

Detailed Rules for Implementation of Regulations of the People's Republic of China on Administration of Foreign-funded Insurance Companies

中华人民共和国外资保险公司管理条例实施细则

Article 1

These Rules are formulated in accordance with the *Insurance Law of the People's Republic of China* and the *Regulations of the People's Republic of China on Administration of Foreign-funded Insurance Companies* (hereinafter referred to as "the Regulations").

Article 2

A foreign insurance company under the Regulations refers to an insurance company registered and conducting insurance business outside the territory of China.

Article 3

The proportion of foreign equity in an insurance company incorporated within the territory of China by a foreign insurance company with a Chinese company or enterprise that conducts life insurance business (hereinafter referred to as "joint-equity life insurance company") shall be no more than 50% of the total equity of the company. The shares of a joint-equity life insurance company directly or indirectly held by a foreign insurance company shall not exceed the limit of proportion as stipulated in the preceding paragraph.

Article 4

For a foreign-funded insurance company established within the territory of China before the Regulations became effective with registered capital or working capital of less than RMB 200 million or an equivalent amount in a freely convertible currency, its registered capital or working capital shall be fully paid within 2 years after these Rules become effective. For those who fail to fully pay the registered capital or working capital, China Insurance Regulatory Commission shall not grant approval to their application for operation of new business.

Article 5

The registered capital or working capital of a foreign-funded insurance company shall be the actually paid-up currency.

Article 6

After establishing a branch, the foreign insurance company shall not withdraw the working capital in any form.

Article 7

The period of operation of insurance business being more than 30 years, which is mentioned in Item 1 of Article 8 of the Regulations, means that the foreign insurance company shall have continuously been running insurance business for more than 30 years, and the foreign insurance company's acquisition of another institution or merger with another institution to establish a new insurance company, shall not affect the calculation of the business operation period.

The business operation period of a subsidiary of a foreign insurance company shall start from the date of establishment of the subsidiary.

Article 8

The representative office mentioned in Item 2 of Article 8 of the Regulations refers to the following representative offices approved by China Insurance Regulatory Commission (hereinafter referred to as "CIRC"):

- (1) The representative office established by a foreign insurance company;
- (2) The representative office established by a group to which a foreign insurance company belongs.

Article 9

The representative office established by a foreign insurance company or its group to which the insurance company belongs is only applicable to application for establishing one foreign-funded insurance company.

Article 10

The end of the year prior to the application for the establishment mentioned in Item 3 of Article 8 of the Regulations refers to the end of the previous fiscal year before the date of application.

Article 11

The other prudential requirements mentioned in Item 7 of Article 8 of the Regulations shall at least include the following requirements:

- (1) Reasonable structure for corporate governance;
- (2) Stable and sound risk control system;
- (3) Sound internal control system;
- (4) Effective Management Information System;
- (5) Good operating performance without records of serious violation of laws and regulations.

Article 12

Where the applicant fails to provide the business license (duplicate) as stipulated in Item 2 of Article 9 of the Regulations, the applicant may provide a valid copy of the business license or a written certificate issued by the relevant authority evidencing the applicant's eligibility to conduct insurance business.

Article 13

The certificate mentioned in Item 2 of Article 9 of the Regulations, which is issued by the relevant authority of the country or region where the foreign applicant is located to evidence the applicant's solvency, shall include one of the following contents:

- (1) Certifying that the applicant complies with the regulatory requirements of the country or region on solvency in the previous fiscal year as of the date when the relevant authority issues the certificate;
- (2) Certifying that the applicant has no record of incompliance with the standard of the country or region on solvency in the previous fiscal year as of the date when the relevant authority issues the certificate.

