

# Temporary Measures on Overseas Use of Foreign Exchange Insurance Funds

## 保险外汇资金境外运用管理暂行办法

### Chapter I General Provisions

#### Article 1

These Measures are formulated in accordance with the *Insurance Law of the People's Republic of China* and *Regulations of the People's Republic of China on Foreign Exchange Control* and other laws and administrative regulations for the purposes of strengthening the supervision of overseas use of foreign exchange insurance funds, preventing risks and protecting the interests of the insured.

#### Article 2

An insurance company in these Measures refers to a Chinese insurance company, a wholly foreign-owned insurance company, a Sino-foreign joint venture insurance company or a branch of foreign insurance company established with the approval from the China Insurance Regulatory Commission (hereinafter referred to as the "CIRC") and registered in accordance with the law.

Foreign exchange insurance funds in these Measures refer to the aggregate capital, common reserve, undistributed profit, reserves and guarantee deposits received by an insurance company that are denominated in foreign exchange.

#### Article 3

An insurance company engaged in overseas use of foreign exchange funds shall abide by the principles of safety, liquidity and profitability, make investment prudently and carry out independent operation at its own risks.

#### Article 4

An insurance company engaged in overseas use of foreign exchange funds shall comply with laws and administrative regulations on insurance and foreign exchange control, these Measures and relevant overseas laws and regulations.

#### Article 5

The CIRC and the State Administration of Foreign Exchange (hereinafter referred to as the "SAFE") shall conduct supervision and regulation of overseas use of foreign exchange insurance funds according to law.

### Chapter II Qualifications

#### Article 6

An insurance company engaged in overseas use of foreign exchange funds shall satisfy the following requirements:

- (1) It has a permit for conducting foreign exchange business;
- (2) Its total assets at the end of the previous year are not less than RMB 5 billion;
- (3) Its foreign exchange funds at the end of the previous year are not less than USD 15 million or equivalent value in a freely convertible currency;
- (4) Its solvency margin complies with relevant stipulations of the CIRC;
- (5) It has a specialized fund use department or a relevant insurance asset management company;
- (6) Its internal management system and risk control system comply with the stipulations of the *Risk Control Guidelines for Use of Insurance Funds*;
- (7) The number of its professional managerial personnel with over 2 years' overseas investment experience complies with relevant stipulations;
- (8) Other qualifications specified by the CIRC and the SAFE.

## **Article 7**

An insurance company engaged in overseas use of foreign exchange funds shall, within the balance of foreign exchange funds at the end of the previous year, apply to the SAFE for investment payment that needs outward remittance of foreign exchange and submit the following documents and materials in triplicate:

- (1) An application letter, at least including the basic information about the applicant, the proposed amount of foreign exchange payment for investment and the investment plan;
- (2) Financial statements and balance sheet of foreign currency assets of the previous year audited by an accounting firm;
- (3) A report of solvency status at the end of the previous year and that of the recent quarter audited by an accounting firm and their explanations;
- (4) Information about its internal specialized fund use department or relevant insurance asset management company;
- (5) Internal management system and risk control system;
- (6) Resumes of its specialized personnel engaged in overseas investment;
- (7) Information about its domestic custodian and draft custody agreement;
- (8) Information about its overseas trustee and draft asset management entrusting agreement unless there is no overseas trustee;
- (10) Other materials specified by the CIRC and the SAFE.

The SAFE shall make a decision as to whether or not to grant approval within 20 days after receiving a complete set of application documents. In case of approval, the SAFE shall inform the applicant in writing of the approved amount of foreign exchange payment for investment. In case of disapproval, the SAFE shall inform the applicant in writing and give reasons. A copy of the decision of approval or disapproval shall be sent to the CIRC at the same time.

## **Article 8**

Where the foreign exchange funds of an insurance company increase due to the factors including increase in shares or capital and overseas listing, it may submit relevant documents and materials to the SAFE to apply for an increase of the amount of foreign exchange payment for investment of the current year.

The SAFE shall decide whether or not to approve according to Article 7 hereof.

