

Temporary Measures for Administration of Subordinated Term Debts of Insurance Companies

保险公司次级定期债务管理暂行办法

Chapter 1 General Provisions

Article 1

These Measures have been formulated in accordance with the *Company Law of the People's Republic of China*, the *Insurance Law of the People's Republic of China*, and stipulations of relevant laws and administrative regulations to standardize private placement, transfer, principal repayment and interest payment, and information disclosure of subordinated term debts of insurance companies (hereinafter referred to as 'subordinated debts') and to guarantee solvency of insurance companies.

Article 2

"Insurance companies" in these Measures refer to Chinese-funded insurance companies, Chinese-foreign joint equity insurance companies, and wholly foreign-owned insurance companies established within the territory of the People's Republic of China in accordance with Chinese laws.

Article 3

"Subordinated debts" in these Measures refers to debts with a maturity term of more than 5 years (including 5 years) issued with approval by an insurance company by way of private placement that are junior to the policy liabilities and other obligations of the company but senior to the company's equity in terms of the ranking of principal repayment and interest payment.

Article 4

The China Insurance Regulatory Committee (hereinafter referred to as 'the CIRC') conducts supervision and administration of private placement, transfer, principal repayment, interest payment and information disclosure of subordinated debts of insurance companies in accordance with the law.

Article 5

An insurance company that issues a subordinated debt by way of private placement (hereinafter referred to as the 'issuer') shall operate prudently, improve its solvency, and protect the legal rights and interests of the creditors of the subordinated debt.

Chapter 2 Private Placement

Article 6

An insurance company that issues a subordinated debt by way of private placement shall satisfy the requirements specified in these Measures and apply to the CIRC for examination and approval.

Article 7

An insurance company applying to issue a subordinated debt by way of private placement shall satisfy the following requirements:

1. Audited net assets of no less than 500 million RMB at the end of the previous year;
2. After the issuance, the accumulated principal and interest of subordinated debts that have not been redeemed shall not exceed the audited net assets of the insurance company at the end of the previous year.
3. Good corporate governance;
4. An internal control system that is sound, complete and strictly adhered to;
5. The assets of the company are not occupied and used by any natural person, legal person, other organization or any of the company's affiliated parties that has de facto control over the assets;
6. No material violation of law or regulation within the recent 2 years;

7. Other requirements specified by the CIRC.

Article 8

The subordinated debt shall be issued by way of private placement to qualified investors.

“Qualified investors” hereof refer to investors that have independent analytical ability and risk-bearing capability required in subordinated debt investment, including legal persons within China and investors outside China, but excluding

1. Any company controlled by the issuer;
2. Any company controlled by a third party that controls the issuer.

Article 9

An individual shareholder of the issuer or the party controlling the shareholder shall not hold more than 10 percent of one issue of subordinated debt or aggregate subordinated debts issued, and it shall not hold the largest proportion of one issue of subordinated debt or aggregate subordinated debts issued; the aggregate subordinated debts held by all shareholders of the issuer or by all the controlling parties of the shareholders shall not exceed 20 percent of one issue of subordinated debt or aggregate subordinated debts issued.

Qualified investor insurance companies and insurance asset companies shall hold subordinated debts of each other in accordance with the relevant stipulations of the CIRC regarding the proportion.

Article 10

Funds raised by an insurance company through private placement of subordinated debts may be incorporated in the company’s supplementary capital, but shall not be used to offset the routine operation losses of the insurance company.

An insurance company shall determine the value of the subordinated debts incorporated in its supplementary capital in accordance with the relevant stipulations of the rules promulgated by the CIRC regarding solvency reporting.

Article 11

The issuer shall employ a law firm to provide legal opinions for the issuance of subordinated debt.

The legal opinions shall carry definite comments on whether the conditions, plan, clauses, credit rating of the issuance, etc. are in compliance with laws and regulations. The law firm shall provide the legal opinions on an objective and fair basis and undertake the corresponding responsibility.

