

金融法律热点问题

近期银行间外汇和债券市场开放进展情况一览

一、银行间外汇市场推出外汇市场主经纪业务

国家外汇管理局(以下简称“外管局”)于2020年1月13日正式发布《国家外汇管理局关于完善银行间债券市场境外机构投资者外汇风险管理有关问题的通知》(汇发〔2020〕2号)(以下简称“《2号文》”),该文已于2020年2月1日生效。

根据《2号文》,银行间债券市场的各类境外机构投资者可以使用境内人民币对外汇衍生产品(以下简称“外汇衍生品”)按照套期保值原则管理因其投资银行间债券市场产生的外汇风险敞口,且可以选择与不超过3家境内金融机构进行外汇衍生品交易。《2号文》列举了如下外汇衍生品交易的渠道:

机构类型	交易渠道	机构类型	交易渠道
境外银行类 投资者	作为客户与境内金融机构直接交易	境外非银行类 投资者	作为客户与境内金融机构直接交易
	申请成为中国外汇交易中心(以下简称“外汇交易中心”)会员通过主经纪业务进入银行间外汇市场交易		申请成为外汇交易中心会员通过主经纪业务进入银行间外汇市场交易
	申请成为外汇交易中心会员直接进入银行间外汇市场交易		

就《2号文》中提及的境外机构投资者通过主经纪业务进入银行间外汇市场进行交易的方式,外汇交易中心于2020年5月29日发布了《关于在银行间外汇市场推出主经纪业务的通知》(以下简称“《通知》”)以及《银行间外汇市场主经纪业务指引(试行)》(以下简称“《指引》”),以正式落

实《2号文》的规定。

根据《通知》,银行间外汇市场主经纪业务是指主经纪客户通过外汇交易中心系统主经纪功能,以主经纪商的授信和/或名义与交易对手方达成交易。我们在下表中总结了《通知》和《指引》中境外投资者可能关注的重点:

主经纪商客户	银行间债券市场直接投资模式(CIBM Direct)下符合《中国人民银行公告(2016)第3号》(以下简称“《3号公告》”)等相关监管规定的境外投资者,包括境外非银行类会员和选择主经纪业务入市的境外银行类会员,可向外汇交易中心申请备案成为主经纪客户。
主经纪商	境内人民币外汇市场的做市商和外币对市场的做市商和会员可向外汇交易中心申请备案成为主经纪商。 主经纪客户可选择一家或多家主经纪商。
适用范围	<ul style="list-style-type: none"> ● 人民币外汇市场(暂仅适用CIBM Direct的外汇风险管理) ● 外币对市场
交易品种	<ul style="list-style-type: none"> ● 人民币外汇市场:人民币外汇市场主经纪客户可在询价交易(RFQ)等模式下,以交易发起方(Taker)身份,开展基于银行间债券投资相关风险对冲的远期、掉期等外汇衍生品交易。 ● 外币对市场:外币对市场主经纪客户可在撮合(ODM)及询价交易(包括RFQ和ESP)等模式下,以交易报价方(Maker)或交易发起方(Taker)身份参与外币对即期和远期、掉期等衍生品交易。
交易模式	<ul style="list-style-type: none"> ● 匿名模式:指主经纪客户和主经纪对手方在交易过程中及交易达成后均不知悉实际交易对手方的主经纪交易。 ● 具名模式:指主经纪客户和主经纪对手方在交易过程中互相知悉的主经纪交易。
协议要求	<p>匿名模式:主经纪客户与主经纪商签署协议。</p> <p>具名模式:主经纪客户、主经纪商和主经纪对手方签署三方协议。</p> <ul style="list-style-type: none"> ● 协议应明确主经纪商向其主经纪客户提供主经纪服务的条件及限制,包括交易产品、币种、期限、额度、风险敞口、清算方式以及责任划分等。 ● 上述协议应由主经纪商提交外汇交易中心备案,并在相关协议发生变更或终止时,及时通知外汇交易中心。
套期保值原则	<ul style="list-style-type: none"> ● 境外投资者的外汇衍生品敞口与外汇风险敞口应具有合理的相关度,并在发生变化时进行相应调整。 ● 境外投资者应向金融机构或外汇交易中心提交遵守套期保值原则的书面承诺。

主经纪业务(Prime Brokerage)模式对外汇市场的参与者意义重大,降低了主经纪客户进入市场的门槛。原本需要与每个交易对手方签订协议、进行授信甚至提供额外保证金的客户可通过高评级的主经纪商的信用网络和交易服务,实现与市场上更多的交易对手方达成交易。在此过程中,主经纪客户仅需要与主经纪商建立合同关系,完成统一授信便可以进入市场与交易对手方开展交易,而交易系统会将达成的外汇衍生品交易自动拆分成两笔背对背交易(back-to-back),即一笔主经纪商与主经纪对手方的交易,一笔主经纪商与主经纪客户的反