## **Chapter III Investment Scope and Proportion**

## **Article 9**

Overseas use of foreign exchange insurance funds shall be restricted to the following investment objects or instruments:

- (1) Bank deposits;
- (2) Bonds of foreign governments, international financial organizations and foreign companies;
- (3) Bonds that the Chinese government or Chinese enterprises issue overseas;
- (4) Money market products including bank bills and negotiable certificates of deposit;
- (5) Other investment objects and instruments within the scope specified by the State Council.

The bank mentioned in (1) of the preceding paragraph refers to an overseas branch of a Chinese commercial bank or a foreign bank with long-term credit rating of A or above granted by an internationally recognized rating institution in the recent 3 years.

The bonds mentioned in (2) of the preceding paragraph refer to the bonds with credit rating of A or above granted by an internationally recognized rating institution.

The money market products mentioned in (4) of the preceding paragraph refer to money market products with regular earnings and rating of AAA or equivalent granted by an internationally recognized rating institution.

## **Article 10**

The proportion of overseas use of foreign exchange insurance funds shall comply with the following requirement:

- (1) The total investable amount of an insurance company shall not exceed 80% of the balance of its foreign exchange funds at the end of the previous year. In any of the circumstances specified in Article 8 hereof, the total investable amount shall not exceed 80% of the aggregate of the balance of foreign exchange funds at the end of the previous year and increased funds;
- (2) The total amount of actual investment of the insurance company shall not exceed the amount of foreign exchange payment for investment approved by the SAFE;
- (3) The deposits of an insurance company in the same bank shall not exceed 30% of the amount of foreign exchange payment for investment approved by the SAFE. The fund balance of its overseas settlement account for overseas use of foreign exchange funds shall not be restricted by this provision;
- (4) The balance of all bonds with credit rating of A in which an insurance company invests, except the bonds that the Chinese government and Chinese enterprises issue overseas, shall be calculated at cost and not exceed 30% of the amount of foreign exchange payment for investment approved by the SAFE;
- (5) The balance of all bonds with credit rating of below AA in which an insurance company invests, except the bonds that the Chinese government and Chinese enterprises issue overseas, shall be calculated at cost and not exceed 70% of the amount of foreign exchange payment for investment approved by the SAFE;
- (6) The balance of the bonds issued by the same company or enterprise in which an insurance company invests shall be calculated at cost and not exceed 10% of the amount of foreign exchange payment for investment approved by the SAFE;
- (7) Where an insurance company invests in the bonds that the Chinese government or Chinese enterprises issue overseas, the balance of these bonds shall be calculated at cost and not exceed the amount of foreign exchange payment for investment approved by the SAFE.

## **Chapter IV Investment Management**

### **Article 11**

The parent insurance company shall centrally allocate assets in respect of overseas use of foreign exchange insurance funds. The internal specialized fund use department or the relevant insurance asset management company shall be responsible for business management.

Branches of an insurance company shall not be engaged in overseas use of foreign exchange funds.

### **Article 12**

A sound risk control system in respect of overseas use of foreign exchange insurance funds must be established in accordance with the *Risk Control Guidelines for Use of Insurance Funds*.

The risk control system shall at least include an investment decision-making process, an investment authorization system, a research and report system, a risk assessment and performance evaluation indicator system.

### **Article 13**

An insurance company engaged in overseas use of foreign exchange funds may entrust overseas specialized investment institutions that satisfy the requirements specified in Article 14 hereof to conduct investment management.

### **Article 14**

An overseas specialized investment institution entrusted to manage foreign exchange insurance funds shall satisfy the following requirements:

- (1) It shall be permitted to conduct asset management business according to the law of the country or region where it is located;
- (2) Its risk control indexes shall comply with the law of the country or region where it is located and with relevant regulations of its supervisory authority;
- (3) Neither its paid-up capital nor its net assets shall be less than USD 60 million or equivalent value in a freely convertible currency. The amount of assets under its management shall not be less than USD 50 billion or equivalent value in a freely convertible currency;

- (4) It shall have a sound corporate governance structure, a good and complete internal management system and a good and complete risk control mechanism with no record of serious violations of laws or regulations in the country or region where it is located in the recent 3 years;
- (5) It shall have over 10 years' business experience in international asset management with a corresponding number of professional investment personnel;
- (6) It shall make a written commitment to truthfully provide transaction information about overseas use of foreign exchange insurance funds as required by the CIRC when necessary;
- (7) The country or region where it is located shall have a sound financial supervision system. Its financial supervisory authorities shall have signed memorandum of understanding for supervision cooperation with Chinese financial supervisory authorities and keep effective cooperative relationship in respect of supervision with their Chinese counterparts;
- (8) Other requirements specified by the CIRC on the principle of prudence.