Article 14

The Letter of Comments issued by the relevant authority of the country or region where the foreign applicant is located concerning the applicant's application, which is mentioned in Item 2 of Article 9 of the Regulations, shall include the following contents:

- (1) Whether the application for the establishment of an insurance institution in China complies with the laws and rules of the applicant's country or region;
- (2) Whether the authority approves the applicant's application;
- (3) The record of the punishment imposed on the applicant in the last three years prior to the date of issuance of the Letter of Comments by the relevant authority;

Article 15

The annual report mentioned in Item 3 of Article 9 of the Regulations shall include the Balance Sheets, Statements of Profit and Loss, and Cash Flow Statements of the applicant in the last three fiscal years prior to the date of application.

The annual report mentioned in the preceding paragraph shall be attached with the auditor's report issued by an accounting or auditing firm authorized by the country or region where the applicant is located.

Article 16

Except otherwise specified by the laws or administrative regulations or approved by the State Council, the Chinese applicant mentioned in Item 4 of Article 9 of the Regulations shall satisfy the following requirements:

- (1) The companies or enterprises with the capacity of legal person registered at the administration department of industry and commerce, excluding commercial banks, securities organizations and the foreign-funded enterprises specified in the Law of the People's Republic of China on Foreign-funded Enterprises;
- (2) Being approved by the administrative authority of the enterprise or its shareholders' meeting;
- (3) Good operating performance and in the previous fiscal year as of the application date being profitable;
- (4) Making the investment with self-owned capital from legitimate sources.

Article 17

The relevant documents to be submitted by a Chinese applicant for the establishment of a joint-equity insurance company shall include business license (duplicate), articles of association, business structure, operation history, annual report and punishment record for the last three years.

Article 18

The person in charge of the preparation of a foreign-funded insurance company shall satisfy the following requirements:

- (1) Academic degree above junior college level;
- (2) Insurance or related work experience for over 2 years;
- (3) No illegal and criminal record.

Article 19

Where an applicant applies for the extension of the preparation period according to the provisions specified in Article 11 of the Regulations, he shall, within 1 month before expiration of the original preparation period, submit a written application to CIRC and explain the reason.

Article 20

The preparation report mentioned in Item 1 of Article 11 of the Regulations shall summarize all the issues stated in other paragraphs under this article.

Article 21

The statutory capital verification organization mentioned in Item 4 of Article 11 of the Regulations refers to an accounting firm complying with the requirements of CIRC.

Article 22

The capital verification certificate mentioned in Item 4 of Article 11 of the Regulations shall include the following contents:

- (1) A Capital Verification Report issued by a statutory capital verification organization;
- (2) A copy of the original bank receipt voucher evidencing payment of the registered capital or working capital.

Article 23

The main person-in-charge mentioned in Item 5 of Article 11 of the Regulations refers to the general manager of the proposed branch of a foreign insurance company.

The letter of attorney issued to the person to be appointed as the main person-in-charge of the proposed branch of the foreign insurance company, refers to the letter of attorney issued to the person to be appointed as the general manager of the proposed branch of the foreign insurance company, which is signed by the Chairman of the Board of Directors or General Manager of the foreign insurance company.

The letter of attorney shall explicitly specify the scope of authorization granted to the authorized person.

Article 24

The senior managerial personnel of the proposed company mentioned in Item 6 of Article 11 of the Regulations shall have the qualifications specified by CIRC.

The senior managerial personnel of the branch of a foreign insurance company shall have the qualifications equal to those required for the counterparts in the headquarters of an insurance company.

Article 25

The materials regarding business place of the proposed company mentioned in Item 9 of Article 11 of the Regulations refers to the supporting documents evidencing the ownership or use-right of the business place. The materials concerning other facilities related to the business mentioned in Item 9 of Article 11 of the Regulations shall include at least information about configuration of computer facilities, network construction and information management system.

