SHADOW BANKING SYSTEM IN CHINA AFTER THE GLOBAL FINANCIAL CRISIS: WHY SHADOW BANKS CAN DISTORT THE CAPITAL MARKET ORDER

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This article first examines the composition of the shadow banking system in China and then critically analyses its interconnectivity with the traditional banking system and global capital markets. It argues that whilst shadow bank lending in China contributes to the country's economic growth, the normal functionality of capital markets could be impaired if shadow banks continue to operate on a high-risk/high-yield business model which could potentially pose a systemic risk. It also addresses the concerns arising from high-leverage shadow bank lending practice and cautions against shadow banks operating in a black hole area that enables them to escape from regulatory purview. The article suggests that future regulatory (law) reform should guide shadow banks towards consumer protection by establishing an effective internal control system, enabling sufficient risk controls and requiring material information disclosure; towards safeguarding capital markets; and towards reducing their high levels of leverage.

I. INTRODUCTION

The term 'shadow banks' was coined by American economist Mr Paul McCulley in 2007.[1] The term was called to attention during the global financial crisis of 2007-2008 (hereinafter 'global financial crisis') since shadow banking activities were one of the main causes of it. The shadow banking system is comprised of financial intermediaries that are not traditional banks (ie., commercial banks which operate with a banking charter) but nevertheless offer financial services akin to those offered by traditional banks.[2] Shadow banks operate outside the traditional banking system yet they provide credit intermediation by accepting money (not deposits, as only traditional banks are allowed to take deposits) from investors and lending to borrowers for whom traditional banking finance is unavailable.[3] The source of those funds are from investors who purchase financial instruments from the shadow banks.

When the term 'in the shadows' is used, it conveys the sense or fact that something is hidden outside regular view, and is usually ignored to such a degree that one may not even be aware it exists. Shadow banks operate around the world, practically in the open, including in the world's largest economies, the United States (US) and China. In China, like elsewhere, shadow banks are gradually being regulated, though they are subject to lower compliance standards compared to those applicable to traditional banks. Given that shadow banks are operating in the open and being regulated, the word 'shadow' is just a label, used for characterising financial intermediaries that do not have a banking charter and for distinguishing them from traditional banks. Unlike traditional banks which rely on deposits as an inexpensive source of funding, due to the very low levels of interest paid to depositors, shadow banks instead rely heavily on various forms of short-term funding that serve as functional substitutes for deposits. Some examples are short-term repurchase agreements (repos), commercial papers and money market mutual fund shares.[4] These deposit substitutes, compared to deposits, provide a source of short-term funding: repos are used for overnight funding and

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[1] R. Gandhi, "Danger Posed by Shadow Banking Systems to the Global Financial System – the Indian Case," available at http://www.bis.org/review/r140827b.pdf, p. 1, para. 3, last visited at May 5, 2015.

[2] Benjamin F. Jackson, "Danger Lurking in the Shadows: Why Regulators Lack the Authority to Effectively Fight Contagion in the Shadow Banking System," *Harvard Law Review*, Vol. 127, No. 2, 2013, p. 730.

[3] HONG Shen, "China's Shadow-Banking Boom Is Over," *The Wall Street Journal*, December 23, 2014, available at http://www.wsj.com/articles/chinas-shadow-banking-growth-slows-1419370402, last visited at April 8, 2015.

[4] Jackson, "Danger Lurking in the Shadows," *Supra* note 2, p. 734.

commercial papers are usually available for 90 days.[5] Shadow banks are also susceptible to cash flow crises, similar to when traditional bank depositors make a 'bank run' when they believe that the banks are in serious danger of collapsing amid insolvency; this happens when investors of the shadow bank's repos and commercial papers do not choose to roll over their balances (ie., replace the existing agreement with a new one on the same terms) for another loan period.[6] In this way, shadow banks are thus capable of triggering a system-wide financial crisis as are traditional banks as seen in the global financial crisis. The result of an opaque shadow lending industry operating in legal black holes is a new threat to the financial sector. In this article, legal black holes refer to areas or actions with respect to which normal legal standards do not apply.[7]

Shadow banking was identified by the Group of 20 (G20) leaders at the Seoul Summit in November 2010 as one of the remaining issues of financial sector regulation that warrants attention. To this end, the Financial Stability Board (FSB) was requested by the G20 leaders to develop recommendations to strengthen the oversight and regulation of the shadow banking system, in collaboration with other international-standard setting bodies such as the International Monetary Fund (IMF) and the World Bank.[8]

The FSB broadly defined the shadow banking system as "a system of credit intermediation that involves entities and activities [operating] outside the regular banking system."[9] This brief definition, however, does not convey what specific types of entities actually comprise the shadow banking system. Despite the ambiguity in its composition, the shadow banking system mainly consists of (1) shadow banks, which *inter alia* include: finance companies, trust companies, credit hedge funds, money market mutual funds, securities lenders (for providing securities financing); and (2) structured finance vehicles, of which prominent examples are Structured Investment Vehicles (SIVs), Asset-Backed Commercial Paper (ABCP) conduits,[10] Asset-Backed Securities (ABSs), including collateralised debt obligations (CDOs), credit default swaps (CDSs) and repurchase agreements.[11]

Shadow banking is fluid as a matter of fact and therefore the scope of it (ie., the type of entities considered to be a part of the shadow banking system) varies from one jurisdiction to another. Regardless of the differences in classification and inclusion of shadow banks, regulators are most concerned with one issue: whilst the shadow banking system performs credit intermediation functions similar to those of traditional banks, it is not subject to the rigorous regulations that are applied to traditional banks. Regulatory policy on the shadow banking system should be strengthened due to the systemic risk it poses in causing a financial crisis, which is a great concern for the traditional banking system and regulators. The rapid development of shadow banking prior to and following the global financial crisis was and is in many cases driven by regulatory arbitrage.[12]

In China, the shadow banking system consists of a mélange of informal lenders such as trust companies, finance companies, money market mutual funds, financial leasing companies, microfinance companies (also known as microcredit companies) (hereinafter collectively referred to as 'shadow banks'). There are numerous examples demonstrating the interconnectedness between the traditional banking and shadow banking systems in China. Traditional banks in China ought to be included as part of the shadow banking system because many of them sell wealth management products (WMPs) which are recorded either