Regulations on the entrusted management of foreign exchange insurance funds by specialized investment institutions that domestic financial institutions establish overseas shall be separately formulated by the CIRC.

#### **Article 15**

Where an insurance company entrusts an overseas trustee for investment management, its internal specialized fund use department or relevant insurance asset management company shall be responsible for the entrustment and appraisal of risk status of the entrusted assets and assessment of the investment performance and management ability of the overseas trustee.

Where an insurance company chooses overseas trustees to manage its foreign exchange insurance funds, the insurance company shall give enough consideration to the management risks and moderately diversify the funds for entrustment to different trustees.

#### **Article 16**

The overseas use of foreign exchange insurance funds shall lay stress on the match with foreign exchange liabilities in respect of term structure and currency structure.

In overseas use of foreign exchange insurance funds, priority shall be given to the purchase of the bonds that the Chinese government and Chinese enterprises issue overseas.

### **Chapter V Assets Custody**

#### **Article 17**

An insurance company engaged in overseas use of foreign exchange funds shall entrust domestic commercial banks to keep custody of all their assets used overseas.

The commercial banks mentioned in the preceding paragraph refer to Chinese banks, branches of foreign banks, Sino-foreign joint venture banks and wholly foreign-owned banks within the territory of China.

#### **Article 18**

A commercial bank as the domestic custodian of an insurance company shall satisfy the following requirements:

- (1) It shall have been a foreign exchange authorized bank for more than 3 years;
- (2) Its paid-up capital shall not be less than RMB 8 billion; in case of a Chinese bank, its foreign exchange capital shall not be less than the amount of a freely convertible currency equivalent to RMB 1 billion; in case of a branch of a foreign bank, the paid-up capital of its head office shall be considered as its paid-up capital;
- (3) It shall have obtained the professional qualification for keeping custody of domestic securities investment fund;
- (4) It shall have a sound corporate governance structure, a good and complete internal management system and a good and complete risk control mechanism;

- (5) It shall have a special custody department and a corresponding number of full-time personnel familiar with global custody business;
- (6) It shall have a safe and efficient settlement and payment system and an emergency mechanism;
- (7) It shall have no record of serious violations of laws or regulations in the recent 3 years and its head office or branches shall have not be severely punished by the supervisory authorities of the country or region where it is located in the recent 3 years;
- (8) Other qualifications specified by the CIRC and the SAFE.

Where the amount of funds the head office of a foreign bank keep custody of exceeds USD 100 billion, any branch of the foreign bank may not be subject to the restriction of the requirement specified in (3) of the preceding paragraph.

#### **Article 19**

A domestic custodian of an insurance company shall fulfill the following obligations:

- (1) Keeping custody of the foreign exchange funds and securities entrusted by the insurance company;
- (2) Opening domestic custody account for foreign exchange insurance funds, settlement account for overseas use of foreign exchange funds and securities custody accounts;
- (3) Handling the procedures of inward and outward remittance of foreign exchange funds and relevant exchange procedures;
- (4) Supervising the overseas investment operation of insurance companies, insurance asset management companies and overseas trustees jointly with overseas escrow agents;
- (5) Timely informing an insurance company after finding illegal and regulation-violating investment instructions of the insurance company, its relevant insurance asset management company or its overseas trustee;
- (6) Supervising overseas escrow agents and ensuring the foreign exchange insurance funds are in safe custody;
- (7) Keeping relevant materials including records and vouchers of the inward and outward remittance of foreign exchange funds of an insurance company for overseas use, relevant fund transfer and securities trading for no less than 15 years;
- (8) Reporting international balance statistics according to regulations including *Measures on Reporting International Balance Statistics*, *Operational Rules on Financial Institutions' Reporting International Balance Statistics* and *Operational Regulations on Financial Institutions' Reporting Overseas Assets and Liabilities, and Profits and Losses*;
- (9) Assisting the CIRC and the SAFE in inspecting the overseas use of foreign exchange insurance funds;
- (10) Other obligations specified by the CIRC and the SAFE.

