

# The CSRC's new distribution regulation – A fair environment for business

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Trust is key, particularly when it comes to the proper functioning of the [investment industry](#). Laws and regulations are designed to ensure that investors are being treated fairly and in all conscience, and to

- Prevent investment fraud and stock manipulation
- Protect investors from purchasing or selling based on false information
- Promote and maintain integrity and transparency in the investment industry

Company disclosures play an important role in helping investors assess whether to make an investment, and regulators to ensure that investors are safeguarded from false and misleading claims. A disclosure helps an investor understand the limitations or the conditions applied during the process to showcase information in marketing material, for example, when reporting performance results without deducting advisory fees. It is imperative that the audience understand how the performance was derived, as there could be a significant difference between the actual performance and the performance presented without deducting fees.

To protect the interest of investors, China's fund authority, the China Securities Regulatory Commission (CSRC), has enhanced the regulations relating to fund sales disclosure, due to the increase in malpractice and misleading information being provided to investors by [asset managers](#) and fund distribution agencies. At present, marketing techniques are designed in such a way that investors are misled either because they do not provide complete knowledge of the fund or provide completely false information.

The regulator restricts use of content in fund marketing and promotional material that is prohibited by the following laws in China:

- The Advertising Law
  - The Anti-Unfair Competition Law
  - The Anti-Monopoly Law
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In the event fund marketing material or promotional material violates these laws, they will be subject to disciplinary action by the CSRC and any action taken by the concerned regulatory authorities. This proves that the CSRC is intent on limiting the use of incorrect information and will leave no stone unturned when it comes to protecting investor interest.

The regulator has eliminated the pre-filing requirements for marketing and promotional material and has changed them to requiring an internal review, which would ease the burden on fund managers and fund distribution agencies. However, such entities would need to make sure that strict measures are taken to implement and improve proper internal checks and control of the material, to ensure efficient and effective functioning of the fund distribution business and avoid [compliance risks](#).

There has been an increase recently in promotional campaigns run by third-party video and streaming platforms where funds are distributed. Such campaigns attract investors, as they promise high returns. Investors are bound to click on such promotional campaigns, even though they provide no detailed information on the fund or the risk involved in investing.

With the new regulation, [fund managers](#) and distribution agencies must disclose all facts and figures and encourage investors to go through the links provided, so that they receive all the information when deciding whether to invest or not in a particular fund. These rules are also in line with the set of separate guidelines released by the CSRC on maintaining a cap on trailer fees and commissions so that investors and the public in general are aware of the fee structure and will avoid conflicts of interest.

The new guidelines are similar to those in practice in US and European markets, indicating that China also wants to conform, in order to increase investments from international investors in its attempt to develop its financial services industry. The new [regulation](#) would create healthy competition and an opportunity for both domestic and international businesses to grow.

The guidelines provide a grace period of one year for fund distribution agencies to ensure that areas such as staffing, information technology systems, and distribution documents comply with the new regulation.

### **The regulation will be in force from 1 October 2020.**

How does this impact your firm? And what changes need to be made if you have offices in mainland China?

- Only fund managers and fund distribution agencies are responsible for fund distribution services
  - Fund managers and fund distribution agencies need to strictly review their marketing and promotional material
  - They need to hire experienced compliance and risk control personnel to implement better controls and review the functioning of the fund distribution business and new products in the market
  - The need to implement strict internal policies and procedures for staff - from holding funds for personal gain to avoiding conflict of interest
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[Acuity Knowledge Partners](#) is an influential player in the global financial services market, providing compliance expertise and a wide array of other services. We have a pool of talented staff experienced in reviewing marketing material (such as presentations, website content and brochures) in addition to social media incidents reported on social media platforms, and identifying risks.

## Sources

- [www.conventuslaw.com/report/china-csrc-reshapes-the-fund-distribution/](http://www.conventuslaw.com/report/china-csrc-reshapes-the-fund-distribution/)
- [www.junhe.com/legal-updates/1297](http://www.junhe.com/legal-updates/1297)

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