[5] *Ibid.*
[6] *Ibid.*
[7] David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency*, Cambridge University Press, 2006, p. 196.
[8] Financial Stability Board, "Shadow Banking: Scoping the Issues—A Background Note of the Financial Stability Board," April 12, 2011, available at http://www.financialstabilityboard.org/wp-content/uploads/r_110412a.pdf., last visited at April 30, 2015.
[9] Paul Tucker, "Shadow Banking—Thoughts for a Possible Policy Agenda," available at http://www.bis.org/review/r120427a.pdf., last visited at December 16, 2014.
[10] *Ibid.*
[11] GUO Li & XIA Daile, "In Search of a Place in the Sun: the Shadow Banking System with Chinese Characteristics," *European Business Organisation Law Review*, Vol. 15, No. 3, 2014, p. 394.
[12] RUAN Victoria, "China Central Bank Sees Role for Shadow Banking," *South China Morning Post*, September 27, 2014, available at http://www.scmp.com/print/business/economy/article/1601273/china-central-bank-sees-role-shadow-banking, last visited at February 25, 2015.

on or off the banks' balance sheet. Many financial leasing companies are also subsidiaries of traditional banks.[13] Furthermore, some traditional banks provide loans for microfinance companies.

Another interconnection is between shadow banks and the capital markets, which is questionable at best, according to Michael Taylor, managing director for credit policy at Moody's in Hong Kong.[14] Data kept by Moody's have shown that off-balance-sheet bank lending at financial leasing companies has reached more than RMB$ four trillion (equivalent to about US$ 640 billion) since 2010; but according to Taylor, information regarding the amount of money that has been invested in China's stock market through margin financing is unavailable.[15] The risk of shadow financing to traditional banks is potentially high—Chen Long, a market analyst in China, suggests that shadow financing has indirectly flown into China's stock market: leveraged investments have increased from RMB $400 billion (equivalent to US$ 64 billion) to RMB $1.8 trillion (equivalent to US$ 288 billion) because brokers have fuelled that growth with loans from the interbank market. The risk of compounding shadow financing with an increasingly leveraged capital market is staggeringly high—a stock market correction means substantial or devastating loan losses at traditional banks which engage in shadow financing.[16] In view of this, shadow banking is arguably a sweeping term for off-balance sheet bank lending that ends up in WMPs, at trust companies and/or at financial leasing companies.[17] Although those off-balance-sheet assets would no longer be owned by the traditional bank itself, the interconnectedness between traditional banks and shadow banks means that those assets remain effectively part of their 'parent' bank (ie., traditional bank). In order to accurately assess the shadow banking risk to the financial system, focus should be first drawn to the regulatory arbitrage employed by the parent bank to avoid regulatory restraints and supervisory oversight and then to the interconnectedness between traditional banking and shadow banking activities. As a result of the Chinese government's recent regulatory tightening, in order to curb the reliance on shadow financing and reducing the size of shadow banking assets, the same report also indicates that "[t]raditional bank lending accounted for 84 per cent of total social finance [in March 2015], up from 82 per cent in December [2014], as off-balance-sheet lending shrank."[18]

'Shadow bank lending' is a term used in this article in reference to lending by shadow banks, as opposed to lending by traditional banks. Shadow bank lending is considered by the Chinese government to be a risky business and is therefore to be subject to tighter regulation than at the present time. Peer-to-peer (P2P) online lending platforms are the latest constituents to China's shadow banking system and, as such, they are regulated tightly. The China Banking Regulatory Commission (CBRC), China's banking industry regulator, is considering tighter oversight of the P2P online lending business by setting a high capital requirement. This means a minimum capital requirement of RMB$ 30 million (equivalent to about US$ 4.8 million) is to be imposed on online platforms operating P2P businesses.[19] This action signals the CBRC's attempt to weed out from China's financial industry the many small, un-regulated and possibly over-leveraged online P2P platforms. This is a step in the right direction. The P2P online lending business has grown exponentially, with approximately 2,000 P2P lending platforms at the moment, with most of them offering loans of less than RMB$ 100,000 to individuals and small businesses.[20] Given that state-owned commercial banks are often reluctant to grant loans to smaller companies, P2P online lending businesses serves as an important funding source for individuals and small businesses which were denied or had difficulty in obtaining loans from traditional banks. P2P lending platforms need tighter rules in order that they may establish their reputations as a stable funding source instead of as high interest rate lenders (ie., loan sharks). In 2014, the *South China Morning Post*, a local newspaper published daily in Hong Kong, reported that 250 P2P lending businesses collapsed with about one-third of them involved in some kind of fraud.[21] The same report also indicated that in March 2015, 354 firms, including Lufax, a P2P online lending

[13] Don Weinland, "Shadow Financing Indirectly Flowing into China Stock Market," *South China Morning Post*, April 30, 2015, available at http://www.scmp.com/business/banking-finance/article/1781188/shadow-financing-indirectly-flowing-china-stock-market, last visited at April 30, 2015.
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] REN Daniel, "Banking Watchdog Mulls Tighter Rules on P2P Online Lending," *South China Morning Post*, March 23, 2015, available at http://www.scmp.com/business/china-business/article/1744711/china-mulls-tighter-rules-booming-p2p-lending-business, last visited at April 20, 2015.
[20] *Ibid.*
[21] *Ibid.*

platform operated by a unit of Ping An Insurance (Group) Company of China, Ltd., one of China's largest insurance companies, were put on a 'blacklist' by Chinese rating agency Dagong Global Credit Rating for their failure to disclose debtor information.[22]

Microfinance companies, another constituent of China's shadow banking system, are also major informal lenders in China. Their lending is marked by high-leverage and high-yield characteristics. Lending chiefly to small and medium-sized enterprises (SMEs) that have little or no access to traditional financing, these companies' lending exposes microfinance companies to high levels of default risk. This risk factor has a pronounced tendency to intensify the interconnectivity of the traditional and shadow banking systems. In particular, microfinance companies may attempt to monetise, often known as securitise, their loan portfolio when they believe that regulators will not lift the cap on their gearing ratios. To achieve this goal of securitisation, microfinance companies often sell their loan portfolio to traditional banks.

