

# ORGANIZACIÓN MUNDIAL DEL COMERCIO

S/C/N/224  
24 de diciembre de 2002

(02-7103)

Consejo del Comercio de Servicios

Original: inglés

## NOTIFICACIÓN DE CONFORMIDAD CON EL PÁRRAFO 3 DEL ARTÍCULO III DEL ACUERDO GENERAL SOBRE EL COMERCIO DE SERVICIOS

Se ha recibido de la delegación de la República Popular China la siguiente notificación.

**1. Miembro que notifica:**

La República Popular China

**2. Notificación en virtud del:**

Párrafo 3 del artículo III del Acuerdo General sobre el Comercio de Servicios

**3. Fecha de entrada en vigor/duración:**

12.12.2001

**4. Organismo responsable de la aplicación de la medida:**

Comisión de Reglamentación de los Seguros de China

**5. Descripción de la medida\* indicando las formas de suministro previstas, los efectos en el comercio de servicios (como por ejemplo restricciones a la liberalización o medidas de liberalización) e incidencia de la medida en los compromisos enunciados en la Lista del Miembro y en su Lista de exenciones del artículo II (NMF), en su caso:**

Reglamento de administración de compañías de seguros financiadas con capital extranjero

Se adjunta el texto completo de la traducción al inglés del reglamento.<sup>1</sup> La traducción al inglés se facilita únicamente a efectos de consulta y la versión china será la auténtica.

**6. Miembros específicamente afectados, en su caso:**

Todos los Miembros

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\* Incluidos los acuerdos internacionales y las medidas de reconocimiento o de otro tipo.

<sup>1</sup> En inglés solamente.

**7. Texto disponible en:**

- Servicio de información ☒
- Secretaría de la OMC ☒
- Otras fuentes (dirección, fax y teléfono de otro organismo) ☐

## **Regulations of the People's Republic of China on Administration of Foreign-Funded Insurance Companies**

(Adopted at the 49th Executive Meeting of the State Council on December 5, 2001, promulgated by the Decree No. 336 of the State Council of the People's Republic of China on December 12, 2001, and effective as of February 1, 2002).

### **Chapter I General Provisions**

**Article 1** These Regulations are formulated to meet the need of opening up to the outside world and developing economy, to strengthen and improve the supervision and administration of foreign-funded insurance companies, and to promote the healthy development of the insurance industry.

**Article 2** The term of "foreign-funded insurance companies", as used in these Regulations, refers to the following insurance companies that are approved to be established and to operate within the territory of China in accordance with relevant laws and administrative regulations of the People's Republic of China:

- (1) insurance companies which are funded and operated within the territory of China by foreign insurance companies jointly with Chinese companies or enterprises (hereinafter referred to as joint venture insurance companies);
- (2) insurance companies which are solely funded and operated within the territory of China by foreign insurance companies (hereinafter referred to as solely foreign-funded insurance companies); and
- (3) branches of foreign insurance companies within the territory of China (hereinafter referred to as branches of foreign insurance companies).

**Article 3** Foreign-funded insurance companies shall abide by the laws and regulations of China and shall not infringe upon the social and public interests of China.

The legitimate business activities and lawful rights and interests of foreign-funded insurance companies are protected by the laws of China.

**Article 4** The China Insurance Regulatory Commission (hereinafter referred to as CIRC) is responsible for the supervision and administration of foreign-funded insurance companies. The agencies of CIRC exercise routine supervision and administration on foreign funded insurance companies within their respective jurisdictions according to the powers delegated by CIRC.

### **Chapter II Establishment and Registration**

**Article 5** The establishment of a foreign-funded insurance company shall be approved by CIRC.

Regions where foreign-funded insurance companies may be established shall be determined by CIRC in accordance with relevant provisions.

**Article 6** For foreign-funded insurance companies to engage in insurance of the person or property insurance business, their establishment form and foreign investment proportion shall be determined by CIRC in accordance with relevant provisions.

**Article 7** The minimum registered capital requirement of a joint venture insurance company or a solely foreign-funded insurance company is RMB 200,000,000 yuan or its equivalent of a freely

convertible currency; the minimum registered capital must be fully paid up in currency. The contribution of foreign insurance companies shall be made in freely convertible currencies.