向交易。《指引》中也明确提及外汇交易中心提供主经纪业务的目的是帮助因授信或额度制约无法达成交易的市场参与者通过主经纪商达成交易。外汇交易中心适时推出主经纪业务模式,使得境外机构投资者可以通过选择一家或多家主经纪商与更多的交易对手方达成交易,为境外机构投资者投资银行间债券市场提供了便利。

二、银行间债券市场公布最新开放举措

在2020年5月30日召开的银行间本币市场网上大会上,外汇交易中心的负责人提到了下述银行间

债券市场进一步发展和对外开放的计划：

- 延长银行间债券市场交易时间

目前银行间债券市场对现券买卖、质押式和买断式回购、债券借贷、债券远期的即日交易的结束时间为北京时间下午16:50，T+1交易及利率互换的交易结束时间为北京时间下午17:00。初期计划将交易时间延长至北京时间20:00，以逐步覆盖全球交易时段。

- 推动更多境外机构参与利率衍生品市场

随着《3号公告》的颁布，境外机构除在银行间债券市场开展现券交易外，可以基于套期保值需求开展远期利率协议及利率互换等交易。此外，外汇交易中心于2020年3月23日起试运行利率期权交

易及相关服务，利率期权交易品种为挂钩LPR1Y/LPR5Y的利率互换期权、利率上/下限期权。我们注意到外汇交易中心不断推动利率衍生品市场的扩容，丰富产品类型和完善配套制度。下一步，我们期待债券通北向通交易范围进一步扩大至利率衍生品。

- 推出CIBM Direct模式下的直接交易功能

该功能将支持通过CIBM Direct模式入市的境外机构与境内做市机构直接达成交易。

上述债券市场对外开放举措为境外投资者进入银行间债券市场提供了多元化服务和实际便利，有利于吸引更多境外机构投资者进入银行间外汇和债券市场。我们将持续关注并及时与我们的客户分享最新的进展。

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Financial

Recent Updates on the Opening-up of Inter-bank Foreign Exchange and Bond Markets

I. Introducing Prime Brokerage Business in CFIXM

The State Administration of Foreign Exchange (SAFE) officially issued *the Circular on Improving the Management of Foreign Exchange Risks Regarding Foreign Institutional Investors Trading in the Inter-bank Bond Market (Hui Fa [2020] No. 2)* (“Circular [2020] No. 2”) on January 13, 2020, effective as of February 1, 2020.

Pursuant to the Circular [2020] No. 2, foreign institutional investors eligible to trade in the inter-bank bond market (“CIBM”) may use domestic RMB/foreign exchange derivatives (“forex derivatives”) to manage their forex risk exposure arising from their CIBM investments in accordance with the hedging principle, and may choose to do so with no more than three domestic financial institutions. The Circular [2020] No. 2 sets out the following routes available to foreign institutional investors in trading forex derivatives:

Type of Institution	Trading Routes	Type of Institution	Trading Routes
Foreign bank-type investors	Trading with a domestic financial institution as its customer	Foreign non-bank-type investors	Trading with a domestic financial institution as its customer
	Trading in the China Inter-bank Foreign Exchange Market (CIFXM) through engaging the prime brokerage services after becoming a member of the China Foreign Exchange Trade System (CFETS)		Trading in the CIFXM through engaging the prime brokerage services after becoming a member of the CFETS
	Trading in the CIFXM directly after becoming a member of the CFETS		

With respect to the options available for foreign investors to trade in the CIFXM through the prime brokerage business as specified in the Circular [2020] No. 2, on May 29, 2020, the CFETS issued the *Notice on the Launch of the*

Prime Brokerage Business in the China Inter-bank Foreign Exchange Market (the “Notice”) and the *Guidelines for the Prime Brokerage Business in the China Inter-bank Foreign Exchange Market (for Trial*

Implementation) (the “Guidelines”) for official implementation of the provisions of Circular [2020] No. 2.

According to the Notice, the prime brokerage business in the CIFXM refers to a client using the credit facility and/or in the name of a prime broker to enter into forex transactions with

counterparties via the prime brokerage function on the CFETS Trading System.

