9). However, the PBOC has yet issued any such legislation and the approval of the establishment of a foreign-invested payment institution is fully at the discretion of the PBOC.

Up to August 2017, the PBOC only issued a few payment business licenses for prepaid cards issuance and acceptance to foreign investors. It is nearly impossible for foreign investors to obtain the PBOC approval to participate in any online payment business in China. In fact, even for domestic investors, the PBOC has suspended the issuance of any new payment business licence at present.

### **General licencing requirements**

An applicant for a payment business licence must satisfy the following criteria:

- Being a limited liability company or company limited by shares duly established in China and a non-financial institution legal person as well.
- Having the required minimum paid-up capital, that is,
  - for any payment business on a national scale, the minimum paid-up capital is RMB100 million; and
  - for any payment business limited within one province (or any autonomous region or centrally-administered municipality), the minimum paid-up capital is RMB30 million.
- Having qualified shareholders.
- Having more than 5 senior management personnel familiar with the payment business.
- Having required anti-money laundering measures, including various measures to prevent money laundering, terrorist financing and other financial crimes, such as anti-money laundering internal control, customer identification, suspicious transaction reports and the retaining of customer identity information and transaction records.
- Having required payment business facilities, including payment business processing systems, network communications systems and special machine centres to house the systems.
- Having a robust organisational structure, internal control system and risk management mechanism.
- Having appropriate business premises and safety precautions.

- Neither the applicant nor its senior management personnel having, in the last three years, received penalties for:
  - committing any illegal criminal activity by using the payment service; or
  - processing the payment service for others' illegal criminal activities.

(Article 8, [2010 Payment Services Measures](#).)

In addition, a major shareholder of the applicant (that is, any shareholder with a de facto control of the applicant or holding more than 10% of the equity of the applicant) must:

- Be a limited liability company or company limited by shares.
- Have provided information processing support services for more than two consecutive years for either financial institutions or e-commerce businesses.
- Have made profits for more than two consecutive years.
- Be free of any punishment, in the last three years, for:
  - committing any illegal criminal activity by using the payment service; or
  - processing the payment service for others' illegal criminal activities.

(Article 10, [2010 Payment Services Measures](#).)

### Reserve fund

Customers' reserves are pre-received and to-be-paid funds actually received by a third party payment institution to conduct the payment service entrusted by the customers. It is a basic system imposed on all third-party payment institutions and the key requirements are:

- Any reserve does not constitute the self-owned property of the institution ([Article 24, 2010 Payment Services Measures](#)).
- The reserve must be deposited in full amount into a special deposit account opened by the payment institution with a designated commercial bank ([Article 26, 2010 Payment Services Measures](#)).
- The institution must deposit the reserve into the special deposit account according to a specified ratio applicable to the institution (which varies from 10% to 24% depending on the type and category of the third-party payment business). The account does not incur any interest. (*Notice on Matters concerning Implementing the Centralised Depository of Customer Excess Reserves of Payment Institutions 2017* (关于实施支付机构客户备付金集中存管有关事项的通知).)
- The institution should only process the payment business for a customer after receiving the customer's reserve and an irrevocable bank transfer instruction ([Article 23, Measures for Depository of Customer Excess Reserves by Payment Institutions 2013](#) (2013 PBOC Customer Reserve Regulation)).
- Where the institution redeems the reserve for a customer, the institution must transfer the fund through a bank transfer and not in cash. Where cash can be used to redeem the customer's reserve, the institution must first pay the cash from its self-owned account, and then get reimbursed by transferring the same amount from the customer's reserve custodian account to the institution's self-owned account. ([Article 28, 2013 PBOC Customer Reserve Regulation](#).)

### Online payment

The online payment service means the activities of third-party non-banking payment institutions to transfer funds for payers and payees, where the payers' electronic devices do not interact with the payees' specific designated devices, and both the payers and payees would rely on a public network information system to give remote payment instructions through electronic equipment such as computers and mobile terminals (*Article 2, Administrative Measures for Online Payment Business operated by Non-Banking Payment Institutions 2015* (2015 Online Payment Measures)).

On 4 August 2017, the Department of Payment System (支付结算司) of the PBOC released the *Notice on the transfer of Online Payment Businesses of Non-bank Payment Institutions from the Direct Connection Mode to the Network Connection Platform 2017* (关于将非银行支付机构网络支付业务由直连模式迁移至网联平台处理的通知), requiring that from 30 June 2018, all third-party payment institutions should process their online payment businesses for customer transactions involving bank accounts through a designated network payment settlement platform operated by the Network Connection Settlement Company Limited (网联清算有限公司), a company established in 2017 with the PBOC being the largest stake owner. When it is fully operated, the new platform will serve as the mandatory payment settlement intermediary for any third-party non-banking payment institution on one side and the banks of the payers and payees on the other side.