A branch of a foreign insurance company shall be allocated as its operating fund by its headquarter company a free sum of freely convertible currencies equivalent to not less than RMB 200,000,000 yuan. CIRC may, according to the business scope and operation scale of a foreign funded insurance company, increase the minimum requirement of the registered capital or operating fund provided for in the preceding two paragraphs.

**Article 8** A foreign insurance company applying to establish a foreign-funded insurance company shall meet the following requirements:

- (1) It has engaged in insurance business for not less than 30 years;
- (2) It has maintained a representative office within the territory of China for not less than 2 years;
- (3) It possessed total assets of not less than US\$ 5,000,000,000 at the end of the year prior to the submission of its establishment application;
- (4) The country or region where it is domiciled has a sound system of insurance supervision and administration, and it is under the effective supervision and administration by the relevant competent authorities of the country or region;
- (5) It satisfies the solvency standards of the country or region where it is domiciled;
- (6) The relevant competent authorities of the country or region where it is domiciled consents to its application; and
- (7) It meets other prudent requirements prescribed by CIRC.

**Article 9** To establish a foreign-funded insurance company, the applicant shall submit an application to CRIC in writing, together with the following materials:

- (1) an application signed by the legal representative of the applicant, or, where a joint venture insurance company is applied for, jointly signed by the respective legal representatives of each joint party;
- (2) a duplicate of the foreign applicant's business license, a certification proving that the foreign applicant satisfies the solvency standards, and the opinion on the application issued by the relevant competent authorities of the country or region where the applicant is domiciled;
- (3) the foreign applicant's articles of association and its annual reports for the last three years prior to submission of the application;
- (4) in the case of applying for establishing a joint venture insurance company, relevant materials of the Chinese applicant (s);
- (5) the feasibility study report and the preparatory plan of the proposed company;
- (6) the names, biographical information and qualification certifications of the personnel responsible for the preparatory work of the proposed company; and
- (7) other materials to be submitted as provided by CIRC.

**Article 10** CIRC shall conduct a preliminary examination on the application for establishing a foreign-funded insurance company and decide to accept or reject it within 6 months from the date of receipt of the complete application documents. If the application is accepted, CIRC shall issue an official application form to the applicant; if the application is rejected, CIRC shall inform the applicant in writing and give reasons for the rejection.

**Article 11** Applicants shall complete the preparatory work within 1 year from the date of receipt of the official application form. An extension of 3 months may be granted upon the approval of CIRC where the preparatory work is not completed within the specified time limit for proper reasons. If the preparatory work is not completed within the extended period, the acceptance decision made by CIRC automatically ceases to be effective. Upon completion of the preparatory work, the applicant shall

submit to CIRC the completed application form together with the following materials for examination and approval:

- (1) a report on the preparatory work;
- (2) the articles of association of the proposed company;
- (3) a list of the investors of the proposed company and the amount of their respective contributions;
- (4) a capital verification certificate issued by a statutory capital verification institution;
- (5) letters of attorney issued to the principal responsible persons of the proposed company;
- (6) the names, biographical information and qualification certifications of the senior management personnel of the proposed company;
- (7) the business plan and reinsurance program of the proposed company for the first 3 years to come;
- (8) insurance clauses, premium rates and the calculation statements of the liability reserves for the insurance products to be distributed within the territory of China;
- (9) information on the business premises and other facilities related to the business operation of the proposed company;
- (10) in the case of applying for establishing a branch of a foreign insurance company, a bond issued by the headquarter company guaranteeing the taxes and debts obligation of the proposed branch;
- (11) in the case of applying for establishing a joint venture insurance company, the joint venture agreement; and
- (12) other materials to be submitted as provided by CIRC.

**Article 12** CIRC shall, within 60 days from the date of receipt of the complete official application documents, decide to approve or disapprove the application. If the application is approved, CIRC shall issue a permit to carry on insurance business; if the application is disapproved, CIRC shall inform the applicant in writing and give the reasons for the disapproval.

Where the establishment of a foreign-funded insurance company is approved, the applicant shall, on strength of the permit to carry on insurance business, register with the administrative department for industry and commerce and obtain a business license.

**Article 13** Upon the establishment of a foreign-funded insurance company, 20% of the total amount of its registered capital or operating fund shall be deposited with the bank(s) designated by CIRC as a guarantee fund. This guarantee fund shall not be used except for paying off debts when the foreign-funded insurance company is liquidated.

**Article 14** Branching of a foreign-funded insurance company within the territory of China shall be examined and approved by CIRC in accordance with relevant provisions.