#### **Article 20**

A Domestic custodian of an insurance company shall submit relevant reports according to the following requirements:

- (1) Reporting to the CIRC and the SAFE within 5 days after opening domestic custody account, settlement account for overseas use of foreign exchange funds and securities custody account for an insurance company;
- (2) Reporting to the SAFE about the outward and inward remittance of funds within 2 days after an insurance company' outward remittance of principal or inward remittance of principal and earnings and sending a copy of the report to the CIRC;
- (3) Reporting to the CIRC and the SAFE on the balance of domestic custody account of an insurance company within 5 days after the end of each month;
- (4) Submitting the statements of overseas use of foreign exchange insurance funds to the CIRC and the SAFE within 10 days after the end of each quarter;
- (5) Submitting the statements of overseas use of foreign exchange insurance funds of an insurance company for the previous year to the CIRC and the SAFE within 1 month after the end of each fiscal year;
- (6) Timely reporting to the CIRC and the SAFE after finding illegal and regulation-violating investment instructions of an insurance company, an insurance asset management company or an overseas trustee;
- (7) Other reports specified by the CIRC and the SAFE.

### **Article 21**

After receipt of the approval documents of the SAFE about the amount of foreign exchange payment for investment, an insurance company shall sign custody agreement with its domestic custodian and open domestic custody account upon presentation of the approval documents.

### **Article 22**

An insurance company shall submit the following documents to the CIRC and the SAFE within 5 days after the date of opening domestic custody account:

- (1) Custody agreement;
- (2) Domestic custodian' written commitment of supervising an insurance company' use of domestic custody account, settlement account for overseas use of foreign exchange funds and securities custody account.

The custody agreement shall set forth the obligations of a domestic custodian specified in Article 19 and Article 20 hereof. Where a domestic custodian violates the above obligations and the CIRC or the SAFE requires an insurance company concerned to replace the domestic custodian, the insurance company shall have the right to terminate contract before its expiration.

### **Article 23**

The following funds are within the income scope of the domestic custody account of an insurance company:

- (1) Foreign exchange funds transferred in by an insurance company;
- (2) Foreign exchange insurance funds remitted back from outside China;
- (3) Income from principal and interest of bank deposits;
- (4) Bond interest income and the proceeds from selling bonds;
- (5) Interest income of money market products and the proceeds from selling money market products;
- (6) Other income.

### **Article 24**

The following expenditures are within the expenditure scope of the domestic custody account of an insurance company:

- (1) Funds transferred into settlement account for overseas use of foreign exchange funds;
- (2) Foreign exchange insurance funds remitted back to an insurance company;
- (3) Bank deposits;
- (4) Payment for buying bonds, including the payment for tax and fees such as stamp tax and capital gains tax;
- (5) Currency exchange fee, custody fee and asset management fee;
- (6) All kinds of commissions;
- (7) Other expenditures.

### **Article 25**

Where a domestic custodian chooses an overseas commercial bank as its overseas escrow agent, the conditions stipulated in the custody agreement shall be observed.

The domestic custodian shall open settlement account for overseas use of foreign exchange insurance funds and securities custody account at the overseas escrow agent for fund settlement and securities custody with overseas securities registration and settlement institutions.

### **Article 26**

A domestic custodian shall choose an overseas commercial bank that satisfies the following requirements as its overseas escrow agent:

- (1) The paid-up capital of the agent shall not be less than USD 2.5 billion or equivalent value in a freely convertible currency;
- (2) It shall have a long-term credit rating of A or above granted by an internationally recognized rating institution in the recent 3 years;

- (3) It shall have custody qualification certified by the supervisory authority of the country or region where it is located or has cooperative relationship with the domestic custodian;
- (4) It shall have a sound corporate governance structure, a good and complete internal management system and a good and complete risk control mechanism;
- (5) It shall have a specialized custody department and a corresponding number of full-time personnel who are familiar with the custody business of the country or region where it is located;
- (6) It shall have a safe and efficient settlement and payment system and an emergency mechanism;
- (7) It shall have no record of being severely punished in the country or region where it is located in the recent 3 years;
- (8) The country or area concerned has a sound financial supervision system. Its financial supervisory authorities have signed memorandum of understanding for supervision cooperation with Chinese financial supervision authorities and kept effective cooperative relationship in respect of supervision with their Chinese counterparts;
- (9) Other requirements specified by the CIRC and the SAFE on the principle of prudence.

