

Order No. 4 of the China Insurance Regulatory Commission

The Implementing Rules on the Regulations of the People's Republic of China for the Administration of Foreign-Invested Insurance Companies were examined and adopted at the Chairman's Office Meeting of the China Insurance Regulatory Commission on March 15, 2004. The Implementing Rules are hereby promulgated and shall be implemented as of June 15, 2004.

Wu Dingfu
Chairman
May 13, 2004

Implementing Rules on the Regulations of the People's Republic of China for the Administration of Foreign-Invested Insurance Companies

Article 1. These Implementing 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 for the Administration of Foreign-Invested Insurance Companies (the "Regulations").

Article 2. For the purpose of the Regulations, "foreign insurance companies" shall mean insurance companies registered outside the People's Republic of China which engage in the operation of insurance businesses.

Article 3. With respect to a joint venture insurance company established by a foreign insurance company and a Chinese company or enterprise to engage in the operation of personal insurance businesses in the PRC (a "Joint Venture Life Insurance Company"), the percentage of foreign investment therein may not exceed 50% of the total amount of share capital of the Joint Venture Life Insurance Company.

The shares of a Joint Venture Life Insurance Company directly or indirectly held by a foreign insurance company may not exceed the percentage restriction provided in the foregoing paragraph.

Article 4. A foreign-invested insurance company which has been established in the PRC before the effectiveness of the Regulations and the registered capital or working capital of which is less than RMB200 million yuan or its equivalent in a freely convertible currency, shall fully contribute its registered capital or working capital within two years from the effectiveness of these Implementing Rules. The China Insurance Regulatory Commission shall not approve applications to conduct new business by any foreign-invested insurance company whose registered capital has not been fully contributed.

Article 5. The registered capital or working capital of a foreign-invested insurance company must be paid in actual currency.

Article 6. After the establishment of a branch company of a foreign insurance company, the foreign insurance company may not withdraw its working capital in any manner.

Article 7. Operation of an insurance business for 30 years or longer as referred to in Article 8(1) of the Regulations shall mean a foreign insurance company has continuously operated an insurance business for 30 years or longer, and its absorption of another institution by merger or its merger with another institution to establish a new insurance company shall not affect the calculation of the term of its operation of the insurance business.

The term of operation of an insurance business by a subsidiary of a foreign insurance company shall be calculated from the establishment of such subsidiary.

Article 8. A representative office as referred to in Article 8(2) of the Regulations shall mean the following representative entities of a foreign insurance company approved by the China Insurance Regulatory Commission ("CIRC"):

- (1) the representative office established by a foreign insurance company; and
- (2) the representative office established by the group company of a foreign insurance company.

Article 9. A representative office established by a foreign insurance company or its group company may only be used to apply for the establishment of one foreign-invested insurance company.

Article 10. The end of the year preceding the application, as referred to in Article 8(3) of the Regulations, shall mean the end of the accounting year preceding the date of application.

Article 11. Other prudential conditions as referred to in Article 8(7) of the Regulations shall at least include the following conditions:

- (1) reasonable legal person governance structure;
- (2) stable risk control system;
- (3) perfected internal control system;
- (4) effective management information system; and
- (5) good operating conditions and no record of material violations of laws or regulations.

Article 12. When an applicant cannot provide the business license (duplicate copy) as referred to in Article 9(2) of the Regulations, it may provide a certified copy of the business license or a written certificate issued by the relevant department in charge evidencing the applicant's right to operate an insurance business.

Article 13. Evidence of compliance with solvency standards issued by the relevant department in charge of the foreign applicant's home country or territory as referred to in Article 9(2) of the Regulations shall contain the following information:

- (1) the applicant's solvency during the accounting year preceding the date on which the evidence is issued by the relevant department in charge complies with the supervisory requirements of the country or territory; and

(2) the applicant has no record of non-compliance with the solvency standards of the country or territory during the accounting year preceding the date on which the evidence is issued by the relevant department in charge.

