

## PRC, Administration of Foreign-funded Insurance Companies Regulations

(Promulgated by the State Council on 12 December 2001 and effective as of 1 February 2002.)

### PART ONE GENERAL PROVISIONS

Article 1 These Regulations are formulated to suit the requirements for opening up and economic development, to strengthen and perfect the supervision and administration of foreign-funded insurance companies, and to promote the healthy development of the insurance industry.

Article 2 Foreign-funded insurance companies as referred to in these Regulations shall be the following types of insurance companies approved for establishment and operation within China in accordance with the relevant laws and administrative regulations of the PRC:

1. equity joint venture insurance companies within China between foreign insurance companies and Chinese insurance companies or enterprises (Equity Joint Venture Insurance Companies);
2. foreign capital insurance companies invested in and operated within China by foreign insurance companies (Wholly Foreign-owned Insurance Companies); and
3. branches within China of foreign insurance companies (Foreign Insurance Company Branches).

Article 3 Foreign-funded insurance companies must abide by the laws and regulations of China and shall not harm the public interest of Chinese society.

The proper business activities and lawful rights and interests of foreign-funded insurance companies shall be protected under Chinese law.

Article 4 The China Insurance Regulatory Committee (the CIRC) shall be responsible for the supervision and administration of foreign-funded insurance companies. Agencies of the CIRC shall implement day-to-day supervision and administration of foreign-funded insurance companies within the area under their control in accordance with the authority given them by the CIRC.

### PART TWO ESTABLISHMENT AND REGISTRATION

Article 5 The establishment of foreign-funded insurance companies shall be approved by the CIRC.

The areas in which foreign-funded insurance companies are established shall be determined by the CIRC in accordance with the relevant provisions.

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Article 6 The form of and ratio of foreign capital in foreign-funded insurance companies engaging in personal accident insurance or in property insurance shall be determined by the CIRC in accordance with the relevant provisions.

Article 7 The minimum registered capital of Equity Joint Venture Insurance Companies and Wholly Foreign-owned Insurance Companies shall be Rmb 200 million or the equivalent in freely convertible currency. The minimum registered capital must be fully paid-up capital. Capital contributions from foreign insurance companies shall be in freely convertible currency.

Foreign Insurance Company Branches shall be allocated, without consideration by their parent companies, operating capital of not less than the equivalent of Rmb 200 million in freely convertible currency.

The CIRC may increase the minimum registered capital or operating capital as stipulated in the previous two paragraphs in accordance with the scope of business and scale of operations of foreign-funded insurance companies.

Article 8 Foreign insurance companies applying to establish a foreign-funded insurance company shall fulfil the following criteria:

1. they shall have been in the insurance business for at least 30 years;
  2. they shall have had a representative organization within China for at least two years;
  3. they shall have total year-end assets of not less than US\$5 billion in the year before the application;
  4. their country or region of origin shall have a good system of insurance regulation and the foreign insurance company shall have been subject to effective regulation by the relevant authorities in their country or region of origin;
  5. they shall have compensation capability in accordance with the standards of their country or region of origin;
  6. the relevant authorities in their country or region of origin shall agree to the application;
- and
7. other prudential criteria formulated by the CIRC.

Article 9 The applicant shall submit an application in writing to the CIRC for establishment of foreign-funded insurance companies and shall provide the following materials:

1. a written application signed by the applicant's statutory representative; in the case of Equity Joint Venture Insurance Companies the written application shall be signed by the statutory representatives of all the parties concerned;
2. the business licence (a copy), certification that the company's compensation capability fulfils the criteria, and a written opinion on the application issued by the relevant authorities

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- in the foreign applicant's country or region of origin;
3. the foreign applicant's articles of association and annual reports for the last three years;
4. relevant materials from the Chinese applicant in the case of Equity Joint Venture Insurance Companies;
5. feasibility study and preparatory plan for setting up the company;
6. name list, résumé and proof of qualifications of those responsible for preparing to establish the company; and
7. other materials that the CIRC stipulates shall be provided.

Article 10 The CIRC shall conduct an initial examination of applications to establish foreign-funded insurance companies and shall decide whether or not to accept the application within six months of receiving all the application documents. If an application is accepted it shall issue a formal application form; if an application is not accepted it shall inform the applicant of the reasons for this in writing.