Part I of this article expounds what specific types of entities comprise the shadow banking system as well as why they pose risks to the capital markets in particular and the financial system as a whole. Part II examines the interplay and interconnectivity between the shadow banking system and the traditional banking system, giving rise to potential systemic risk which can disrupt capital market order and erode financial system stability. Part III analyses shadow banks' exposure to credit risks through examples of P2P online lending platforms, trust companies, microfinance companies, insurance companies and bankers' acceptance notes. Part IV warns that domestic credit rating agencies in China may not effectively discover credit risks; accordingly, a 'buyer beware' approach is likely to be the tactics implemented by shadow banks and their management for escaping liabilities. Part V proposes an alternate view of shadow banks' positive role as an important funding source for individuals and small businesses, and thus have contributed to the growth of China's economy. On the negative side, however, shadow banks' size, scale and rapid growth of assets may trigger another system-wide financial crisis. Part VI sets out the conclusion and final remarks.

II. RISKS THAT ARISE FROM THE INTERCONNECTIVITY BETWEEN THE SHADOW BANKING SYSTEM AND THE TRADITIONAL BANKING SYSTEM

Traditional banks participate in the shadow banking system when they conduct loan securitisation with shadow banks. For example, microfinance companies package their loan portfolios and sell them to traditional banks. By doing so, it can boost microfinance companies' liquidity and profitability.[23] The interconnectivity between the traditional banking system and shadow banking system can cause serious concerns to financial system stability. The interconnectivity of both systems have important economic implications. First, shadow banks such as microfinance companies pass risks (from loan defaults) onto traditional banks when the former's (shadow banks) loan portfolios are sold to and thus taken over by the traditional banks. Second, traditional banks and shadow banks rely on each other to generate revenue growth or to improve their financial position as they separately face increasing competition. As shadow banking and traditional banking systems become more and more interconnected, this development warrants a closer study by regulators to assess the contagion of credit risks which may be harmful to financial market stability. Closer regulatory attention and scrutiny, as well as supervisory oversight, are required in order to continuously and more effectively monitor the shadow banking industry and financial market development. Stricter regulatory oversight may come at a cost—notably in the slowdown of short-term economic growth; but increased regulation and oversight are necessary in preventing any future financial turmoil or crisis that is as, if not more, catastrophic as the global financial crisis. According to the latest World Economic Outlook report issued by the IMF in April 2015, the global financial crisis slowed the world's economic growth by 1.5 % for advanced economies and 6% for emerging market economies, for 2013-2014.[24]

It should be noted that shadow banks' lending products such as WMPs are usually sold through traditional banks, as is the situation in China. Not only does this reinforce the interconnectivity between the shadow banking system and the traditional banking system, it also explains why the risk (eg., credit risk) can easily transfer from one system to another. Risk contagion may be difficult to contain, if and when credit

[22] *Ibid.*
[23] ZHANG Joe, *Inside China's Shadow Banking: The Next Subprime Crisis*, Enrich Professional Publishing, 2014, ch. 2.
[24] Patrick Blagrave & Davide Furceri, "Lower Potential Growth: A New Reality," *IMF Survey Magazine*, April 7, 2015, available at http://www.imf.org/external/pubs/ft/survey/so/2015/new040715a.htm, last visited at May 9, 2015.

risk further spawns into a systemic risk, marked by the collapse of Bear Stearns during the global financial crisis. The crisis stemmed from traditional banks' deliberate design of removing from their balance sheet their obligations associated with the ABSs by establishing shadow banking vehicles such as SIVs, which are separate entities from the traditional banks (ie., parent banks, in this case) that created the SIVs.

The shadow banking activity as demonstrated above shows that shadow banking is incentivised by regulatory arbitrage. Due to the interconnectedness between the shadow banking vehicles and their parent bank,

> "any shock in the shadow banking segment can get amplified, giving rise to systemic risk concern … [t]he capacity of shadow banks to precipitate systemic crisis was manifested in the recent financial crisis."[25]

Shadow banking also replicates some of the key functions of traditional banks. In many examples of SIVs and ABCP, they are sponsored by their parent banks (ie., traditional banks) or are operated through them. SIVs are a type of special purpose vehicles (SPVs); they are kept off-balance sheet (ie., removed from the balance sheet of their parent bank) because SIVs are treated as a separate (legal) entity by accounting rules and bank regulators. In that situation, the parent bank would simply be positioned as an investment manager. During the global financial crisis, it was learned that the traditional bank, in trying to protect its own capital, set up a SIV, which is a separate entity distinct from the bank itself. The traditional bank would sell the structured assets (ie., asset-backed securities, also known as ABSs) backed by the parent bank's subprime mortgages to their own SIVs. To fund the purchase of ABSs, these SIVs would issue short-term commercial papers. By creating a SIV, theoretically the SIV's parent bank is not responsible for providing financial or loan support for the SIV. But if the SIV cannot fund itself by selling its commercial papers in the capital market, its parent bank would step in to provide various types of contingent undertakings to the SIV that it (the parent bank) sponsored, including providing backstop liquidity support.[26] In many cases, there were even internal agreements between the parent bank and its SIV. The reason for the traditional bank to enter into such an internal agreement with its SIVs is because of the bank's purpose of and desire to maintaining investor confidence. With an internal agreement in place, investors would be confident with the knowledge that the bank will guarantee the SIV's commitments and thus be more interested in purchasing the commercial papers issued by the SIV. Given that the SIV or SPV is set up by its parent bank, the shadow banking system is equally vulnerable to systemic risk as the traditional banking system. Consequently, a traditional banking crisis is also a shadow banking crisis, and vice versa; that is because if the parent bank decides to support its SIV through additional liquidity facilities or guarantees, the bank would need to consolidate the SIV onto its (the bank's) own balance sheet. Additionally or alternatively, when the SIV's funds are insufficient, the bank would have to put the ABSs, which are essentially subprime mortgage-backed securities, that were issued by the SIV onto its (the bank's) own balance sheet. In appearance, an SIV is a separate legal entity, and thus poses no risk to the parent bank, but the bank is still vulnerable because in reality, the bank is exposed to the SIV's risk of default the whole time as if no separate entities were created to avert the risk.