Article 14. The opinion regarding the application issued by the relevant department in charge of the foreign applicant's home country or territory as referred to in Article 9(2) of the Regulations shall contain the following information:

(1) whether or not the establishment of an insurance entity by the applicant in the PRC complies with the laws of the foreign country or territory;

(2) whether or not the applicant's application is consented and

(3) the applicant's record of penalties during the three years preceding the date on which the opinion was issued by the relevant department in charge.

Article 15. Annual financial statement as referred to in Article 9(3) of the Regulations shall include the applicant's balance sheet, statement of profit and cash flow statement for the three accounting years preceding the application date.

The statements set forth in the foregoing paragraph shall be attached with the audit opinions issued by an accounting firm or an audit firm certified by the applicant's home country or territory.

Article 16. Except as otherwise provided by laws and administrative regulations or approved by the State Council, the Chinese applicant as referred to in Article 9(4) of the Regulations shall satisfy the following conditions:

(1) it has been registered with a PRC administration for industry and commerce as a company or enterprise with legal person status unless it is a commercial bank, securities institution or wholly foreign-owned enterprise established under the Law of the People's Republic of China on Wholly Foreign-Owned Enterprises;

(2) it has been approved by its regulatory authority or at its shareholders' meeting;

(3) it has good operating conditions and was profitable during the accounting year preceding the application date; and

(4) it shall make capital contribution by its own capital and such capital comes from a legitimate source.

Article 17. The relevant information to be submitted by the Chinese applicant for establishment of a joint venture insurance company shall include its business license (duplicate copy), articles of association, business structure, operating history, annual report for the most recent three years and record of penalties for the most recent three years of the company or entity.

Article 18. The person responsible for the preparation of the proposed foreign-invested insurance company shall have the following qualifications:

(1) graduate of a university or college;

(2) engaged in insurance or related work for two years or longer; and

(3) no criminal record.

Article 19. If the applicant applies for an extension of the preparatory period as referred to in Article 11 of the Regulations, it shall submit a written application to CIRC within one month prior to the date of expiration of the preparatory period and explain the reasons therefor.

Article 20. The preparatory report as referred to in Article 11(1) of the Regulations shall summarize other matters contemplated by Article 11 of the Regulations.

Article 21. Authorized capital verification institution as referred to in Article 11(4) of the Regulations shall mean an accounting firm that fulfills the requirements set forth by CIRC.

Article 22. Evidence of capital verification as referred to in Article 11(4) of the Regulations shall include the following contents:

- (1) capital verification report issued by a legally-authorized capital verification institution; and
- (2) photocopies of original bank receipts evidencing the deposit of its registered capital or working capital.

Article 23. The responsible person as referred to in Article 11(5) of the Regulations shall mean the general manager of the proposed branch company of a foreign insurance company.

The authorization letter for the proposed responsible person of a branch company of a foreign insurance company shall mean the authorization letter for the proposed general manager of the branch company of a foreign insurance company signed by the chairman or general manager of such foreign insurance company.

Such authorization letter shall clearly set forth the limitations on the scope of authority of the authorized person.

Article 24. Senior management personnel as referred to in Article 11(6) of the Regulations shall meet the employment qualifications stipulated by CIRC

Senior management personnel of a branch company of a foreign insurance company shall meet the employment qualifications of senior management personnel of the parent company of an insurance company.

Article 25. Information regarding the place of business of the proposed company as referred to in Article 11(9) of the Regulations shall mean documents certifying the ownership of or use rights to the place of business.

Information regarding other business-related facilities as referred to in Article 11(9) of the Regulations shall at least include information concerning computer equipment configuration, network construction status and information management systems.

Article 26. The following documents or information required to be provided by a foreign insurance company in applying for establishment of a foreign-invested insurance company under the Regulations and these Implementing Rules shall be notarized by a notary public duly established in the foreign insurance company's home country or territory, or certified by the Chinese embassy or consulate in the country or territory:

- (1) business license (duplicate copy) or certified copy of the business license;

(2) the letter of authorization for the proposed responsible person of the branch company of a foreign insurance company; and

(3) the guarantee letter issued by a foreign insurance company to its branch company in China for tax and debt obligations.