The 2015 Online Payment Measures divide personal payment accounts into the following three classes depending on the size of the transaction and the method used to verify a customer's identity (*Article 11*):

Class of account	Functions	Restrictions	Identity verification methods
<b>Class 1</b>	<ul style="list-style-type: none"> <li>Consumption</li> <li>Bank transfer</li> </ul>	Total transaction amount cannot exceed RMB1,000 since the opening of the account (including the amount transferred from the account to another bank account under the same customer).	Non-face-to-face verification of basic identity information through at least one legitimate and secure external channel (for example, through the information exchange system of commercial banks).
<b>Class 2</b>	<ul style="list-style-type: none"> <li>Consumption</li> <li>Bank transfer</li> </ul>	Total annual transaction amount cannot exceed RMB100,000 (excluding the amount transferred from the account to another bank account under the same customer).	Either of the following: <ul style="list-style-type: none"> <li>Face-to-face verification of the identity of the customer by the payment institution itself or by an entrusted partner agency.</li> <li>Non-face-to-face cross verification of basic identity information through at least three legitimate and secure external channels.</li> </ul>

<p><b>Class 3</b></p>	<ul style="list-style-type: none"> <li>• Consumption</li> <li>• Bank transfer</li> <li>• Investment and wealth management</li> </ul>	<p>Total annual transaction amount cannot exceed RMB200,000 (excluding the amount transferred from the account to another bank account under the same customer).</p>	<p>Either of the following:</p> <ul style="list-style-type: none"> <li>• Face-to-face verification of the identity of the customer by the payment institution itself or by an entrusted partner agency.</li> <li>• Non-face-to-face cross verification of basic identity information through at least five legitimate and secure external channels.</li> </ul>
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Furthermore, the 2015 Online Payment Measures require a non-banking payment institution to comply with the following:

- **Customer management.** In the same way that banks operate, the institution must conduct “know-your-customer” checks and implement the real name system for payment accounts. Payment accounts can only be opened by non-banking payment institutions with qualified payment business licences (*Articles 6 and 8*).
- **Customer rights protection.** The institution is subject to privacy protection obligations in the same way as banks, in relation to personal financial information. Customer consents must be obtained before providing personal data to third parties. (*Article 20*.)
- **AML obligations.** The institution is subject to compliance duties that similarly apply to banks, in relation to anti-money laundering (AML) and counter-terrorist financing (*Article 4*).
- **Observance of blacklisted activities.** These include:
  - any third party payment institution that has only obtained the licences for providing mobile phone payment, landline payment or digital TV payment services cannot open payment accounts for their customers (*Article 8*);
  - the institution should not open payment accounts for financial institutions, or other institutions that engage in financial services such as credit loan, financing, wealth management, guarantee, trust, and currency exchange (*Article 8*); and
  - the institution should not, directly or covertly, engage in businesses such as securities, insurance, credit loan, financing, wealth management, guarantee, trust, currency exchange, and cash deposit and withdrawal (*Article 9*).

## P2P lending

P2P lending means direct lending from peer-to-peer through an internet platform (that is, a network lending information agency). A peer can be a natural person, legal person or any other organisation. A network lending information agency (P2P platform) is a financial information intermediary lawfully incorporated to engage in internet lending information intermediary services. Such institution provides information collection, information disclosure, credit rating, information exchange, loan matchmaking and other services for lenders and borrowers to achieve direct lending by using the internet as the channel.



The P2P platform business model was introduced to China in 2007, and grew quickly without any order and supervision from Chinese regulators. P2P platforms were once operated under informal principles and guidelines of the CBRC for a long time, until the promulgation of the [Interim Measures on the Administration of the Business Activities of Network Loan Information Agencies 2016](#) (2016 P2P Lending Measures) by four government agencies including the CBRC and the [State Internet Information Office](#) (SIIO) (also known as the CAC). The 2016 measures serve as the constitution of P2P platforms and grant those existing platforms a 12-month grace period for regulatory compliance.

### Licensing and filing for P2P platform

A P2P platform should explicitly describe itself as an internet lending information intermediary in its business scope ([Article 6, 2016 P2P Lending Measures](#)).

The 2016 P2P Lending Measures do not specify the qualifications required for sponsors that initiate the setup of P2P platforms. Nor do the measures impose any minimum registered capital for P2P platforms.