Article 11 Applicants shall complete preparatory work within one year of receiving the formal application form. Those unable for good reason to complete this work within the stipulated period can extend by three months with the approval of the CIRC. If preparatory work is still not completed within the extended period, the CIRC's decision to accept the application shall automatically become invalid. Once preparatory work is complete the applicant shall submit the completed application form and the following documents to the CIRC for examination and approval:

1. the preparation report;
2. the articles of association for the company to be established;
3. information on the capital contributors and the amount of capital they are contributing to the company to be established;
4. capital verification certificate issued by the statutory capital verification authority;
5. the authorization letters held by the proposed principal officials of the company to be established;
6. name list, résumé and proof of qualification for the senior managers in the company to be established;
7. business plan and reinsurance plan for the next three years for the company to be established;
8. explanation of calculation of insurance clauses, premiums and liability reserves for the types of insurance to be conducted within China;
9. materials on the place of business of the company to be established and on other facilities related to its business;
10. in the case of Foreign Insurance Company Branches, a guarantee from the parent company that it will be liable for the branch's taxes and debts;
11. the joint venture contract in the case of Equity Joint Venture Insurance Companies; and
12. other documents as stipulated by the CIRC.

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Article 12 The CIRC shall decide whether or not to issue approval within 60 days of receiving all the formal application documents for setting up a foreign-funded insurance company. If approval is given it shall issue an insurance business permit; if it is not given it shall notify the applicant in writing of the reasons.

Applicants given approval to establish a foreign-funded insurance company shall submit the insurance business permit to the administration authority for industry and commerce, undergo registration and draw a business licence.

Article 13 Once a foreign-funded insurance company is established, it shall deposit 20% of its registered capital or operating capital as a security deposit in a bank designated by the CIRC. The security deposit shall not be used except to discharge debts if the foreign-funded insurance company goes into liquidation.

Article 14 The setting up of branches within China by foreign-funded insurance companies shall be examined and approved by the CIRC in accordance with the relevant regulations.

### PART THREE SCOPE OF BUSINESS

Article 15 Foreign-funded insurance companies may legally engage in all or some of the following types of insurance business in accordance with the scope of business stipulated by the CIRC:

1. property insurance, including damage insurance, liability insurance and fidelity insurance; and
2. personal accident insurance, including life insurance, medical insurance and accident insurance.

Foreign-funded insurance companies may, within their stipulated scope of business, engage in large-scale commercial insurance business and master policy insurance business with the approval of the CIRC in accordance with the relevant regulations.

Article 16 One foreign-funded insurance company shall not simultaneously engage in property and personal accident insurance business.

Article 17 Foreign-funded insurance companies may legally engage in the following reinsurance business for the types of insurance stipulated in Article 15:

1. outward reinsurance; and
2. inward reinsurance.

Article 18 The precise scope of foreign-funded insurance companies' business, their area of

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business and those to whom they can offer services shall be ratified by the CIRC in accordance with the relevant provisions. Foreign-funded insurance companies may only operate within the approved scope of business.

#### PART FOUR SUPERVISION AND ADMINISTRATION

Article 19 The CIRC has the power to investigate foreign-funded insurance companies' business situation, financial situation and use of funds. It has the power to require foreign-funded insurance companies to submit within the stipulated time relevant documents, materials and written reports, and to punish or handle in accordance with the law for violations of laws and regulations.

Foreign-funded insurance companies shall accept supervision and investigation in accordance with the law by the CIRC and shall provide accurate documents, materials and written reports. They shall not refuse, obstruct or cover-up.

Article 20 Foreign-funded insurance companies shall not engage in the following transactions with their affiliated enterprises except with the approval of the CIRC:

1. outward or inward reinsurance; or
2. buying and selling of assets or other transactions involving assets.

Affiliated enterprises as referred to in the previous paragraph shall be enterprises having one of the following relationships with the foreign-funded insurance company:

1. control of the company through shareholding or capital contribution;
2. control as a third party through shareholding or capital contribution; or
3. other affiliated interests.

Article 21 Foreign Insurance Company Branches shall within three months of the end of each accounting year submit their and their parent company's financial accounts for the preceding year to the CIRC and shall make them public.

Article 22 If one of the following situations applies to the parent company of a Foreign Insurance Company Branch, the branch shall within 10 days of the circumstance occurring submit a written report to the CIRC:

1. a change of name, of principal officers or of place of registration;
2. a change in capital contribution;
3. a change in the shareholder(s) who hold(s) at least 10% of the total capital or shares;
4. an adjustment to the scope of business;
5. penalties imposed by the relevant authorities of the country or region of domicile;
6. major losses;
7. division, merger, dissolution, or being shut down or declared bankrupt in accordance with the law; or

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8. other circumstances stipulated by the CIRC.

Article 23 If the parent company of a Foreign Insurance Company Branch is dissolved, shut down or declared bankrupt in accordance with the law, the CIRC shall stop the branch from developing new business.

Article 24 Foreign-funded insurance companies conducting foreign exchange insurance business shall abide by national provisions on control of foreign exchange.

Insurance business within China by foreign-funded insurance companies shall be priced and settled in Renminbi except with the approval of the administration of foreign exchange.

Article 25 The documents, materials and written reports stipulated in these Regulations to be handed over to the CIRC shall be written in Chinese.