Article 27. A foreign-invested insurance company may apply to establish branches and sub-branches pursuant to its business development requirements. A branch company of a foreign insurance company may only conduct business within the administrative jurisdiction of the province, autonomous region or municipality directly under the central government where it is located. A joint venture insurance company or wholly foreign-owned enterprise which proposes to conduct business in provinces, autonomous regions or municipalities directly under the central government outside its domicile shall establish branch companies.

A foreign-invested insurance company may apply for establishing central sub-branch companies, sub-branch companies, business offices or sales services departments in accordance with actual conditions. If CIRC has separate provisions governing the establishment and management of sales services departments by insurance companies, such provisions shall prevail.

Article 28. For joint venture insurance companies or a wholly foreign-owned insurance companies established with the minimum registered capital of RMB 200 million yuan, an increase of registered capital in an amount of no less than RMB20 million yuan is required to be contributed the first time an application is made for establishment of a branch company in each province, autonomous region or municipality directly under the central government.

At the time of application for establishment of a branch company, a joint venture insurance company or a wholly foreign-owned insurance company whose registered capital has already reached the amount of capital increase set forth in the foregoing paragraph needs not further increase the corresponding amount of registered capital.

A joint venture insurance company or a wholly foreign-owned insurance company whose registered capital has already reached RMB500 million yuan and that is fully solvent is not required to further increase its registered capital when applying to establish a new branch company.

Article 29. A foreign-invested insurance company applying to establish a branch or sub-branch shall comply with the following conditions:

- (1) solvency quota complies with the relevant requirements of CIRC;
- (2) sound internal control systems, and no record of penalties; if it has operated for over two years, it has not been subject to penalties in the most recent two years; and
- (3) senior management personnel of the branch or sub-branch who meet the employment qualifications for their positions as stipulated by CIRC.

Article 30. A foreign-invested insurance company applying to establish a branch or sub-branch shall submit to CIRC an application with three copies of the following documents:

- (1) application for establishment;
- (2) unaudited report on solvency as of the end of the preceding year and the most recent quarter;

(3) three-year business development plan and market analysis for the proposed institution; and

(4) resumes and relevant evidentiary materials of the responsible person of the proposed institution.

Article 31. CIRC shall conduct an examination on the application for establishing a branch or sub-branch. Within 20 days after receipt of complete application materials, CIRC shall decide whether to grant or deny approval. If it decides to deny approval, it shall notify the applicant in writing and explain the reasons.

After approval, an insurance company shall complete the preparatory work for the branch or sub-branch within 6 months. If the preparatory work is not completed within the stipulated period, such preparatory period may be extended by 3 months upon approval by CIRC provided that proper reasons are given. If the preparatory work is not completed within the extended period, the original approval document shall automatically become invalid.

Preparatory organizations may not engage in any insurance business activities.

Article 32. Upon completion of the preparatory work for establishment of the branch or sub-branch, an insurance company shall submit to CIRC an application to commence operations, and shall provide three copies of each of the following documents:

- (1) application for commencement of business;
- (2) a report on the completion of the preparatory work;
- (3) resumes and relevant evidentiary materials for the proposed senior management personnel; and
- (4) documents evidencing ownership rights to or use rights for the proposed place of business, computer equipment configuration and network construction, as well as the internal organizational structure and information on employees.

Article 33. Within 20 days after receipt of complete application documents to establish a branch or sub-branch for commencement of business, CIRC shall decide whether to grant or deny approval. If it decides to grant approval, an insurance business operating license for such branch or sub-branch shall be issued. If it decides to deny approval, it shall notify the applicant in writing and explain the reasons.

A branch or sub-branch of an insurance company that is approved for commencement of business shall handle registration procedures with the administration for industry and commence by presenting its approval document and insurance license and may not conduct business until a business license is obtained.