Article 26

The following documents or materials to be provided by a foreign insurance company for an application for the establishment of a foreign-funded insurance company according to the requirements specified in the Regulations and these Rules, shall be notarized by a public notary legally established in the local country or region, or verified by the embassy or consulate of China in that country:

- (1) The business license (duplicate) or valid copy of the business license;
- (2) A letter of attorney issued to the proposed person-in-charge of the branch of a foreign insurance company;
- (3) A letter of guarantee of a foreign insurance company to undertake the obligations of tax and duties payment and debts repayment on behalf of its branch in China.

Article 27

A foreign-funded insurance company may apply for establishing branches as needed according to business development.

The branch of a foreign insurance company can only conduct business within the territory of the province, autonomous region or municipality where the branch is located. Where the joint-equity insurance company or wholly-owned insurance company is prepared to conduct business in any other province, autonomous region or municipality outside its locality, it shall establish a branch in the place concerned.

A foreign insurance company may, according to actual circumstances, apply for establishing a central sub-branch or sub-branch, operating office or marketing service office. The establishment and management of marketing service offices shall be subject to other applicable regulations of CIRC, if any.

Article 28

Where a joint-equity or wholly-owned insurance company which has been established with a minimum registered capital of RMB200 million, applies for the first time for the establishment of a branch in every other province, autonomous region, or municipality outside its locality, it shall increase the registered capital by no less than RMB20 million.

By the time of applying for the establishment of a branch, if the registered capital of a joint-equity or wholly-owned insurance company has reached the amount as stipulated in the preceding paragraph, the company will no longer be required to increase its registered capital.

Where the registered capital of a joint-equity or wholly-owned insurance company has reached RMB500 million and where the solvency of the company is adequate, no increase of registered capital is required when the company applies for the establishment of a branch.

Article 29

A foreign-funded insurance company that applies for the establishment of a branch shall satisfy the following requirements:

- (1) Its solvency margin shall comply with relevant regulations specified by CIRC.
- (2) Its internal control system is sound and there is no record of punishment; where the operating period exceeds 2 years, there is no record of punishment in the most recent 2 years;

(3) It has senior managerial personnel of the branch with the relevant qualifications specified by CIRC.

Article 30

A foreign-funded insurance company that applies for the establishment of a branch shall submit an application to CIRC and provide the following documents in triplicate:

- (1) A letter of application for establishment;
- (2) Audited solvency status reports as of the end of the previous fiscal year and as of the end of the last quarter;
- (3) A three-year business development plan and market analysis for the proposed branch;
- (4) Resume(s) of the person(s) -in-charge of the organization preparation and relevant certificates.

Article 31

CIRC shall examine the application and decide, within 20 days after receiving the complete application documents, whether or not to grant approval; in case no approval is granted, CIRC shall inform the applicant in writing of the decision and explain the reason.

After approval is granted, the applicant shall complete the preparation within 6 months. Where the applicant fails to do so within the prescribed time limit, if the reason is justified and subject to approval by CIRC, the period may be extended for 3 months. Where the preparation is still not completed within the extended period, the original approval document issued by CIRC becomes void automatically.

The preparing body may not be engaged in any commercial activities concerning insurance.

Article 32

After the preparation is completed, the applicant shall apply to CIRC for opening business and submit the following documents in triplicate:

- (1) A letter of application for opening business;
- (2) A progress report of the preparation work;
- (3) Resume(s) of senior managerial personnel to be appointed and relevant certificates;
- (4) Relevant certificates of ownership or use-right of the office for the proposed branch, information regarding the configuration of computer facilities, network construction, and internal structure and staff.

Article 33

CIRC shall decide, within 20 days after receiving the complete application documents for opening business, whether or not to grant approval; in case the application is approved, a license for conducting insurance business shall be issued to the branch; in case the application is disapproved, CIRC shall inform the applicant in writing of the decision and explain the reason.

The branch with approval for opening business shall go through the formalities of business registration at the administration department of industry and commerce by presenting the approval document and the license for conducting insurance business and accordingly obtain business license from the authority before opening business.