### **Chapter III Business Scope**

**Article 15** Foreign-funded insurance companies may, within the business scope approved by CIRC and in accordance with law, conduct all or part of the following classes of insurance business:

- (1) property insurance, including property loss or damage insurance, liability insurance, credit insurance etc., or
- (2) insurance of the person, including life assurance, health insurance, accidental injury insurance etc.

Foreign-funded insurance companies may, upon the approval of CIRC in accordance with relevant provisions, engage in large-scale commercial risks insurance and master policy insurance within the scope approved.

**Article 16** A foreign-funded insurance company shall not engage in both property insurance and insurance of the person concurrently.

**Article 17** A foreign-funded insurance company may conduct the following reinsurance business with respect to the insurance business provided for in Article 15 of these Regulations:

- (1) outward reinsurance; and
- (2) inward reinsurance.

**Article 18** The specific business scope, geographic restriction of business and types of clients of a foreign-funded insurance company shall be approved by CIRC in accordance with relevant provisions. A foreign-funded insurance company may only conduct its business within the scope of approval.

#### **Chapter IV Supervision and Administration**

**Article 19** CIRC has the right to inspect the business performance, financial status and the utilization of funds of a foreign-funded insurance company, to require a foreign-funded insurance company to furnish relevant documents, materials and written report(s) within a specified time limit, and to impose penalties or make other dispositions according to law on any violation of laws or rules.

Foreign-funded insurance companies shall accept the supervision and inspection conducted by CIRC according to law, and truthfully provide relevant documents, materials and written report(s). Refusal, hindrance or concealment is prohibited.

**Article 20** Foreign-funded insurance companies shall not engage in any of the following transactions with their associated enterprises unless is otherwise approved by CIRC:

- (1) outward or inward reinsurance; or
- (2) purchase or sale of assets, or other transactions.

The term of "associated enterprises", as used in the preceding paragraph, refers to any enterprise that has one of the following associations with the foreign-funded insurance company:

- (1) relationships of control in shareholding or capital contribution;
- (2) being controlled by a third party together with the foreign-funded insurance company in shareholding or capital contribution; or
- (3) other association in interests.

**Article 21** A branch of a foreign insurance company shall, within 3 months after the end of each fiscal year, submit to CIRC the financial statements of both the branch and the headquarter company of the previous year and make them public.

**Article 22** A branch of a foreign insurance company shall, where the headquarter company of which falls under one of the following circumstances, submit to CIRC a written report on relevant information within 10 days from the date of occurrence of such circumstance(s):

- (1) change of its name, the principal responsible persons or the place of registration;
- (2) change in the amount of its capital;
- (3) change of shareholder(s) holding 10% or more of its total capital or total shares;
- (4) adjustment of its business scope;

- (5) penalized by the relevant competent authorities of the country or region where it is domiciled;
- (6) significant losses incurred;
- (7) separation, merger, dissolution, mandatory closure or being declared bankrupt; or
- (8) other circumstances provided for by CIRC.

**Article 23** CIRC shall order a branch of a foreign insurance company to cease to conduct new business where its headquarter company is dissolved, closed according to law, or declared bankrupt.

**Article 24** A foreign-funded insurance company, when engaging in insurance in foreign currencies, shall abide by the relevant provisions of the State on administration of foreign exchange. Any foreign-funded insurance company conducting insurance business within the territory of China, other than those otherwise approved by the foreign exchange administration organ of the State, shall use RMB in price quotations and in settlements.

**Article 25** All documents, materials and written reports submitted to CIRC in accordance with these Regulations shall be written in the Chinese language.

## **Chapter V Termination and Liquidation**

**Article 26** A foreign-funded insurance company may, upon the approval of CIRC, be dissolved in the event of division, merger or the occurrence of other dissolution circumstances set forth in the articles of association of the company. When a foreign-funded insurance company is dissolved, a liquidation task force shall be established according to law to conduct the liquidation. A foreign-funded insurance company engaging in life assurance shall not be dissolved, except in the event of separation or merger.

**Article 27** Here the permit to carry on insurance business of a foreign-funded insurance company is revoked by CIRC due to its violation of laws or administrative regulations, the company shall be closed according to law. CIRC shall timely establish a liquidation task force to conduct the liquidation.