In this regard, it is worthwhile to note that the global financial crisis was basically a subprime mortgage crisis—pushing Lehman Brothers (sellers of subprime mortgage-backed securities) into bankruptcy and placing Fannie Mae and Freddie Mac (guarantors of subprime mortgages) under the conservatorship of the Federal Housing Finance Agency (FHFA). The crisis was triggered and then intensified by numerous traditional banks' excessive use of leverage which involved the employment of the financial engineering technique known as 'securitisation', to sell the highly risky subprime mortgages to the SIVs or SPVs created by the parent banks. This practice was done in order to free up their capital that would otherwise have to be set aside in compliance with the capital reserve requirements under national banking laws. This additional banking capital, once freed up, could be used to provide further loans to subsequent subprime mortgagors, whose loans would then be recycled into the production of CDOs. By applying this

[25] Gandhi, "Danger Posed by Shadow Banking Systems to the Global Financial System," *Supra* note 1, p. 3, para. 13.
[26] Heidi Mandanis Schooner & Michael W. Taylor, *Global Bank Regulation Principles and Policies*, Academic Press, 2010, p. 48.

same circuitous securitisation method, the traditional banks would sell the newly recycled subprime mortgage assets to their SIVs; and through the SIVs' issuance of ABSs like CDOs, the risks of default by subprime mortgagors would fall onto investors who purchased these CDOs. The traditional banks' indiscriminate and incessant application of this method led to the global financial crisis. Indeed, the abusive use of shadow banking activities and products eroded financial market stability and ultimately caused the global financial crisis, which could not be contained within national borders and spread quickly across borders.

In China, to prevent another system-wide risk in the future, in light of the fact that shadow lending products are usually sold through traditional banks, the *Wall Street Journal* reported that, in July 2014, the CBRC asked banks to separate their sale of WMPs from their retail lending business.[27] In connection with this, Chinese banks were also ordered to set up independent departments within themselves to oversee the distribution of WMPs. To better protect bank clients who wish to invest in WMPs sold through banks, they (ie., the banks) would be tasked with an obligation to explain in sales documents that these products are not as safe as deposits and that they carry risks. This action by the CBRC is representative of the Chinese government's determination in curbing the rampant growth of shadow banking activities in China which, in some cases, is linked with fraud committed by shadow bank management who aggressively promote the sales of WMPs, a process which is a hallmark of some highly risky shadow bank business ventures.

III. SHADOW BANKS' EXPOSURE TO CREDIT RISKS

Select exemplary examples are given below to illustrate why and how shadow banks are exposed to credit risks. The reasons can be ascribed to the utility function of and mechanism employed by these shadow banks for promoting generous though sometimes volatile income.

A. P2P ONLINE LENDING PLATFORMS

A major lender in China is the P2P online lending platforms. P2P online lending platforms' lending practice is different than traditional banks' lending practices, due to their offer of WMPs to lenders who are in fact investors seeking higher investment returns. Through purchasing WMPs, P2P lenders actively pursue investment returns that are typically higher than loan interests. That is because the Chinese P2P online lending platforms operate on a very different business model from those in the US: in the US, P2P lending marketplaces only provide information intermediation for borrowers to post their borrowing requests and for lenders to select investments. That is, the P2P lending marketplaces in the US merely function as a credit intermediator by setting the credit floor for lenders to match borrowers' loan requests. However, China's P2P business model has changed after being imported from the US. The P2P lending marketplaces in China approach and select borrowers online or offline (mostly offline) and offer lenders standardised WMPs, such as bank WMPs.[28] In practice, this means that P2P lenders in China would purchase WMPs, like asset-backed securities, whose underlying assets are the claims against the borrowers. Such 'grass-roots' securitisation schemes have never been approved or endorsed by the Chinese government.[29] In fact, in 2011, the WMPs default created a credit crisis in Wenzhou, Zhejiang province, where illegal underground banking practices were rampant.[30]

B. TRUST COMPANIES

According to CBRC's *Guiding Opinions of the General Office of the China Banking Regulatory Commission on Risk Control of Trust Companies*, it expressly forbids trust companies to carry out any

[27] HONG Shen, "China's Shadow-Banking Boom Is Over," *Supra* note 3.
[28] GUO Li & XIA Daile, "In Search of a Place in the Sun," *Supra* note 11, p. 408.
[29] *Ibid*., p. 409.
[30] REN Daniel, "Banking Watchdog Mulls Tighter Rules on P2P Online Lending," *Supra* note 19.

business with a shadow banking nature.[31] Yet, similar to the Chinese P2P platforms' extensive use of ABSs as underlying assets to fund their business operations, trust companies in China allegedly do the same by acting less like lenders and more like hedge funds or lightly regulated mutual funds. That is, instead of providing loans, some trust companies in China were found to have shifted funds into capital markets products and over-the-counter (OTC) instruments such as ABSs.[32] Reporters have also suggested that the Chinese trust companies' shift of investment targets is caused by and a response to the central government's clampdown in 2014 on trust lending to risky real estate and industrial projects.[33] Due to this clampdown, instead of reducing their assumed risks, the Chinese trust companies simply migrate their risks to a different, and arguably riskier, sector. According to the data released by China Trust Association:

> "while loans outstanding grew just 8 per cent [in 2014], far below the 62 per cent growth in 2013, growth in obscure asset categories including 'tradable financial assets' and 'saleable fixed-term investments' was 77 per cent and 47 per cent respectively."[34]

The Chinese trust companies, as institutional investors, may now find themselves exposed to high-yield corporate debt (also known as junk bonds), volatile stock funds or risky short-term OTC debt instruments, thereby making trust companies a potential landmine capable of devastating the financial market. Moreover, the Chinese trust companies' reliance on OTC debts trading to generate profits and large stock holding whose soaring share prices are prone to cause asset bubbles, can cause economic instability. The author views that the Chinese trust companies' business model referred to hereinabove will inevitably halt the regulators' efforts in reducing shadow banking risk. Given that the Chinese trust companies' profit growth is funded by highly leveraged investment trading and asset holding, this raises questions and concerns over their business model's long-term sustainability.