## PART FIVE TERMINATION AND LIQUIDATION

Article 26 Foreign-funded insurance companies shall be dissolved after approval by the CIRC if such companies divide or merge, or if reasons for dissolution stipulated in their articles of association arise. Foreign-funded insurance companies to be dissolved shall set up a liquidation committee in accordance with the law to carry out the liquidation.

Foreign-funded insurance companies engaging in life insurance business shall not be dissolved except through division or merger.

Article 27 Foreign-funded insurance companies that violate laws or regulations shall be stripped of their insurance business permit by the CIRC and dissolved in accordance with the law. The CIRC shall organize and set up a liquidation committee in a timely manner according to law to carry out the liquidation.

Article 28 Foreign-funded insurance companies liquidated because of dissolution or shutting down in accordance with the law shall publicize this at least three times in the press within 60 days of the liquidation committee being set up. The announcement shall be approved by the CIRC.

Article 29 Foreign-funded insurance companies unable to pay their due debts shall be declared bankrupt in accordance with the law by the people's court with the agreement of the CIRC. The people's court shall set up a liquidation committee composed of the relevant personnel and organizations such as the CIRC to carry out the liquidation of foreign-funded insurance companies that have been declared bankrupt.

Article 30 Foreign-funded insurance companies that are dissolved, shut down in accordance with

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the law or declared bankrupt shall not transfer their assets outside China until their debts have been settled.

## PART SIX LEGAL LIABILITY

Article 31 If, in violation of these Regulations, a foreign-funded insurance company is established without authorization or engages in insurance business operations illegally, it shall be banned by the CIRC, and criminal liability shall be pursued in accordance with the relevant provisions of the criminal law on the crime of unauthorized establishment of financial institutions, illegal operations or other crimes. If the offence is not serious enough for the imposition of criminal penalties, its illegal income shall be confiscated by the CIRC, and a fine of not less than one time and not more than five times of the illegal income shall be imposed. If there is no illegal income or if it is less than Rmb 200,000, a fine of not less than Rmb 200,000 and not more than Rmb 1 million shall be imposed.

Article 32 If a foreign-funded insurance company, in violation of these Regulations, exceeds the approved scope of business, area of business or scope of those to whom they may offer services, criminal liability shall be pursued in accordance with the relevant provisions of the criminal law on the crime of illegal operations or other crimes. If the offence is not serious enough for the imposition of criminal penalties, the CIRC shall order rectification and the return of insurance premiums collected. Its illegal income shall be confiscated and a fine of not less than one time and not more than five times of the illegal income shall be imposed. If there is no illegal income or if it is less than Rmb 100,000, a fine of not less than Rmb 100,000 and not more than Rmb 500,000 shall be imposed. Where matters are not rectified within the specified time period or that serious consequences are resulted, the company shall be ordered a suspension of business within a specified time period or its insurance business permit shall be revoked.

Article 33 If a foreign-funded insurance company commits one of the following in violation of these Regulations, it shall be ordered by the CIRC to rectify the matters, and a fine of not less than Rmb 50,000 and not more than Rmb 300,000 shall be imposed; in serious cases, it shall be ordered to stop accepting new business or its insurance business permit shall be revoked:

1. failure to provide guarantee funds in violation of the provisions or use of these funds in violation of the provisions;
2. conduct of transactions with affiliated enterprises in violation of the provisions; or
3. failure to provide sufficient registered capital or operating funds in violation of the provisions.

Article 34 If a foreign-funded insurance company commits one of the following in violation of these Regulations, it shall be ordered by the CIRC to rectify the situation within a specified time period; if the situation is not rectified within the period, a fine of not less than Rmb 10,000 and not more than Rmb 100,000 shall be imposed:

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- (1) failure to submit the relevant documents, materials and written reports in violation of the provisions; or
- (2) failure to make information public in violation of the regulations.

Article 35 If a foreign-funded insurance company commits one of the following in violation of these Regulations, a fine of not less than Rmb 100,000 and not more than Rmb 500,000 shall be imposed by the CIRC:

1. provision of false documents, materials or written reports; or
2. refusal or obstruction of supervision and administration in accordance with the law.

Article 36 Foreign-funded insurance companies that in violation of these Regulations transfer assets outside China shall be ordered by the CIRC to transfer them back again, and a fine of not less than 20% and not more than the equivalent value of the transferred assets shall be imposed.

Article 37 The CIRC may strip senior managers of foreign-funded insurance companies that violate the laws and administrative regulations of China, and these Regulations, of their qualifications to work inside China, either temporarily or permanently.

#### PART SEVEN SUPPLEMENTARY PROVISIONS

Article 38 Where there is no provision in these Regulations for the administration of foreign-funded insurance companies, the PRC, Insurance Law and other relevant laws, administrative regulations and State provisions shall apply.

Article 39 These Regulations shall apply to insurance companies established and operated on the mainland by insurance companies from the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan.

Article 40 These Regulations shall be effective as of 1 February 2002.

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