Article 12

The issuer may employ a credit rating agency to rate the subordinated debt.

The credit rating agency shall provide relevant reports and documents on an objective and fair basis and undertake the corresponding responsibility.

Article 13

The issuer may issue a subordinated debt on its own or through an entrusted institution that is qualified for underwriting securities.

Article 14

When an insurance company seeks to issue a subordinated debt by way of private placement, the board of directors of the company shall make a plan and the (general) meeting of the shareholders shall make special resolutions on the following issues:

1. Size, term, interest rate, and range of subscribers;
2. Purpose of funds raised;
3. Expiry date of the resolution for issuance of the subordinated debt;
4. Other important issues related to issuance of the subordinated debt.

Article 15

When applying for issuing a subordinated debt by way of private placement, an insurance company shall submit the following documents to the CIRC:

1. An application letter for issuing a subordinated debt;
2. Special resolutions of the (general) meeting of shareholders regarding the issuance;
3. Feasibility study report;

The feasibility study report shall contain:

- 1) Cost-benefit analysis of the subordinated debt (including the size, term, pricing and cost analysis of the debt, purpose of the funds raised, returns forecast, effect on solvency, etc.);
 - 2) The determination of the range of creditors and status of the creditors.
4. Prospectus;
 5. Text of the agreement (contract) and legal opinions;
 6. Audited annual financial and solvency reports of the previous 3 years and financial and solvency reports of the previous quarter;
 7. Sum total of the subordinated debt that has not been redeemed and utilization of the funds raised;
 8. Management scheme of the subordinated debt formulated by the issuer;
 9. Other important contracts related to the issuance of the subordinated debt;
 10. Other materials required by the CIRC.

If the insurance company has had the issuance of the subordinated debt rated, a copy of the credit rating report shall also be submitted to the CIRC.

Article 16

The issuer shall report to the CIRC on the issuance of the subordinated debt within 10 working days after the issuance and submit to the CIRC copies of the subordinated debt contracts signed with the creditors.

Article 17

The subordinated debt shall not be redeemed prematurely, unless otherwise specified by the CIRC.

Chapter 3 Debt Redemption

Article 18

Only on the condition that the solvency adequacy of an insurance company will be no less than 100 percent (100%) after principal repayment and interest payment of the subordinated debt may the insurance company repay the principal and pay the interest.

Article 19

When deferring of the subordinated debt is needed, the issuer shall propose plans regarding issues such as deferring period, interest rate adjustment, etc. and secure agreement from the creditors.

The issuer shall report to the CIRC on the deferring within 5 working days after signing deferring agreement with creditors of the subordinated debt and submit copies of the related agreements to the CIRC.

Article 20

The issuer shall implement separate management of the funds raised through subordinated debt and utilize the funds raised in strict accordance with the purpose specified in the feasibility report and with the subordinated debt management scheme.

Article 21

During the period in which the issuer is unable to repay the principal or pay the interest of the subordinated debt on a timely basis, the issuer is not allowed to distribute earnings to its shareholders.

Chapter 4 Information Disclosure

Article 22

The contents of the information disclosing documents of the subordinated debt such as prospectus, special financial report and notice of major events, and the issuance and release of these documents shall comply with the relevant stipulations of the CIRC.

Article 23

When issuing a subordinated debt, an insurance company shall make prospectus and other information disclosing documents in accordance with relevant stipulations of the CIRC. It shall make sure that all information having substantial effects on subscribers shall be disclosed on a truthful, accurate, complete, and timely basis. However, the information shall not be published via media or in any disguised form.

The issuer and the parties involved shall not mislead investors into purchasing the subordinated debt by any means.

Article 24

The issuer shall prominently display in the prospectus such a statement as “Investors purchasing the subordinated debt shall read carefully this prospectus and the related information-disclosing documents and make independent investment decisions. The approval of the issuance of this subordinated term debt by the China Insurance Regulatory Committee indicates neither the regulatory appraisal of the debt’s investment value nor the regulatory judgment of the debt’s investment risk.”