Some trust companies have reportedly worked with city or provincial banks in China that are relatively small in size and market shares, to seek profit growth through the making of so-called 'camouflaged loans.' Camouflaged loans are essentially traditional banks' money packaged into WMPs or trusts and invested with trust companies (and securities firms), the latter which then lends the money to other companies designated by the banks.[35] Camouflage loans are in fact risky loans hidden deep inside the banks' financial statements as banks' investments. The distortion is said to be most significant for city or provincial banks given their relatively smaller loan size and intertwined links with local governments and enterprises.[36] This means that in the situation mentioned above, the banks' money, first packaged into WMPs or trusts and then made for actual lending, is not really the banks' 'investment.' Rather, in fact, the money will be channelled to fund local governments' spending or local enterprises' operations and these local governments are often on the brink of or already in financial difficulty. The money can also be used to provide finance to local enterprises which are barred from taking traditional bank loans, for reasons such as the banks' loan-to-capital ratios and capped interest rates, both would constrain the traditional banks' lending. Such a collaboration between trust companies and provincial banks or city banks (both are traditional banks) is another example of the interconnectivity between the traditional banking system and shadow banking system, and of the shifting of the credit risk from the traditional banking system to the shadow banking system. That is because "under current regulations [in China], once banks have passed the strict disclosure

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[31] Article 2, para. 2, subpara. 4, *Guiding Opinions of the General Office of the China Banking Regulatory Commission on Risk Control of Trust Companies*,（中國銀監會辦公廳關於信託公司風險監管的指導意見第二條第二款第四項）(issued August 4, 2014) 2014 YIN JIAN BAN FA（銀監辦發）No. 99.
[32] Nathaniel Taplin & Engen Tham, "In China, Trust Firms Shift, Rather than Reduce, Shadow Banking Risk," *UK Reuters*, March 17, 2015, available at http://uk.reuters.com/article/2015/03/15/china-economy-trusts-idUKL4N0WD1XF20150315, last visited at April 23, 2015.
[33] *Ibid.*
[34] *Ibid.*
[35] YAM Shirley, "China's Provincial Banks Brag about Growth as They Camouflage Risky Loans," *South China Morning Post*, April 3, 2015, available at http://www.scmp.com/business/article/1755526/chinas-provincial-banks-brag-about-growth-they-camouflage-risky-loans, last visited at April 3, 2015.
[36] *Ibid.*

rules for the listing, they do not have to disclose their 'investments'."[37] The author thus views that the credit risk linked with these risky loans could be out of regulatory reach, so long as such 'investments' are camouflaged as legitimate banking business. To properly address this problem, these banks should be subject to additional capitals, which can be used as buffers for absorbing the banks' additional risk undertaking. Additional capitals will be required because the author does not see that the problem can be easily solved by merely requiring bank auditing and or submitting regular audit reports to satisfy regulatory examination. Whilst regulatory examination can help curb this risky shadow lending practice conducted by traditional banks, the author would suggest radical solutions such as capping the size of investments that traditional banks are permitted to pursue. That is because risky lending practice by smaller banks can fall into a black hole area that enables these banks to escape from regulatory purview.

C. MICROFINANCE COMPANIES

The development of microfinance companies prior to 2004 was mainly driven by the Chinese government. In October 1998, the central committee of the Chinese Communist Party (CCP) decided to advocate the expansion of effective microfinance projects; and in December 2001, the Chinese central bank, People's Bank of China (PBOC), published its management guidelines for rural credit cooperatives microcredit loans and requirements for implementing microfinance. Microfinance companies in China gained legal status in May 2008, as a result of the joint issuance by the PBOC and CBRC of the *Guideline on Microfinance Companies Pilot Programme*[38], which prohibits microfinance companies from accepting public deposits and grants provincial governments with the authority to regulate microfinance companies.[39] According to Rahman and Luo, microfinance has been recognised as one of the key instruments for poverty alleviation in many developing countries, including China.[40] What seemingly started as the Chinese central government's initiative to speed up the building of a rural financial system, by addressing rural finance demands, has now turned into a microfinance sub-economy which has developed so quickly that it now affects and forms part of the overall financial system in China. Microfinance's significance is attested by CPC's No. 1 policy paper issued in 2007, which identified microfinance as an indispensable part of the overall financial system, including commercial finance, cooperative finance and public-interest finance.[41]

It is worth noting that microfinance companies in China can obtain loans from traditional banks. Current regulations allow microfinance companies to borrow from financial institutions such as traditional banks up to 50 per cent of the microfinance company's paid-in capital (ie., net capitalisation).[42] An example will serve to illustrate this point: if a microfinance company's paid-in capital is RMB$ 150 million, it can borrow from a traditional bank in China, say China Development Bank, up to RMB$ 75 million, on a two-year basis. With the bank loan, the microfinance company can leverage its lending position by providing up to RMB$ 225 million, instead of only RMB$ 150 million. The interest rates payable by the microfinance company will be subject to the interbank rates for banks in Shanghai.[43] The interconnectivity between the banking and the shadow banking systems is obvious: with loans acquired from the financial institutions, which are capped under 50 per cent of the microfinance companies' net capitalisation, this increases the microfinance companies' lending capacity (hence their exposure to credit risk) by 50 per cent. The 50 per cent cap is rather arbitrary. The author would therefore suggest for the 50 per cent threshold to be subject to

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[37] *Ibid.*

[38] *Guideline on Microfinance Companies Pilot Programme*（中國銀行業監督管理委員會、中國人民銀行關於小額貸款公司試點的指導意見）.

[39] English introduction to and Chinese text of *Guideline on Microfinance Companies Pilot Programme* is available from publication by Boston University Centre for Finance, Law & Policy, available at http://www.bu.edu/bucflp/laws/guideline-on-microfinance-companies-pilot/, last visited at April 7, 2015.

[40] M Wakilur Rahman & LUO Jianchao, "Regulation of Microfinance Service Provider in China and Bangladesh: An Approach to Strengthening the Regulatory Environment," *African Journal of Business Management*, Vol. 6, No. 3, 2012, pp. 1019-1033.

[41] YU Vivienne, "Legal and Regulatory Framework for Microfinance in China," available at http://www.adbi.org/files/2011.07.13.cpp.sess3.1.1.yu.eng.regulatory.framework.microfinance.prc.pdf, power point presentation posted in July 2011, last visited at April 6, 2015.

[42] Article 3, *Guideline on Microfinance Companies Pilot Programme*, *Supra* note 38.

[43] ZHANG Joe, *Inside China's Shadow Banking: The Next Subprime Crisis*, *Supra* note 23, ch. 2.

stress tests, in order to scientifically and correctly assess whether it constitutes as any form of real risk to the banking system.

