

# Legal Commentary

January 30, 2019



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BEIJING | SHANGHAI | SHENZHEN | HONG KONG

## CSRC Recognizes Domestic Futures Exchanges as QCCPs

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At the end of January 2019, the four futures exchanges in China, Dalian Commodity Exchange ("DCE"), China Financial Futures Exchange ("CFFEX"), Shanghai Futures Exchange ("SHFE"), Zhengzhou Commodity Exchange ("ZCE"), as well as Shanghai International Energy Exchange Co., Ltd. ("INE"), the subsidiary of SHFE operating the listing, clearing and delivery of energy derivatives, acknowledged respectively that they had been officially recognized by the China Securities Regulatory Commission ("CSRC") as qualifying central counterparties ("QCCPs")<sup>1</sup>. This gesture by CSRC reveals China's intent to promote internationalization of China's futures markets by adopting international standards to attract foreign investors.

The futures exchanges have been performing the function of central counterparties in futures trading. According to CSRC, a central counterparty refers to "a legal person who, upon the conclusion of a futures transaction, interposes itself between the counterparties to the transaction, becoming the buyer to every seller and the seller to every buyer, and who undertakes settlement on a net basis, to centrally guarantee the performance of such futures trading"<sup>2</sup>.

In 2012, the Committee on Payment and Settlement Systems of the Bank for International Settlements ("CPSS", currently known as the Committee on Payment and Market Infrastructures) and the International Organization of Securities Commissions ("IOSCO") published the *CPSS-IOSCO Principles for Financial Market Infrastructures* ("PFMI"). The PFMI set out twenty-four principles to manage the market risk of central counterparties and other financial market infrastructures based on nine aspects (i.e., general organization, credit and liquidity risk management, settlement, central securities depositories and exchange-of-value settlement systems, default management, general business and operational risk management, access, efficiency and transparency). The *Capital Requirements for Bank Exposure to*

<sup>1</sup> See DCE announcement at [http://www.dce.com.cn/DCE/Media\\_Center/Exchange%20News/6151600/index.html](http://www.dce.com.cn/DCE/Media_Center/Exchange%20News/6151600/index.html), CFFEX announcement at [http://www.cffex.com.cn/en\\_new/ExchangeNews/20190124/23640.html](http://www.cffex.com.cn/en_new/ExchangeNews/20190124/23640.html), SHFE announcement at <http://www.shfe.com.cn/en/AnnouncementandNews/SHFEAnnouncement/911333004.html>, INE announcement at <http://www.ine.cn/en/news/notice/1389.html>, ZCE reprinted relevant media reports on its official website at <http://www.czce.com.cn/cn/gyjys/jysdt/jysxw/webinfo/2019/01/1545635841310897.htm>.

<sup>2</sup> Article 15 of the *Interim Measures for Administration of Domestic Trading of Specified Futures Products by Overseas Traders and Overseas Brokerage Agencies* (China Sec. Reg. Comm., Decree No. 116; promulgated June 26, 2015, effective August 1, 2015).

*Central Counterparties* issued by the Bank for International Settlements define QCCP as an entity that (i) is licensed to operate as a central counterparty and is permitted by the appropriate regulator to operate as such; and (ii) is based in a jurisdiction where the domestic rules and regulations for central counterparties are consistent with the PFMI<sup>3</sup>.

The PRC regulators have been actively promoting the implementation of the PFMI since their issuance. In 2013, the People's Bank of China and CSRC each published a notice on implementing the PFMI<sup>4</sup>. In January 2014, they jointly carried out an assessment under the PFMI of central counterparties and other financial market infrastructures of the futures exchanges and clearing houses<sup>5</sup>. The Global Association of Central Counterparties ("**CCP12**"), a global association of major central counterparties across the world, was registered in Shanghai in June 2016 and started to operate in early 2017.

Prior to recognizing the two exchanges as QCCPs, the PRC regulators have taken a series of actions to open up China's futures markets. In 2018, China granted foreign access to crude oil (listed on INE), iron ore (listed on DCE) and PTA (listed on ZCE) futures contracts. The TSR (technically specified rubber) 20 futures contract (to be listed on SHFE) will join the team soon.<sup>6</sup> In the same year, foreign investors were permitted to hold majority interests of up to 51% in futures companies, with this restriction being lifted by 2021. Recently, CSRC also revealed its plan to further open up the financial futures markets, which will be led by CFFEX<sup>7</sup>. Meanwhile, the futures exchanges themselves are taking efforts to increase their international presence and bring in foreign investors. For instance, INE and DCE were granted Hong Kong ATS (automated trading service) licenses respectively in March and May of 2018, and INE acquired Singapore RMO (recognized market operator) license in last November.

The recognition of futures exchanges as QCCPs is seen as further promoting the internationalization of China's futures markets, giving greater confidence to foreign investors and bringing futures trading more in alignment with international standards and practices. The futures exchanges state that they will strictly abide by the PFMI and earnestly carry out the obligations of QCCPs.

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<sup>3</sup> See the Capital Requirements for Bank Exposures to Central Counterparties, page 2 at <https://www.bis.org/publ/bcbs282.pdf>.

<sup>4</sup> *Notice on Relevant Matters Concerning Implementing the Principles for Financial Market Infrastructures* (Gen. Office China Sec. Reg. Comm., No. 42[2013], issued on May 8, 2013); *Notice on Relevant Matters Concerning Implementing the Principles for Financial Market Infrastructures* (Gen. Office Bank of China, No. 187[2013], issued on September 3, 2013)

<sup>5</sup> See *Circular on Conducting Assessments of Financial Market Infrastructures* (Gen. Office People's Bank of China, Gen. Office China Sec. Reg. Comm., No. 239 [2013]; issued in January 2014)

<sup>6</sup> See <http://www.shfe.com.cn/news/news/911330653.html>.

<sup>7</sup> See [http://www.csrc.gov.cn/pub/zjhpublish/G00306201/201808/t20180831\\_343402.htm](http://www.csrc.gov.cn/pub/zjhpublish/G00306201/201808/t20180831_343402.htm) .

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