**Informal Finance in China: Questionnaire**

**Context**

This questionnaire is intended to provide a structure for interviews to be conducted in the context of a research project aiming to investigate the development and associated risk of informal financing in the Chinese mainland.

China’s rapid economic growth in recent decades has been attributed to its reliance on informal contracting and trust-based relationships. This claim is a reflection of the absence in China of some of the more formal legal and regulatory institutions of the market economies of the global north. Although the claim that China lacks formal legal mechanisms of market governance may have been somewhat overstated, it is the case that informal finance, particularly in the form of trade credit, family lending and communal investing, has played a major role in supporting China’s growth. The prevalence of informal finance constitutes a significance source of flexibility for China’s economy given the limitations of the formal sector, which remains dominated by state-owned banks lending largely to state-owned enterprises. Informal finance is also evolving quickly and is converging with the use of internet technologies to deliver finance (fintech) through such mechanisms as crowdfunding.

However, there is still limited understanding of the respective roles of informal, trust-based relations, and more formal, law-based and contract-based relations, in underpinning financial development, and economic growth, more generally in China. This an area where mainstream economists and law and finance scholars tend to take one type of position, in support of the extension of formal legal mechanisms of market governance, while development economists and China specialists, as well a minority of law and finance scholars, emphasise the importance of informal institutions in supporting China’s rapid growth.

The intention here is to try to explore the phenomenon of informal finance in China, identify the risks and potential associated with it, and assess how regulation can best respond to the risks while not sacrificing the innovations and flexibility associated with it, particularly in the context of fintech. The theoretical premise of the research we are proposing to conduct is that formal and informal institutions are often intertwined and complementary, and that it may be a mistake to assume that as economic growth occurs, informal institutions necessarily give way to more formal ones. Moreover, we think that the potential for the formal and informal sectors to reinforce and magnify systemic risks has been underplayed in the literature and merits a deeper examination.

The topics and questions listed below should not be treated as exhaustive, however, and participants should feel free to raise any other relevant issues which are not explicitly mentioned below.

**On the Legal and Regulatory Environments**

* Are the legal and regulatory frameworks for informal financing activities complete? Are these laws or regulations clear and consistent? Are they adapted to the needs of financing needs? Does the legislation evolve to meet the needs of the market, and to address defects in the legislation (such as lack of clarity, contradictions, provisions which have unintended effects)? What are the processes for legal development and do they function adequately?
* Do these laws and regulations allow businesses and financiers to conclude the transactions they want to conclude? Is the regulatory framework market friendly? In other words, are the regimes for tax, exchange control, competition, financial and securities market regulations and setting up and running a business unduly onerous, restrictive and/or difficult to comply with, or do they broadly support orderly market activity?
* Are the legal system and regulations appropriate and effective for upholding property rights and enforcing performance of obligations, or are there alternative or complementary means which are sometimes more effective?
* Do laws and regulations have an essentially protective function, or are they also used as an indirect means of achieving particular ends?

**On the Market Participants**

* Is informal financing more readily available to business on reasonable market terms? Is the sector generally flexible and supportive to business in comparison to the conventional, state-dominated financing channels? Do financial institutions have the legal instruments they need (in particular the ability to take and enforce security) to be able to offer attractive terms to business?
* What can be used as collaterals in real lending practices? What are the most popular collaterals? To what extent have online shopping and trade credit lending (e.g. Alipay and Wechat) promoted informal financing?
* What are the impacts of shadow banking on the real estate sector, as well as the mainland stock and bond markets?
* How do the conventional, state-dominated financing channels respond to the development of informal financing, especially fintech? How do the state-owned/controlled perceive such challenges? What are their respective competitive advantages?
* Are judges competent, reliable and predictable to the emergent financing activities? Do the courts accordingly operate efficiently, diligently and without undue delays? Do administrative agencies operate efficiently, transparently and even handily? Are they helpful and supportive? If not, is this a problem?
* How are lawyers perceived, and what is expected of them? Are they seen primarily as helpful, obstructive or irrelevant?
* What are the main areas to be addressed to make the legal system more supportive of informal financing activity?