High interest rate is another issue that warrants regulatory attention. These SMEs' credit (un)worthiness have prevented them from getting loans from traditional banks at lower interest rates, resulting in higher or often times very high interest rates charged by microfinance companies. In China, traditional banks prefer to lend to state-owned enterprises (SOE) which have implicit government guarantees to repay or underwrite the loans. The same lower interest rates are not offered to SMEs. On the other hand, individuals who have poor credit history or have low income may also be forced to seek loans from microfinance companies. The high interest rates can be attributed to at least two reasons: first, the clientele (SMEs or individuals) is more prone to defaults; and second, there are usually no or insufficient provisions of collaterals for the loans. Therefore, to compensate for high default risks, microfinance companies often impose interest rates in the range of 20 to 24 per cent per annum. By way of comparison, the 24 per cent per annum interest rate is four times the prime rate (six per cent per annum) charged by Chinese traditional banks for money lending.[44]

It shall be noted that other than microfinance companies, mortgage corporations can also provide microfinance through their microfinance schemes. For example, the Hong Kong Mortgage Corporation Limited (HKMC) provides microbusiness start-up loans to sole-proprietorships, partnerships and limited liability companies incorporated in Hong Kong, at interest rates no higher than 9 per cent per annum or 8 per cent per annum if a satisfactory third-party guarantee is provided.[45] Evidently, the interest rates charged by the HKMC are much lower than the 24 per cent per annum interest rate charged by some Chinese microfinance companies. This difference in interest rates charged in Hong Kong and China raises the question of whether the Chinese microfinance companies' lending practice is more prone to risks caused by speculation. If this is true, regulators in China should tighten the rules in order to thwart the high-risk/high-yield business models of microfinance companies in China.

The author suggests that regulations should guide and incentivise microfinance companies to establish internal control system in order for them to more effectively assess their institutional risk undertaking. Microfinance companies can prevent or at least reduce credit risk exposures through a few means: first, lending only to small businesses (if they de-emphasise consumer lending); and second, requiring collaterals, which are usually real estate assets or the ownership of a factory or a business, if loans are above a certain threshold, say RMB$ 300,000. And for loans below that threshold, microfinance companies can demand a guarantee from a qualified person who may own real estate or have a high income occupation.[46] Third, microfinance companies can choose to make smaller loans to a larger number of borrowers at a lower interest, as opposed to make major loans to a very small number of borrowers at high interest rates. That is because high interest rates increase the chance of defaults and even encourage moral hazard.

D. INSURANCE COMPANIES

Insurance companies participate in shadow banking through selling credit default swaps to partner banks. An illustrative example is Ping An Insurance (Group) Company of China, Ltd. (Ping An Insurance), which sells microcredit financing throughout China. The business model entails Ping An Insurance to sell a credit default swap, which is a money-back guarantee, to its partner bank. In this type of transaction, Ping An Insurance would first identify qualified customers, then it (Ping An Insurance) would provide its partner bank (eg., ICBC Bank) with a money-back guarantee. For instance, ICBC Bank will grant the borrower with a customer loan of RMB$ 50,000 at 30% interest per annum, and that customer loan is secured by a money-back guarantee. For Ping An Insurance to sell a money-back guarantee to ICBC Bank, let us further assume that ICBC would pay Ping An Insurance a fee which amounts to 23% per annum interest on the customer

[44] *Ibid.*
[45] The Hong Kong Mortgage Corporation Limited—Microfinance Scheme, available at http://www.hkmc.com.hk/eng/pcrm/ourbusiness/mf.html, last visited at April 6, 2015.
[46] ZHANG Joe, *Inside China's Shadow Banking: The Next Subprime Crisis*, *Supra* note 23, ch. 2.

loan. The result indicates that ICBC would pocket the 7% difference as a 'risk free' loan. Nationwide, Ping An Insurance is said to have a principal loan book of RMB$ 20 billion via credit default swaps.[47]

Chinese insurance companies also set up online financial services platform for providing internet finance. For example, Lufax, the P2P lending division of Ping An Insurance (a Chinese insurance company) positions itself as an open platform for trading broad selections of financial assets, including WMPs. Lufax is the short form of Shanghai Lujiazui International Financial Asset Exchange, and its only business product was P2P lending when it started.[48] But now Lufax is prepared to work with funds, insurance companies and financial licence holders to bring in more selections of assets, said Gregory Gibb, the chairman of Lufax.[49] Lufax's business categories will practically enable Ping An Insurance to engage in business that is similar to investment banking. In fact, "Lufax's P2P lending business posted significant growth, with outstanding loans up to 14 billion yuan [in 2014] from three billion yuan in 2013."[50] Lufax's wild growth in business holdings signifies Chinese insurance companies' large involvement in shadow bank lending and how they leverage the boom in internet finance.

E. BANKERS' ACCEPTANCE NOTES (SHADOW CURRENCY)

Bankers' acceptance notes (BANs) are arguably the riskiest form of shadow finance; not only because they are increasingly used for speculative purposes, but they are potentially inflationary and hard to regulate.[51] The Chinese central bank, PBOC, has reportedly been unable or unwilling to crack down on BANs, which are in effect 'off-the-book loans,' that is, loans removed from the banks' balance sheet which in turn are issued by bankers as a form of currency passed around in the shadow banking industry. BANs are created by the shadow bankers (ie., bankers that created BANs as shadow currency) as their own de facto currency, whose prevalent use in China also earned the currency the nickname of 'China's shadow currency.'[52] Contrary to the normal issuance of BANs to support trade, BANs have been passed recently around as a new and perhaps a worse form of currency, compared to the real currency, which is China's renminbi.

In theory, issuance of BANs must be backed by an underlying transaction in which BANs are guaranteed by banks to ensure payment. The traditional use of BANs thus requires a customer who requests issuance of a BAN by bankers to show proof of an underlying transaction. The point is that if BANs are used for trade—such as computers shipments from Shenzhen, China, to Oxford, England, in an export business—they should involve little risk, because the BANs will get paid down as transactions are settled between trading parties. However, if BANs are not issued for trade but instead, to be rolled over and circulated as a secondary currency in the shadow banking industry, BANs can pose risks for the banks—whose employees (ie., bankers) had issued BANs in the banks' names and on their behalves—as these BANs represent a constant, outstanding bank liability.

