

China's Regulatory Paradigm Shift Creates Regulated Pathway for Real World Asset ("RWA") Tokenization in Hong Kong

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A landmark regulatory overhaul from Mainland China has fundamentally reshaped the legal landscape for digital assets. A new strategic notice, issued jointly by eight top-tier authorities, has formally abolished the prohibitive 2021 regime and, in its place, established a new framework of general prohibition with a specific, regulated exception for offshore asset-backed securities. This exception is detailed in a procedural guidance from China Securities Regulatory Commission (the "CSRC"). In our analysis, this coordinated action represents a paradigm shift from absolute restriction to controlled engagement, creating a significant opportunity for Hong Kong to become the designated international hub for these new RWA projects.

What Has Been Abolished: The End of the 2021 Prohibition

The new framework explicitly abolishes the "Notice on Further Preventing and Handling the Risks of Virtual Currency Trading and Speculation" (PBOC [2021] No. 237). This 2021 notice was the cornerstone of China's previous policy, imposing a blanket ban by declaring all virtual currency-related business activities to be "illegal financial activities." It effectively severed the connection between the Mainland and the global digital asset ecosystem. Its abolition is the single most important signal of a major policy reversal.

The New Policies: A Coordinated Strategic Framework

The new cornerstone is the joint notice (Document No. (银发[2026]42号)). Its strategic importance is profoundly emphasized by its origin. It is a joint issuance by a powerful consortium of eight major governmental and regulatory authorities:

- The People's Bank of China (PBOC)
 - National Development and Reform Commission
 - Ministry of Industry and Information Technology
 - Ministry of Public Security
 - State Administration for Market Regulation
 - National Administration of Financial Regulation
 - CSRC
 - State Administration of Foreign Exchange
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The unified issuance by such a broad and senior group signals a strong, cross-departmental consensus at the highest levels. It elevates the initiative from a sectoral policy to a matter of coordinated national financial strategy. The notice replaces the old ban with a new, dual-track legal principle: it reaffirms a general prohibition on most virtual asset activities but creates a critical, official exception for RWA-related activities that receive consent from the competent authorities.

Crucially, the notice also clarifies the multi-agency regulatory oversight for offshore RWA activities. It specifies that domestic entities conducting offshore RWA business in the form of foreign debt, asset securitization, or equity-like instruments will be strictly regulated by the NDRC, CSRC, and SAFE according to their respective responsibilities. For all other forms of offshore RWA business, the CSRC is designated as the lead regulator in coordination with other relevant departments. The notice makes it clear that no such business may be carried out without the necessary approvals and filings from these authorities.

The New Rules: Regulatory Pathway and CSRC's Filing Role

While the joint notice establishes a multi-agency oversight framework, the "**Regulatory Guidelines for the Issuance of Asset-Backed Security Tokens Offshore with Onshore Assets**" provides the exclusive and mandatory filing procedure to be administered by the CSRC. It is critical to understand that this CSRC filing is a central component of, but not necessarily the entirety of, the required regulatory approvals. The process is not a simple registration but a highly controlled, disclosure-based regime.

Key Procedural and Compliance Requirements:

The "**Negative List**" - Strict Eligibility Screening: Before any application can be considered, the underlying asset and its controlling domestic entity must pass a strict "**negative list**" screening. A project is explicitly prohibited if, among other things:

- It is deemed a national security risk.
- The domestic entity or its controllers have a recent criminal record for economic crimes.
- The domestic entity is currently under investigation for a major violation.
- The underlying asset has significant ownership disputes or is legally non-transferable.

The Pre-Issuance Filing (备案) with the CSRC. This is the central compliance step.

Who Files: The "**domestic entity in actual control of the underlying asset**" must file with the CSRC.

When to File: The filing must be completed before commencing the business activity.

What to File: The entity must submit a comprehensive dossier, including a "**filing report**" and the "**complete set of offshore issuance documents**," fully detailing the entity, the asset, and the token issuance plan.

The CSRC Review Process:

- The CSRC will review the submitted materials.

- If the materials are complete and compliant, the CSRC will "**perform the filing procedure**" and publicize the filing.
- Crucially, if the materials are non-compliant, the CSRC will "**not grant the filing**," effectively blocking the transaction.
- Ongoing Reporting Obligations: The compliance duties continue after the filing is complete. The domestic entity must promptly report back to the CSRC upon the completion of the offshore issuance, the occurrence of any major risk, or other significant events.

Our Comments and the Benefits for Hong Kong

This new framework represents a clear and deliberate shift from a policy of prohibition to one of controlled regulation. While the process is termed a "filing" (备案), the CSRC's power to refuse non-compliant submissions makes it a de facto approval gate, designed to ensure only high-quality, compliant projects can access this channel.

The clarification of a multi-agency regulatory framework involving the NDRC and SAFE alongside the CSRC adds a layer of complexity, but also provides greater regulatory certainty. It confirms that a comprehensive, whole-of-government approach is being taken.

The benefits for Hong Kong are immense. The abolition of the 2021 notice removes the primary legal barrier that prevented Mainland entities from engaging with Hong Kong's regulated virtual asset market. The new framework, with its stringent requirements and emphasis on cross-border regulatory cooperation, effectively designates Hong Kong as the ideal and trusted offshore jurisdiction. Its common law system, robust financial infrastructure, and advanced digital asset regulations make it the only jurisdiction fully equipped to manage the complex interplay between multiple Mainland regulators (CSRC, SAFE, NDRC) and its own regulatory regime. We anticipate this will lead to a significant increase in high-quality RWA projects being structured and launched from Hong Kong, solidifying its position as a leading international financial centre for digital assets.

The digital asset landscape, particularly in a cross-border context, presents complex legal and regulatory challenges. In this evolving field, we provide clients with strategic counsel on the structuring of their digital asset projects and guide them through the intricacies of regulatory compliance in Hong Kong. For entities monitoring the development of the RWA market, our experience provides the necessary legal foundation to understand the risks and opportunities as they emerge.

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