**Article 28** Where a foreign-funded insurance company is liquidated due to dissolution or closure, it shall, within 60 days from the date of establishment of the liquidation task force, make public announcements in the newspaper for at least three times. The content of such public announcement shall be approved by CIRC.

**Article 29** Where a foreign-funded insurance company is unable to pay off its debts when due, it may, upon the approval of CIRC, be declared bankrupt by a people's court. The people's court shall organize relevant departments such as CIRC and relevant persons to establish a liquidation task force to conduct the liquidation.

**Article 30** Where a foreign-funded insurance company is dissolved, closed according to law, or declared bankrupt, it shall not transfer its assets outside the territory of China before paying off all the debts.

## **Chapter VI Legal Liability**

**Article 31** Those who, in violation of these Regulations, establish a foreign-funded insurance company or illegally engage in insurance activities shall be banned by CIRC and be investigated for criminal liability in accordance with the provisions of the Criminal Law on the crime of illegally establishing financial institutions, the crime of illegal operation or other crimes. Where such violation

is not serious enough for criminal punishment, CIRC shall confiscate the illegal income and concurrently impose a fine of not less than one time nor more than five times the illegal income, or a fine of not less than 200,000 yuan nor more than 1,000,000 yuan if there is no illegal income or the illegal income is less than 200,000 yuan.

**Article 32** Where a foreign-funded insurance company, in violation of these Regulations, engages in insurance activities exceeding the approved business scope, geographic restriction or types of clients, it shall be investigated for criminal liability in accordance with the provisions of the Criminal Law on the crime of illegal operation or other crimes. Where such violation is not serious enough for criminal punishment, CIRC shall order the foreign-funded insurance company to make corrections and to refund the premiums collected, confiscate the illegal income, and concurrently impose a fine of not less than one time nor more than five times the illegal income, or a fine of not less than 100,000 yuan nor more than 500,000 yuan if there is no illegal income or the illegal income is less than 100,000 yuan. Where the foreign-funded insurance company fails to make corrections within a specified time limit or causes serious consequences, CIRC shall order the foreign-funded insurance company to suspend its business operation within a specified time limit, or revoke its permit to carry on insurance business.

**Article 33** Where a foreign-funded insurance company, in violation of these Regulations, conducts one of the following activities, CIRC shall order it to make corrections in a specified time limit and impose a fine of not less than 50,000 yuan nor more than 300,000 yuan. If the circumstances are serious, CIRC may order the foreign-funded insurance company to cease accepting new business, or revoke its permit to carry on insurance business:

- (1) failing to set up a guarantee fund as in accordance with provisions or using the guarantee fund in violation of the provisions;
- (2) engaging in transactions with its associated enterprises in violation of the provisions;  
or
- (3) failing to replenish the registered capital or operating fund as in accordance with provisions.

**Article 34** Where a foreign-funded insurance company, in violation of these Regulations, conducts one of the following activities, CIRC shall order it to make corrections within a specified time limit. If the foreign-funded insurance company fails to make corrections within the specified time limit, it shall be fined not less than 10,000 yuan nor more than 100,000:

- (1) failing to submit relevant documents, materials or written reports as in accordance with provisions; or
- (2) failing to make public announcements as in accordance with provisions.

**Article 35** Where a foreign-funded insurance company, in violation of these Regulations, conduct one of the following activities, CIRC shall impose a fine of not less than 100,000 yuan nor more than 500,000 yuan:

- (1) submitting falsified documents, materials or written reports; or
- (2) refusing or hindering supervision and inspection conducted according to law.

**Article 36** Where a foreign-funded insurance company, in violation of these Regulations, transfers its assets out of the territory of China, CIRC shall order it to transfer back the assets and impose a fine of not less than 20% nor more than the full amount of the assets so transferred.

**Article 37** Where a foreign-funded insurance company violates relevant Chinese laws, administrative regulations or these Regulations, CIRC may disqualify the senior managerial personnel of the company to serve in China for a specified period of time up to their whole life.



## **Chapter VII    Supplementary Provisions**

**Article 38**        Where there are no provisions in these Regulations on the matters concerning the supervision and administration of foreign-funded insurance companies, the Insurance Law of the People's Republic of China, as well as other relevant laws, administrative regulations and other relevant provisions of the State apply.

**Article 39**        These Regulations are mutatis mutandis applicable to the insurance companies established and operated within the mainland by insurance companies of Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan region.

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

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