Article 34

Unless otherwise stipulated in these Rules, the examination and administration of the qualifications of the senior managerial personnel of a foreign-funded insurance company and its branches shall be subject to the relevant regulations of CIRC.

Article 35

Where a joint-equity or wholly-owned property insurance company applies for dissolution when it splits, or merges with another one, or dissolves pursuant to the articles of association, such dissolution must be subject to approval of CIRC and the following documents shall be submitted:

- (1) A letter of application signed by the Chairman of the Board of Directors of the company;
- (2) The resolution of the meeting of shareholders;

- (3) Composition of the proposed liquidation group and a plan for liquidation;
- (4) A proposal for solving the outstanding liabilities.

Article 36

The joint-equity or wholly-owned property insurance company whose dissolution has been approved by CIRC shall, from the date of receiving the approval document from CIRC, terminate any new business activities and hand in the license for conducting insurance business to CIRC and form a liquidation group within 15 days.

Article 37

The liquidation group shall, within 5 days after its establishment, inform the relevant authorities concerning the administration departments of industry and commerce, tax, labor and social security in writing of the liquidation procedure and conditions.

Article 38

The liquidation group shall, within 1 month from the date of establishment, appoint an accounting firm pursuant to the requirements of CIRC to conduct auditing, and shall deliver an auditor's report to CIRC within three months from the date of appointment.

Article 39

The liquidation group shall submit the latest liability liquidation and assets disposal report to CIRC before the tenth date of each month.

Article 40

The newspaper mentioned in Article 28 of the Regulations refers to the newspaper specified by CIRC.

Article 41

The foreign property insurance company that applies for cancellation of its branch in China shall submit an application to CIRC for approval and present the following materials:

- (1) A letter of application signed by the Board of Directors or General Manager of the foreign property insurance company;
- (2) Composition of the proposed liquidation group and a plan for liquidation;
- (3) A proposal for solving the outstanding liabilities.

The procedures of application for dissolution of a joint-equity or foreign-funded property insurance company specified in the Regulations and these Rules shall be applicable to the specific procedures for the foreign property insurance company to cancel its branch in China.

Where the head office of a branch of a foreign property insurance company is dissolved or cancelled or declared bankruptcy according to law, the liquidation and liability disposal of the branch of such foreign property insurance company shall comply with the regulations concerning dissolution of the joint-equity or wholly-owned property insurance company stipulated in Article 30 of the Regulations and these Rules.

Article 42

The foreign-funded insurance company in violation of the relevant provisions of these Rules shall be subject to punishment by CIRC according to the provisions specified in *Insurance Law*, the Regulations and other relevant laws and regulations.

Article 43

The documents, materials and written reports to be submitted or reported under the Regulations and these Rules shall be prepared in Chinese version, and the Chinese version shall prevail in the event of discrepancy between the Chinese version and the foreign language version.

Article 44

The period specified in the Regulations and these Rules shall start from the date when the relevant materials are delivered to CIRC. If the application documents provided by the applicant is incomplete and further delivery is needed, the period shall start from the date when the supplementary materials are delivered to CIRC.

The period concerning approval and report delivery prescribed in these Rules refers to working days.

Article 45

The issues concerning administration of a foreign-funded insurance company that are not specified in the Regulations or these Rules shall be governed by the applicable laws, administrative rules and relevant regulations of CIRC.

The establishment of a foreign-funded reinsurance company shall comply with the *Regulations on Establishment of Reinsurance Companies*. The issues not specified in the *Regulations on Establishment of Reinsurance Companies* shall be governed by these Rules.

Article 46

These Rules shall, mutatis mutandis, apply to insurance companies that are established and operated in Chinese mainland by insurance companies from Hong Kong Special Administrative Region, Macao Special Administrative Region or Taiwan region. The issues otherwise stipulated in the laws, administrative rules or administrative protocols shall be governed by the stipulations therein.

Article 47

These Rules shall come into effect as of June 15, 2004.

End.