However, a P2P platform must:

- Make a record-filing with the competent local finance office at the platform's place of incorporation within ten days after obtaining the business licence.
- Apply for corresponding telecoms licence from a competent office of the MIIT (see [Practice note: overview, Regulation of internet content services in China: Obtaining an ICP licence](#)).

([Article 5, 2016 P2P Lending Measures](#).)

Many local finance offices are in the process of issuing their respective filing rules. Some published local filing rules (such as in Xiamen and Guangdong) indicate the filing requirements would be more related to the compliance operation of P2P platforms.

### Compliance red flags for P2P lending

Under the [2016 P2P Lending Measures](#), P2P platforms are prohibited from:

- Directly or covertly fundraising for itself.
- Directly or indirectly accepting or imputing lenders' funds.
- Directly or covertly providing lenders with a guarantee or promising any guaranteed return.
- Publicising or promoting finance projects at any physical location other than through electronic channels such as the internet, fixed phones and mobile phones.
- Granting loans (except as permitted under the law).
- Splitting the term of any financial project.
- Selling their own wealth management products and other financial products to raise funds, or selling banks' wealth management products, brokers' assets management products, funds, insurance or trust products, or other financial products on behalf of others.
- Providing asset securitisation services or transferring creditors' rights in the form of packaged assets, securitised assets, trust assets or fund shares.
- Engaging in any form of mixture, bundling or agency with other institutions in the investment, agency in sale, brokerage and other businesses (except as permitted under the law).

- Fabricating or exaggerating the truthfulness and earnings outlook of financing projects, concealing the defects and risks of financing projects, making false advertising or promotion by using ambiguous words or other fraudulent means, fabricating or spreading false or incomplete information impairing the business reputation of others or misleading lender or borrowers.
- Providing information intermediary services for high-risk financing projects where the loans would be used in stock investments, over-the-counter margin financing, futures contracts, structured products and other derivatives.
- Providing equity crowdfunding services.

(Article 10, [2016 P2P Lending Measures](#).)

A P2P platform must separate its own funds and funds of lenders and borrowers, and appoint a commercial bank as a third-party banking custodian to prevent any misuse of customers' funds ([Guidelines on the Depository Business for Funds of Online Peer-to-Peer Lending 2017](#)).

### Lending amount cap

From the perspective of risk control and the positioning that online lending should be dominated by small loans, the [2016 P2P Lending Measures](#) set a cap on the outstanding balance that a single borrower can borrow through a single platform and through multiple platforms respectively:

Borrower	Single platform cap	Multiple platforms cap
Individual	RMB200,000	RMB1 million
Legal person and other organisation	RMB1 million	RMB5 million

The caps would present a challenge to most P2P platforms where:

- Most entities that borrow money through P2P platforms are those that are unable to get loans from traditional financial institutions and their capital demand largely exceeds the caps.
- It would be difficult for a platform to ascertain the aggregate outstanding debt of a borrower across multiple platforms in the absence of a centralised database which can record all P2P lending information.

### Crowdfunding

Crowdfunding is a concept borrowed from foreign jurisdictions and means a way of fundraising from the public to support an individual or organisation.

In some foreign jurisdictions, crowdfunding normally is equity crowdfunding, typically used for small start-ups with limited access to other funding sources.

However, the model of public equity crowdfunding conflicts with the [Law of the People's Republic of China on Securities 2014](#) and may be considered as illegal fundraising under the [Criminal Law of the People's Republic of China 1997](#).

Therefore, crowdfunding in China at this stage is more of a concept and marketing method, with forms including:

- **Goods crowdfunding.** This is a pre-sale of goods to the public before the official launch of the goods. In return for the sum paid, payers receive physical goods or services in exchange.
- **Debt crowdfunding.** That is, P2P lending (see [P2P lending](#)).
- **Private equity “crowdfunding”.** This is a form of equity funding and raises funds only from specified groups through a network platform. This is not actually real crowdfunding as it does not meet the “publicity” requirement. However, the removing of the publicity element helps to distinguish these funding projects from illegal fundraising under Chinese law to some extent.
- **Public donation crowdfunding.** This is raised for charitable reasons.

### Compliance red flags for equity crowdfunding

As the foreign equity crowdfunding model conflicts with Chinese law, there is no legislation specifically governing equity crowdfunding activities in China.

The CSRC and other 13 administrative or judicial authorities jointly issued the *Plan to Implement Special Rectification Work on Equity Crowdfunding 2016* (股权众筹风险专项整治工作实施方案) (2016 Equity Crowdfunding Rectification Plan) to specify certain red flag activities prohibited to be engaged by any equity crowdfunding business.