Article 34. The examination and administration of the qualifications for the positions of senior management personnel of a foreign-invested insurance company or its branches or sub-branches shall be carried out in accordance with relevant regulations stipulated by CIRC unless otherwise provided by these Implementing Rules.

Article 35. If a foreign-invested or wholly foreign-owned property insurance company applies for dissolution due to division, merger or the occurrence of the reasons for dissolution as stipulated by the articles of association of the company, it shall submit the following materials to CIRC for examination and approval:

- (1) application signed by the chairman of the company;

- (2) resolutions of the shareholders' meeting of the company;
- (3) composition of the proposed liquidation team and liquidation plan; and
- (4) plans for handling of outstanding liabilities.

Article 36. A foreign-invested or wholly foreign-owned property insurance company which has been approved to dissolve by CIRC shall terminate new business activities from the date of receipt of approval documents from CIRC, return its insurance business operating license to CIRC, and establish a liquidation team within 15 working days.

Article 37. The liquidation team shall, within five working days after its establishment, notify in writing the administrative department for industry and commerce, the tax department, and the labor and social security department of the status of the company's entry into liquidation.

Article 38. The liquidation team shall, within one month from the date of its establishment, engage an accounting firm that meets CIRC requirements to conduct an audit and shall submit an audit report to CIRC within three months from the date of engagement of the accounting firm.

Article 39. The liquidation team shall submit a report to CIRC on or before the tenth day of each month concerning debt repayments, disposal of assets and any new developments.

Article 40. Newspapers as referred to in Article 28 of the Regulations shall mean newspapers designated by CIRC.

Article 41. If a foreign property insurance company applies to cancel its branch company in the PRC, it shall submit the following materials to CIRC for examination and approval:

- (1) application signed by the chairman or the general manager of the foreign property insurance company;
- (2) composition of the proposed liquidation team and liquidation plan; and
- (3) plans for handling of outstanding liabilities.

The specific procedures for cancellation by a foreign property insurance company of its branch companies in the PRC shall be governed by the procedures for applying for dissolution by foreign-invested or foreign property insurance companies as stipulated by the Regulations and these Implementing Rules.

If the parent company of a branch company of a foreign property insurance company is dissolved, cancelled according to law or declares bankruptcy, the liquidation and handling of liabilities of the branch company of the foreign property insurance company shall be governed by Article 30 of the Regulations and the corresponding provisions of these Implementing Rules on dissolution of joint venture or wholly foreign-owned property insurance companies.

Article 42. If a foreign-invested insurance company violates the relevant provisions of these Implementing Rules, CIRC shall impose sanctions according to the Insurance Law, the Regulations and other law and administrative regulations.

Article 43. Any document, material and written report required to be submitted under the Regulations and these Implementing Rules shall be provided in Chinese. If

there is any inconsistency between the Chinese and foreign language versions, the Chinese version shall prevail.

Article 44. The term as provided by the Regulations and these Implementing Rules shall be calculated from the date of delivery of the relevant materials to CIRC. If the application documents submitted by the applicant are not complete and additional materials are required, the term shall be re-calculated from the date of the applicant's delivery of the additional materials to CIRC.

The provisions of these Implementing Rules on the term of approval and report shall refer to working days.

Article 45. For issues concerning the administration of foreign-invested insurance companies not regulated by the Regulations and these Implementing Rules, the relevant provisions of other laws and administrative regulations and CIRC regulations shall apply.

The establishment of a foreign-invested re-insurance company shall be governed by the Provisions on the Establishment of Reinsurance Companies. Issues not covered by the Provisions on the Establishment of Reinsurance Companies shall be governed by these Implementing Rules.

Article 46. The Regulations and these Implementing Rules shall be applied by reference to insurance companies established and operating in the Mainland by insurance companies from the Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan region. If laws, administrative regulations or administrative agreements provide otherwise, such provisions shall apply.

Article 47. These Implementing Rules shall be effective as of June 15, 2004.