In the shadow banking type of situation, BANs can be used to finance speculation if shadow bankers opt to sell the BANs at a discount (of about five per cent) in return for cash. In this process known as 'discounting,' it has a speculative element because the seller of a BAN needs 'walking-around' cash and is willing to sell his papers (ie., BANs) at a loss. Although the loss is relatively small (about five per cent) on the sale of the BAN, the cash can be used to invest in trust products to buy fixed income products which gives yields ten per cent or higher. Since the BAN is passed around as an IOU or a bank guarantee, the credit represented by the BAN flows from the bank through shadow bankers and into more lucrative, high-yield but high-risk industries such as property or mining. [53]

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[47] *Ibid.*
[48] KWONG Man-ki, "Lufax Rides Internet Finance Boom," *South China Morning Post*, April 12, 2015, available at http://www.scmp.com/business/companies/article/1764866/lufax-rides-internet-finance-boom, last visited at April 12, 2015.
[49] *Ibid.*
[50] *Ibid.*
[51] Matthew Lowenstein, 'China's Shadow Currency," *The Diplomat*, December 12, 2013, available at http://thediplomat.com/2013/12/chinas-shadow-currency/, last visited at April 12, 2015.
[52] *Ibid.*
[53] *Ibid.*

More worrisome is that the banks, which employed these shadow bankers, still account for BANs as guarantees, which are obligations that do not appear on the banks' balance sheets.[54] This practice again explains why the interconnectivity between the traditional banking system and shadow banking system allows the shifting of the credit risk from the traditional banking system to the shadow banking system. But in fact, the risk may still be there for the banks, because BANs represent their (the banks') outstanding liability. To the extent that banks find it useful to account BANs as guarantees, whose off-balance sheet accounting treatment will allow the banks to hide their risk; and to the extent BANs are used to finance speculation, then BANs are tantamount to a high-risk, potentially high-yield speculative shadow currency that is invisible to a host of stakeholders such as regulators, investors and even bankers themselves.[55]

IV. WORDS OF WARNING: DOMESTIC CREDIT RATING AGENCIES IN CHINA MAY NOT DISCOVER CREDIT RISKS

Unlike large international credit rating agencies (CRAs) which emphasises on the creditworthiness of the company being rated by them, domestic credit rating agencies in China are comparatively small and may base their credit rating on the company's background such as its relationship with the government.[56] That is partly due to the fact that domestic CRAs tend to keep a close relationship with relevant government departments.[57] Compared with foreign CRAs, domestic CRAs are perceived as less reliable. For instance, one CRA reportedly refused to give a rating below 'A,' which is emblematic of the problem.[58] It should be noted that foreign CRAs such as Fitch and Moody's have respectively formed credit rating joint ventures in China by building partnerships with or purchasing shares of domestic CRAs, providing a mutually beneficial platform for sharing knowledge and experience. Such alliances nonetheless are not conducive in gaining investor confidence.[59] That is because "in the Chinese market, foreign CRAs are still not allowed to provide rating services independently without liaising with domestic CRAs."[60] Therefore, despite domestic CRAs having provided rating services on the credit worthiness of corporate bonds, financial institutions, trust products and listed companies, investors have hardly relied on the CRAs' rating results as essential considerations in making their investment decisions. Similarly, listed companies have rarely taken rating results seriously.[61] Fanpeng Meng, a postdoctoral fellow at the Centre for Financial Regulation and Economic Development at the Chinese University of Hong Kong, was sceptical about the objectivity or accuracy of the rating results issued by domestic CRAs and suggested that such results are impaired by conflict of interests. Meng also warned about the ratings of listed companies, suggesting they were conducted "primarily with the expectation to achieve such purposes as to enlarge the influence of the CRA, accumulate useful data and test rating methodologies, rather than sincerely assess their quality."[62]

Domestic CRAs will have to increase the quality and value of their work by providing more functional and reliable credit rating services in order to command the necessary respect and gain investor confidence towards which the CRA rating results should work. Otherwise, domestic CRAs will fail to catch credit risks when they arise, which will further cause investors to withdraw their investments in shadow banks. The effect would be similar to bank runs at traditional banks as was discussed earlier in this article. The author views that if the risky business operations of the shadow banking industry in China were to create a catastrophic and system-wide credit risk, it may be difficult to contain, even with an injection of bailout funds that the Chinese government might offer for stemming the outflow of funds from the Chinese

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[54] *Ibid.*
[55] *Ibid.*
[56] Bloomberg in Beijing, "Honesty Does Not Pay, Rating Firms Say," *South China Morning Post,* April 2, 2015, http://www.bloomberg.com/news/articles/2015-03-31/china-rating-companies-say-honesty-doesn-t-pay-as-risks-ignored, last visited at April 2, 2015.
[57] MENG Fanpeng, "Gatekeepers: Bonding Benefits of Listing Chinese Companies in Hong Kong," *European Business Organisation Law Review*, Vol. 14, No. 2, 2013, p. 289.
[58] Bloomberg in Beijing, "Honesty Does Not Pay, Rating Firms Say," *Supra* note 56.
[59] MENG Fanpeng, "Gatekeepers," *Supra* note 57, p. 289.
[60] *Ibid.*
[61] *Ibid.*, 290.
[62] *Ibid.*

economy. The investors of shadow banks therefore should be keenly aware of their undertaking of risks, which can potentially be translated into their losses.

V. SHADOW BANKING DOES NOT GROW OUT OF A VACUUM AND EXISTS FOR PRACTICAL REASONS

China's central bank indicated that shadow banking continues to have a role to play. The central bank further emphasised that the role of the shadow banking system cannot be simply denied just because of the risk it has created.[63]

> "As mainland banks tend to favour lending to big state-owned clients with implicit government guarantees, [the central bank's targeted easing on banks' capital reserve fund] has failed to offer enough support to small and medium sized enterprises [SMEs]… The shadow banking system has become an important alternative channel to finance those restricted from normal bank loans."[64]

In fact, Moody's Investors Service estimated that shadow banking assets in China reached RMB$ 37.7 trillion (equivalent to about US$6 trillion) at the end of 2013.[65] It should be emphasised that the figure identified for the size of shadow banking assets in China may be linked with a host of non-bank financial intermediations, including internet finance, micro-lending, asset securitisation and some WMPs.[66]

It is important to note that in a regulation issued jointly by the PBOC and the CBRC in 2009, the Chinese central bank and bank regulator stressed the need for expanding the number and types of financing channels for SMEs.[67] It stated that the local governments shall be supported to set up risk compensation funds for SME loans and perfect the SME credit risk relocation mechanism. In addition, efforts should be made to research and develop on the credit management tools targeting loans to SMEs to effectively lower the risk thereof. More interestingly, both the PBOC and CBRC stressed that it is important to "format, guide and employ private financing institutions *in their positive aspect* to support the development of small and medium-sized enterprises" (emphasis added).[68] The author views this as an indirect but reserved embracement of the shadow banking industry in their provision of SME loans. Therefore, and perhaps unsurprisingly, the regulation only refers to the expansion of financing channels by implementing financing methods such as the issuance of letters of credit, documentary credits, factoring and financing leases.[69] This statement clearly and perhaps intentionally leaves out the more controversial WMPs, the use of which has been popularised by shadow banking industry in promoting lending. Although the PBOC and CBRC recognise the shadow banking industry's contribution to meeting SMEs' financing needs, the potential risks, which stem from the growing populace of shadow banking finance, still need to be carefully identified and technically assessed. Precise rules and regulations should also be imposed by regulators for governing the numerous and prolific online microfinance service providers.