We briefly summarize the key points specified in the Notice and the Guidelines that may be of particular interest to foreign investors in the following table:

Prime Brokerage Client	Foreign investors, who satisfy requirements in the <i>Announcement No. 3 [2016] of the People’s Bank of China</i> (“No. 3 Announcement”) and other relevant regulations to enter the CIBM through the CIBM Direct program, including foreign non-bank-type investors and foreign bank-type investors that intend to participate in the prime brokerage business, may file with the CFETS to become a prime brokerage client.
Prime Broker	Domestic market makers in the interbank RMB/FX market or market makers and members in the interbank G10 currency pairs market may file with the CFETS to become a prime broker for corresponding market. A prime brokerage client may engage one or more prime brokers.
Applicable Market	<ul style="list-style-type: none"> ● RMB/FX market (currently only available to the CIBM Direct program) ● Inter-bank G10 currency pairs market
Available Products	<ul style="list-style-type: none"> ● <u>RMB/FX Market</u>: Prime brokerage clients in this market may act as a “Taker” to trade forex forwards, swaps and other forex derivatives through bilateral RFQ and other trading modes, for the purpose of hedging against the forex risks arising from their investment in the CIBM. ● <u>G10 Currency Pairs Market</u>: Prime brokerage clients in this market may act as a “Maker” or “Taker” to trade spot, forward, swap and other derivatives transactions in G10 currency pairs, through modes of matching (ODM), bilateral trading (including RFQ and ESP), and other trading modes.
Available Trading Modes	<ul style="list-style-type: none"> ● <u>Anonymous Mode</u>: Anonymous trading occurs when prime brokerage clients execute trades with counterparties but do not reveal their identities throughout the process. ● <u>Real Name Mode</u>: Prime brokerage clients and counterparties are aware of the identity of each other in the course of executing trades.
Requirement on Agreement	<p><u>Anonymous Mode</u>: Execution of an agreement between prime broker client and prime broker.</p> <p><u>Real Name Mode</u>: Execution of a tripartite agreement among prime broker client, prime broker and counterparty.</p> <ul style="list-style-type: none"> ● An agreement shall specify the conditions and restrictions for the prime broker to provide services to its prime brokerage clients such as trading products, currency, term of trading, trading quota, risk exposure, settlement method and division of responsibilities. ● Such agreement shall be filed by prime broker with the CFETS. Prime

	broker shall promptly notify of the CFETS in the event of any amendment to or termination of such agreement.
Hedging Principle	<ul style="list-style-type: none"> ● The exposure of a foreign investor to forex derivatives shall be reasonably correlated with its forex risk exposure, and corresponding adjustments shall be made upon the occurrence of any change. ● A foreign investor shall submit undertakings in writing with the domestic financial institutions or the CFETS to document its compliance with the hedging principle.

Prime brokerage business is of great significance to foreign exchange market participants, because it lowers the threshold for a prime brokerage client to enter the market. Customers -- who would have had to enter into an agreement with each counterparty, obtain a credit facility or even provide additional collateral -- may enter into trades with more counterparties in the market through the credit and trading services offered by a prime broker with a high rating. To start trading, a prime broker client only needs to contract with a prime broker, and then conduct transactions with counterparties rightly after obtaining a one-time credit approval. Each prime brokerage transaction will then be automatically split into two back-to-back trades by the CFETS Trading System: one between the prime broker and the counterparty, and one between the prime broker and the prime brokerage client. The Guidelines also explicitly mention that the main purpose of offering prime brokerage services is to facilitate market participants who cannot conduct trades due to restrictions of credit facility or trading quota and allow them to enter into forex trades through prime brokers. Launch of prime brokerage business by the CFETS enables foreign institutional investors to choose one or more prime brokers to enter into forex derivative trades with more counterparties, further facilitating foreign institutional investment in the CIBM.

II. Introducing More Measures of Opening-up in the CIBM

At an online conference held on May 30, 2020, a spokesperson for CFETS mentioned the following plans for the CIBM:

- Extending CIBM trading hours

At present, the trading hours of T+0 transactions including the purchase and sale of cash bonds, pledge repo, outright repo, cash bond lending and bond forward in the CIBM ends at 16:50 p.m. Beijing time, and the trading hours of T+1 transactions and interest rate swap ends at 17:00 p.m. Beijing time. Initially, the CFETS plans to extend the trading time to 20:00 Beijing time with the intention of gradually aligning CIBM's trading hours with that of the global market.

- Promoting more participation in the interest rate derivatives market

With the promulgation of No.3 Announcement, foreign institutional investors may carry out not only trading of cash bonds, but also other type of trading such as forward rate agreement or interest rate swaps based on the needs of hedging. In addition, CFETS announced the trial operation of interest rate options trading and related services starting from March 23, 2020. The linked target is the loan quotation rate (LPR), i.e. LPR1Y/LPR5Y interest rate swap options and interest rate upper/lower limit options. Notably, the CFETS is continuously promoting the expansion of interest rate derivatives market, diversifying product types and formulating ancillary policies. As for the next step, we may expect an

expansion of the scope of trading to include interest rate derivatives under the northbound trading of the Bond Connect program as well.

- Launching a direct trading function in the CIBM Direct program

Foreign institutions under the CIBM Direct program will be able to conclude transactions with domestic market makers directly.

The aforesaid opening-up measures aim to improve the services and provide convenience for foreign investors to enter the CIBM and to attract foreign institutional investors to enter the inter-bank foreign exchange and bond markets. We will continue to monitor the situation and keep our clients apprised of any important developments.

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