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China

INSURANCE & REINSURANCE

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This country-specific Q&A provides an overview of insurance & reinsurance laws and regulations applicable in China.

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CHINA
INSURANCE & REINSURANCE

1. How is the writing of insurance contracts regulated in your jurisdiction?

The writing of insurance contracts is regulated by the *Insurance Law of the PRC (2015)* (the *"Insurance Law"*) and related rules, which specifies the required items of an insurance contract, including the insurer, the policyholder, the insured party, the beneficiary of a life insurance, the subject matter of insurance, insurance liabilities, exclusion of liability, etc. The *Insurance Law* further provides certain circumstances under which the clauses in an insurance contract may be deemed invalid.

Certain insurance clauses and premium rates of insurance policies which relate to social and public interests, mandatory insurance and newly developed insurance policies of life insurance, etc., should be subject to the approval of the China Banking and Insurance Regulatory Commission ("**CBIRC**"). Other types of insurance policies should be filed with the insurance regulatory authorities for their records. Detailed rules include the *Negative List of Personal Insurance Products (2021), the Administrative Provisions on Insurance Contract Terms and Insurance Rates of Property Insurance Companies, the Notice on the Adjustment of Long Term Medical Insurance Product Rate (2020), the Guidelines on Development of Insurance Products by Property Insurance Companies (2016), the Administrative Provisions on Insurance Contract Terms and Insurance Rates of Life Insurance Companies (2015)*, etc.

2. Are types of insurers regulated differently (i.e. life companies, reinsurers?)

Different types of insurers, such as life insurers, property & casualty insurers, reinsurers, foreign funded insurers, and domestic insurers, are subject to different detailed rules under the *Insurance Law*.

For instance, life insurance companies should comply with the corresponding rules and regulations including the *Provisions on Basic Services for Life Insurance Business, the Administrative Measures for the Telemarketing Business of Personal Insurance Products, the Administrative Provisions on Authenticity Management of Personal Insurance Customer Information, the Administrative Provisions on Insurance Contract Terms and Insurance Rates of Life Insurance Companies (2015), , the CBIRC Notice on Promulgation of the Plan for the Reform of Duties of Regulators of Personal Insurance Companies,* etc..

Property & casualty insurance companies should comply with the rules and regulations including the *Administrative Provisions on Insurance Contract Terms and Insurance Rates of Property Insurance Companies, the Guidelines on Development of Insurance Products by Property Insurance Companies, the Notice on Matters Concerning Further Strengthening and the Regulating of the Products of Property Insurance Companies,* etc.

Reinsurers should comply with the rules and regulations including the *Administrative Provisions on Reinsurance Business, the Provisions on the Establishment of Reinsurance Companies, and the Guidelines for Insurance Inspection and Audit No.7: Reinsurance Business Volume,* etc.

Foreign investment insurance companies are subject to the *Administrative Regulations on Foreign-funded Insurance Companies (2019)* as well as its corresponding implementing rules, etc.

Insurance Institutions conducting internet insurance businesses shall also comply with the rules and regulations such as the *Measures for the Regulation of Internet Insurance Businesses, the Notice on Internet Business Retrospective Sales Activities Management, the Notice on Matters Concerning Further Regulating Internet Personal Insurance Business of Insurance Institutions,* etc.

3. Are insurance brokers and other types of market intermediary subject to regulation?

Insurance brokers and other types of market intermediary are subject to the regulation of the *Insurance Law*, under which business permits would be required to be issued by the CBIRC. Insurance agencies are mainly subject to the provisions of the *Regulatory Provisions on Insurance Agents*, under which the "insurance agents" including the professional insurance agencies, the side-line insurance agencies and individual insurance agents are uniformly regulated.

In addition, the professional insurance intermediaries such as insurance brokers and insurance adjusters are also separately regulated by the *Regulatory Provisions on Insurance Brokers and the Regulatory Provisions on Insurance Public Adjusters.*

4. Is authorisation or a licence required and if so how long does it take on average to obtain such permission? What are the key criteria for authorisation?

The establishment of both foreign-invested insurance companies and Chinese domestic insurance companies requires the approval of the CBIRC, subject to different requirements:

As for foreign-invested insurance companies, the foreign insurance company applying for the establishment of a foreign investment insurance company in China shall meet the following conditions according to the *Administrative Regulations on Foreign-funded Insurance Companies (2019)*:

i. one year before applying for the establishment, the foreign insurance company must have had a total capital of not less than USD 5 billion by the end of the year;
ii. the country or region to which the foreign insurance company belongs must have a complete system regarding the supervision and administration of insurance business, and the foreign insurance company must already be under the effective supervision and administration of the responsible authorities of the country or region;
iii. the foreign insurance company must have met the criteria of possessing the capacity to indemnify as specified by the country or region to which the company belongs;
iv. the foreign insurance company must have obtained the approval for the application from the country or region;
v. the foreign insurance company must have met other Precautionary Conditions as stipulated by the insurance regulatory department of the State Council.

On March 10, 2021, the CBIRC issued the *Implementing Rules for the Administrative Regulations on Foreign-invested Insurance Companies*, further detailed the Precautionary Conditions as below: (i) sound corporate governance structure; (ii) sound risk management system; (iii) sound internal control system; (iv) effective information management system; and (v) good business records with no major violation of laws or regulations.