Specifically, the 2016 Equity Crowdfunding Rectification Plan **prohibits** a crowdfunding platform from:

- Making a public offering of securities to unspecified investors or more than 200 specified investors without the approval from the CSRC.
- Conducting illegal private equity fund management business, such as raising funds from individuals or organisations other than from qualified investors (which is capped at 200).
- Conducting any securities business (such as any brokerage or advisory service in relation to securities investment) without the CSRC’s approval.
- Making false and misleading claims in publicising or promoting finance products or businesses.
- Misappropriating or occupying investors’ funds.

## Internet asset management

There is no clear definition for internet asset management which is basically understood as the provision of asset management services to investors via the internet.

Internet asset management services in China mainly relate to the sale of various investment products to investors, including public funds, insurance and other financial products.

### Compliance red flags for internet asset management

Currently there is no legislation that squarely deals with internet asset management.

The PBOC and other 16 administrative or judicial authorities jointly released the *Plan to Implement Special Rectification Work on Asset Management Development and Crossover Financial Business Risks by Internet 2016* (通过互联网开展资产管理及跨界从事金融业务风险专项整治工作实施方案) (2016 Internet Asset Management Rectification Plan) to specify certain red flag activities prohibited to be engaged in by any internet asset management business.

Specifically, the 2016 Internet Asset Management Rectification Plan provides that:

- Any internet enterprise with qualifications for asset management related businesses is prohibited from:
  - selling the offline private offering financial products through the internet to the public or to over 200 specified targets;
  - carrying out asset management businesses by levelling and assembling multiple asset management products to circumvent the compliance requirements; or
  - failing to strictly implement investor eligibility standards.
- Any internet enterprise that develops asset management financial services is prohibited from engaging in:
  - any proxy sale of financial products unless it has the qualification for selling financial products as agents;
  - any asset management business unless it has the corresponding asset management qualification; or
  - any internet financial business unless it has the corresponding financial business qualification.
- Any internet enterprise that presents a mixed operation with qualifications for multiple financial services must:
  - establish a firewall mechanism among different business segments;
  - comply with the regulations on the prohibition of related transactions and benefit transfer; and
  - have an inadequate protection for customers' funds.

The 2016 Internet Asset Management Rectification Plan indicates that the government is likely to adopt a licence management for all types of internet asset management business in future. Ultimately, the principle of penetration will be applied so as to connect the sources of funds, intermediate links and the final investment together. The nature of a business will then be determined on the comprehensive information from the whole process.

### **Online sale of public funds**

Public funds are funds offered to unspecified investors or more than 200 specified investors.

The online sale of public funds can be made by:

- A traditional fund company, bank, securities company or insurance company having the qualification to sell public funds.
- An independent fund sales institution through its self-operated online platform.
- A third party online platform, such as Taobao, which despite not having the qualification to sell funds by itself, can co-operate with an entity having the appropriate qualification to achieve the sale.

Governing legislation in this area includes:

- *Technical Guidelines for Online Fund Sales Information Systems 2012* (网上基金销售信息系统技术指引) (2012 Online Fund Sales Guidelines).
- *Interim Provisions on the Administration of the Business Operations of Securities Investment Fund Distributors through Third Party Online Platforms 2013* (2013 Provisions on Third Party Platform Fund sales).

Specifically, the 2012 Online Fund Sales Guidelines require that:

- The online fund sales information system of a fund sales institution must be:
  - set up within China to meet the regulatory authorities' requirements of on-site checks and the judiciary authorities' requirements of investigation and evidence collection (*Article 9*); and
  - operated and managed by the fund sales institution. If any third party is involved, the corresponding confidentiality agreement and service agreement must be signed with that third party to define responsibilities, and measures should be adopted to prevent users' information being disclosed through the third party (*Article 12*).
- The website of the fund sales institution should:
  - complete the ICP filing with a competent local office of the MIIT;
  - complete the website filing with a competent local office of the [State Administration for Industry and Commerce](#) (SAIC);
  - publicise the ICP filing number on the homepage of the website; and
  - provide clients with links to corresponding government filing pages.
- (*Article 21.*)

A third party online platform without a fund sales licence can only provide ancillary services, and cannot engage in the following fund sales business independently:

- Fund trading account opening.
- Promotion and introduction.
- Fund share purchase (subscription) and redemption.
- Investment consultation.
- Complaint handling.

(*Article 3, 2013 Provisions on Third Party Platform Fund Sales.*)

The platform must:

- Be operated by a Chinese legal entity and have its website placed within China.
- Have obtained an ICP licence for at least three years.
- Have a good integrity record, and not received any major administrative punishment or criminal punishment in the last three years.