VI. CONCLUSION

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63 RUAN Victoria, "China Central Bank Sees Role for Shadow Banking," *Supra* note 12.
64 *Ibid.*
65 *Ibid.*
66 *Ibid.*
67 Article 3, *Guiding Opinions of the People's Bank of China and China Banking Regulatory Commission on Further Strengthening the Adjustment of the Credit Structure to Promote Fast yet Steady Development of National Economy*（中國人民銀行、中國銀行業監督管理委員會關於進一步加強信貸結構調整促進國民經濟平穩較快發展的指導意見第三條）(issued March 18, 2009).
68 *Ibid.*
69 *Ibid.*

As shadow banks increasingly encroach upon the domain of traditional banks, regulations (both at the international and domestic levels) are tightening to ensure that the shadow banking business is kept on the regulatory radar and that traditional banks do not uninhibitedly increase the level of leverage by securitising their loan portfolio through selling them to the SPVs or SIVs—entities which the traditional banks created themselves. Internationally, while Basel III's new capital regulation could more effectively regulate shadow banking activities conducted by structured finance vehicles such as SPVs or SIVs, by assimilating the difference in treatment of banking book versus trading book, the same regulation could not be applied to, and thus could fail to reach the fast developing shadow banking industry in China or elsewhere. In addition, Basel III's imposition on traditional banks of the new liquidity and leverage capital requirements will likely force banks to reduce lending activities, which in turn would significantly reduce the amount of funds available for consumer and business loans, thereby slowing economic growth. In China, consumer and business loans are mainly supplied by the shadow banking service providers such as microfinance companies. Yet, the high-risk/high-yield business model adopted by aggressive shadow banks is a cause for regulatory concern. In China, recent regulatory tightening has resulted in the slower pace of growth of its shadow banking system; it remains to be seen though whether such reform would be conducive in preventing a shadow banking crisis that may already be festering.

According to Bloomberg News, the Chinese central bank policy has been leaning towards tightening; in fact, the central banks' tightened control over shadow banking have been reflected in the reduced numeric linked with shadow bank lending.[70] The news report took reference in a PBOC's publication which pointed out that:

> "Outstanding trust loans, which are pooled loans sold as funds to investors, expanded 10.7 per cent in 2014, a fraction of the 61.1 per cent surge in 2013. Credit from Chinese companies' commercial bills, basically a bank endorsed IOU, shrank 1.8 per cent, down from a 12.6 per cent expansion in 2013 and a peak of 136 per cent in 2010."[71]

To rein in the opaque shadow banking industry in China, regulatory efforts should be increased to steer shadow banks to improve their internal control in order to reduce loans that are either overdue or have become non-performing loans. Recent tightening by the Chinese government on rules applying to P2P lending is a step in the right direction in order to curb the rampant growth of shadow banking industry. However regulatory attentions should also, and perhaps more importantly, address issues on shadow bank risk monitoring and assessment to effectively reduce the high degree of shadow bank leverage. Given that shadow banks are not subject to the same level of regulatory constraint as are the traditional banks, the shadow banking industry's growth is largely driven by market force. To better protect shadow bank borrowers, as well as the broader economy, information sharing and accuracy is crucial. That is, unless borrowers can avail themselves with reasonable opportunities for verifying the authenticity of financial information, consumer protection can hardly be achieved. In view of this, shadow banks should be encouraged to provide information sharing platform, which is especially convenient for P2P lending, from which loan products and interest rates are honestly displayed. Besides, sufficiently detailed information or explanations easily understandable by shadow bank borrowers should also be provided.

Considering that shadow banking entities do not have access to central bank funding or safety nets that traditional banks have because the former are not deposit-taking institutions, a shadow banking crisis could damage the financial system and be equally disruptive as, if not more than, a traditional banking crisis. Chinese governments are stepping up efforts in regulating the shadow banking industry, which is in line with the recommendation made by the G20 leaders at the Washington Summit on Financial Markets and the

[70] Malcolm Scott, "50 Shades of Shadow Banking: China Risks Reined in," available at http://www.bloomberg.com/news/articles/2015-02-10/50-shades-of-shadow-banking-china-risks-reined-in, February 10, 2015, last visited at April 7, 2015.
[71] *Ibid.*

World Economy in November 2008.[72] Although tighter regulation is a welcome move by market analysts and financial regulators, John Nugee, Senior Managing Director Official Institutions Group at State Street Global Advisors, nevertheless warned about the inadvertent effect or one main consequence of tighter regulation: the banking industry will be made more concentrated and interconnected.[73] Applying his theory to the shadow banking industry in China, such regulatory mishap should include the intensified interconnectivity between the shadow banking and traditional banking systems, due to for example the Chinese commercial banks' sale of WMPs and wide use of BANs for removing loans from the banks' balance sheet to create shadow finance.

Regardless of the opposing view, tighter regulation may well be necessary for preserving and enhancing capital market order and financial system stability. Furthermore, the author places value on information disclosure. Information disclosure should be made mandatory, especially in regard to material facts such as matters concerning company litigation, shareholder structure (as well as shareholder disputes and remedies) and consumer protection. More transparency and accountability on the part of shadow banks and their management—in providing regulators, investors and customers with accurate, timely and easily accessible company information—should be the focus of future financial reforms in China, so as to prevent shadow banking lending falling into a black hole area and thus exempting it from regulatory oversight.

[72] Stacy Goto Grant, "International Financial Regulation through the G20: The Proprietary Trading Case Study," *Georgetown Journal of International Law*, Vol. 45, 2014, p. 1219.
[73] John Nugee, "Current Issues in Financial Regulation, and the Return of the Political Economy," *Journal of International Business and Law*, Vol. 11, 2012, p. 337.