#### **Article 27**

The domestic custodian and overseas escrow agent of an insurance company shall strictly separate their self-owned assets from assets in their custody; they shall open and manage different accounts for overseas use of foreign exchange funds of different insurance companies.

### **Chapter VI Supervision and Regulation**

#### **Article 28**

The SAFE may adjust the amount of foreign exchange payment for investment according to the overall status of international balance.

#### **Article 29**

An insurance company engaged in overseas use of foreign exchange funds shall neither act in violation of the stipulations of Article 9 and Article 10 hereof nor commit any of the following acts:

- (1) Extending loans or providing security to others;
- (2) Money laundering;
- (3) Obtaining illegal gains in collusion with overseas trustees, domestic custodians and overseas escrow agents;
- (4) Acts prohibited by relevant Chinese and overseas laws and regulations.

#### **Article 30**

Where an insurance company sign relevant agreements with overseas trustees and domestic custodians, they shall definitely require overseas trustees and domestic custodians in a clear and definite way to timely submit relevant statements and materials to the CIRC and the SAFE.

#### **Article 31**

The CIRC and the SAFE may require an insurance company and a domestic custodian to provide relevant materials about overseas use of foreign exchange insurance funds. When necessary, they may conduct site inspection of an insurance company or entrust a specialized intermediary institution to do so.

#### **Article 32**

An overseas commercial bank managing foreign exchange insurance funds as a trustee shall not concurrently hold the position of domestic custodian or overseas escrow agent.

#### **Article 33**

Where any of the following circumstances occurs to an insurance company, it shall report to the SAFE within 5 days after the occurrence thereof:

- (1) Change of its overseas trustee, domestic custodian or overseas escrow agent;



- (2) Material change of its registered capital and shareholder structure;
- (3) It is involved in material lawsuits, severely punished or other important matters;
- (4) Other circumstances specified by the SAFE.

Where the circumstances specified in (1) and (3) of the preceding paragraph occur to the insurance company, it shall report to the CIRC at the same time.

#### **Article 34**

Where any of the following circumstances occurs to a domestic custodian, it shall report to the CIRC and the SAFE within 5 days after the occurrence:

- (1) Material change of its registered capital and shareholder structure;
- (2) It is involved in material lawsuits or severely punished;
- (3) Other circumstances specified by the CIRC and the SAFE.

#### **Article 35**

Where an insurance company or its domestic custodian violates these Measures or other regulations on insurance and foreign exchange, relevant supervisory authorities shall impose administrative penalties on it in accordance with their respective limits of authority and supervision responsibilities.

Where an insurance company violates these Measures seriously, the CIRC may restrict its business scope, order it to stop accepting new business or withdraw its license for conducting insurance business.

The CIRC may order an insurance company to replace its domestic custodian if the domestic custodian violates these Measures seriously.

#### **Article 36**

The CIRC and the SAFE may require the insurance company to replace its overseas trustee if the overseas trustee violates relevant stipulations.

### **Chapter VII Supplementary Provisions**

#### **Article 37**

Chinese version of the materials to be submitted to the CIRC and the SAFE as stipulated in these Measures shall prevail.

#### **Article 38**

Relevant provisions of these Measures shall, mutatis mutandis, apply to the use of foreign exchange funds in Hong Kong Special Administrative Region and Macao Special Administrative Region.

#### **Article 39**

These Measures shall also, mutatis mutandis, apply to overseas use of foreign exchange funds by an insurance asset management company.

#### **Article 40**

The "day" mentioned in these Measures refers to working day, not including statutory holidays.

#### **Article 41**

The CIRC and the People's Bank of China shall be responsible for interpretation of these Measures.

#### **Article 42**

These Measures shall take effect from the date of promulgation.

End.