(*Article 6, 2013 Provisions on Third Party Platform Fund Sales.*)

### **Online sale of insurance products**

The [Interim Measures for the Regulation of Internet Insurance Business 2015](#) (2015 Interim Measures for Online Insurance) is the "basic law" regulating the internet insurance business and would remain effective for three years from 1 October 2015.

The online sale of insurance products includes the sale through a proprietary network platform or a third-party

network platform.

### **Proprietary network platform**

A proprietary network platform means a network platform duly established by an insurance institution. The head office of the institution should establish a uniform and centralised business platform and process flow to conduct centralised operation and uniform management of the internet insurance business. (*Articles 1 and 4, 2015 Interim Measures for Online Insurance.*)

The proprietary network platform of an insurance institution must:

- Have an information management system that:
  - supports the operation of the internet insurance business;
  - can achieve the real-time seamless connection with the core business systems of the institution; and
  - can ensure an effective separation from the other internal application systems of the institution to prevent the transfer and spread of information security risks within and outside the institution.
- Have sound firewalls, intrusion detection, data encryption, disaster recovery and other internet information security management systems.
- Complete an ICP filing with a competent local office of the MIIT. The website access location must be within China.
- Have dedicated internet insurance business management departments equipped with appropriate specialists.
- Have robust internet insurance business management systems and operating procedures.
- Employ salespersons qualified under the relevant provisions of the CIRC.

(*Article 5, 2015 Interim Measures for Online Insurance.*)

Under the traditional insurance regulatory regime, an insurance institution can only operate in provinces of the place of incorporation of itself and its branch offices. The 2015 Interim Measures for Online Insurance relax this limitation as a result of the nature of the internet. Specifically, an insurance institution may extend its online sales business to provinces where they do not have branch offices, but only relating to:

- Personal accident injury insurance, term life insurance and ordinary whole life insurance.
- Household property insurance, liability insurance, credit insurance and guarantee insurance where the insurance applicant or the insured is an individual.
- Property insurance business for which the entire process of sales, insurance underwriting and claims settlement can be independently and fully achieved through the internet.

(*Article 7.*)

### **Third-party network platform**

A third-party network platform means a network platform, other than any proprietary network platform, that provides network technical support auxiliary services for insurance consumers and insurance institutions in the internet insurance business (*Article 1, 2015 Interim Measures for Online Insurance.*)

To engage in auxiliary services for online sales of insurance products, a third party network platform must:

- Obtain an ICP licence from a competent office of the MIIT. The website access location must be within China.
- Have a secure and reliable internet operation system and information security management system that can achieve an effective isolation from the application systems of the insurance institution to prevent the transfer and spread of information security risks within and outside the institution.
- Be able to provide the insurance institution with complete, accurate and timely information needed for conducting the insurance business, such as:
  - personal information of insurance applicants, the insured and the beneficiaries;
  - contact information;
  - account information; and
  - traces of insurance application operations.
- Not have been subject to any serious administrative punishment from competent internet industry regulators, the SAIC and other government agencies in the past two years.
- Not have been included in the CIRC's industry blacklist.

(Article 6, 2015 Interim Measures for Online Insurance.)

Insurance institutions should manage, and take responsibility for, the sales, underwriting, claims settlement, policy surrender, complaint handling, customer services and other internet insurance business activities. A third party network platform must not engage in any of these insurance business activities without obtaining an appropriate insurance intermediary licence from the CIRC (Article 3, 2015 Interim Measures for Online Insurance).

### **Online sales of other financial products**

Other than public funds and insurance products, some structured finance products are also sold through internet finance platforms, including in particular certain quasi-securitisation products issued through local financial exchange centres. There was once no legislation regulating these activities. However, the government has started to close the loophole and fill in the regulatory gap.

For example, on 30 June 2017, the Office of the Special Rectification Work Leadership Team for Internet Financial Risks (互联网金融风险专项整治工作领导小组办公室) issued the *Notice of Carrying Out the Clean-up and Rectification for the Illegal Business Undertaken by Internet Platforms and Various Types of Exchange Centres (2017)* (关于对互联网平台与各类交易场所合作从事违法违规业务开展清理整顿的通知), providing that some internet financial platforms were found to co-operate with certain local financial exchange centres to offer quasi-securitisation products to the public directly or covertly. These businesses failed to comply with the regulatory requirements in this field (see [Compliance red flags for internet asset management](#)) and should be called to stop before 15 July 2017. After the 2017 notice, almost all big internet financial platforms took financial products of this type off their respective platforms.

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