Article 25

The issuer shall specify clearly in the clauses of its prospectus that

1. Only on the condition that the solvency adequacy of the issuer will be no less than 100 percent after principal repayment and interest payment of the subordinated debt may the issuer repay the principal and pay the interest;
2. In case the issuer fails to pay the interest or repay the principal on time, the creditors are not entitled to appeal to the court for bankruptcy liquidation of the issuer;
3. If the issuer legally enters a bankruptcy liquidation procedure, the subordinated debt is junior to all non-subordinated debts in terms of ranking of principal repayment and interest payment.

Article 26

The clauses in the prospectus shall be specific and clear, and disclose adequately to the investors the stipulations of these Measures regarding issuance, redemption, deferring, principal repayment and interest payment of the subordinated debt, and define in detail the obligations and rights of both parties of the subordinated debt; and the contents of the clauses shall not violate laws, administrative regulations, or the mandatory stipulations of the CIRC.

The prospectus shall at least cover

1. Size, term (starting date and ending date), interest rate, and range of subscribers;
2. Purpose of the funds raised;
3. Legal conditions, time, procedure, and means of principal repayment and interest payment;
4. Transfer and premature redemption of the subordinated debt;
5. Liabilities for breach of contract of the issuer and the creditors of the subordinated debt;
6. The intermediary and its liabilities.

In case the issuer has had the issuance of the subordinated debt rated, the contents of the credit rating report and follow-up rating arrangement shall be included in the prospectus.

Article 27

During the term of the subordinated debt, the issuer shall, within 4 months after completion of every fiscal year, disclose to the creditors of the subordinated debt the special financial report on the subordinated debt of the previous year. The report shall at least cover

1. Audited financial statements;

2. Table of solvency margin status, table of minimal solvency margin calculation, table of admitted assets and table of admitted liabilities that have been audited;
3. Principal repayment and interest payment of the debt;
4. Utilization of the funds raised;
5. Major investment, affiliated transactions, etc. that have an effect on the principal repayment and interest payment of the subordinated debt;
6. Other information that has a major effect on the creditors of the subordinated debt.

If the issuer has arranged a follow-up rating, information regarding the follow-up rating shall also be included.

Article 28

The issuer shall inform the creditors of the subordinated debt of the following cases on a timely basis if any of them occurs:

1. Major unfavorable changes of the solvency status;
2. Anticipated inability to pay the interest or repay the principal of matured subordinated debt;
3. Signing any guarantee contract that may have a major effect on the principal repayment and interest payment of the subordinated debt and other important contracts;
4. Severe deficit or loss amounting to over 10 percent of the net assets value;
5. Major arbitration cases or lawsuits;
6. Capital reduction, merger, split, dissolution, or bankruptcy application;
7. Planning to conduct major debt restructuring.

Chapter 5 Supervision and Administration

Article 29

The CIRC may require an insurance company violating these Measures to make correction within a specified time period and may adopt the following supervisory measures as it sees fit:

1. Ordering the insurance company to replace the senior managerial personnel directly responsible and other personnel directly responsible;
2. Refusing to accept any application for issuing a subordinated debt submitted by the insurance company within 3 years;
3. Suspending recognition of the sum of subordinated debt that can be incorporated in the supplementary capital of the insurance company;
4. Organizing a team to rectify the insurance company.

Article 30

In case an insurance company violates these Measures, harms the public interest and may endanger or has already endangered its solvency, the CIRC may take over the insurance company in accordance with the law.

Article 31

The CIRC may give a warning to and inflict in isolation or combination a fine between 5,000 and 30,000 RMB on the insurance company, its senior managerial personnel directly responsible and other personnel directly responsible for violation of these Measures; In the event of suspicion of a crime, the case will be handed over to judicial authorities in accordance with law and be prosecuted.

Chapter 6 Supplementary Provisions

Article 32

The CIRC shall be responsible for the interpretation and the amendment of these Measures.

Article 33

These Measures shall take effect from the date of promulgation.

End.