As for Chinese domestic insurance companies, the following requirements should be satisfied according to the *Insurance Law*:

i. the key shareholders shall have sustained profitability, good reputation, shall not have a record of major violation of laws or regulations during the past three years, and shall have a net asset of not less than RMB 200 million;
ii. the articles of association of the insurance company shall comply with the provisions of the *Insurance Law* and the *Company Law*;
iii. the registered capital of the insurance company shall be no less than RMB 200 million;
iv. the directors, supervisors and senior management personnel shall possess the professional knowledge and business and work experience for their appointment;
v. the insurance company shall have a proper organizational structure and management system;
vi. the business premises and other facilities relating to business operations of the insurance company shall comply with the requirements;
vii. any other criteria stipulated by laws, administrative regulations and the CBIRC.

Pursuant to the *Administrative Measures on Equity of Insurance Companies (2018)*, shareholders of Chinese domestic insurance companies are classified into four categories: Financial Type I shareholders; Financial Type II shareholders; strategic shareholders; and controlling shareholders, each subject to further different requirements.

The procedures of approval by the CBIRC of both foreign-invested insurance companies and Chinese domestic insurance companies are similar, consisting of two phrases: preliminary review and formal review. In terms of the preliminary review, the CBIRC will decide whether or not to accept the application for the establishment of a proposed insurance company within six months from the date of receiving the complete application documents. Where the CBIRC decides to accept an application, it shall issue a formal application form to the applicant. The applicant shall complete the preparations of incorporation of an insurance company within one (1) year from the date of receiving the formal application form. The CBIRC may approve an extension of three (3) months where preparations of incorporation are not completed within one (1) year but the applicant has justified reasons. After the completion of preparations of incorporation, the applicant shall submit to the CBIRC the completed application form together with other required documents for a formal review by CBIRC. The CBIRC will make a decision as to whether or not to approve the application within 60 days from the date of receiving the completed formal application documents. Where the CBIRC decides to give approval, it shall issue a permit for operating an insurance business, and the applicant shall use such permit to register with the market regulator and obtain a business license.

5. Are there restrictions or controls over who owns or controls insurers (including restrictions on foreign ownership)?

Generally, the key shareholders of insurers shall have sustained profitability, good reputation, no record of major violation of laws or regulations during the past three years, and have a net asset of not less than RMB 200 million pursuant to the *Insurance Law*.

Pursuant to the *Administrative Measures on Equity of Insurance Companies (2018)*, shareholders of Chinese domestic insurance companies are classified into four categories, including Financial Type I shareholders, Financial Type II shareholders, strategic shareholders, and controlling shareholders, each subject to further different requirements. For instance, controlling shareholders (holding one-third or more of shares in the insurance company or having a controlling impact on the insurance company considering their capital contribution amount or the voting rights attached to their shareholding) shall have total assets of not less than RMB 10 billion, the net assets in the latest year not less than 30% of the total assets and satisfy certain other requirements. The shareholding of a single shareholder shall not exceed one-third of the registered capital of the insurance company. The shareholders of insurance companies falling into different categories are subject to different lock-up periods restrictions.

Besides, only a foreign financial institution may become the shareholder of a foreign-funded insurance company incorporated in China. In case of a foreign financial institution as a shareholder of a Chinese insurance company, it shall additionally satisfy the following criteria: (i) profitable in the past three accounting years consecutively; (ii) total assets in the latest year are not less than USD 2 billion; (iii) it has received long-term credit rating of A and above by an international rating firm during the past three years; and (iv) it satisfies the regulatory requirements of its local financial regulatory authorities.

In case of a foreign insurance company applying for the establishment of a foreign-funded insurance company in China, it shall have total assets of not less than USD 5 billion at the end of the year before the application. Originally, the shares held by a foreign insurance company in a joint venture insurance company operating a life insurance business in China shall not have more than 51% of the insurance company's total share capital. However, on July 20, 2019, the Office of the Financial Stability and Development Commission of the State Council promulgated the *Relevant Initiatives on Further Expanding the Opening -up in the Financial Sector*, cancelling the abovementioned restriction on foreign equity ratios in life insurance as of 2020 rather than the previously schedule timeline 2021.

6. Is it possible to insure or reinsure risks in your jurisdiction without a licence or authorisation? (i.e. on a non-admitted basis)?

Any insurance without a license or authorization within PRC is illegal and may be imposed administrative penalties by the CBIRC. All insurance companies, reinsurance companies, insurance assets management companies insurance agencies, insurance brokers and insurance adjuster agencies shall obtain relevant permits before operating their business.

7. Is a branch of an overseas insurer, insurance broker and/or other types of market intermediary in your jurisdiction subject to a similar regulatory framework as a locally incorporated entity?

The overseas insurer, broker and other types of market intermediaries may establish a foreign-funded entity in China engaging in insurance business subject to the approval by CBIRC. Pursuant to the *Insurance Law*, the provisions thereof shall also apply to Sino-foreign joint venture insurance companies, wholly foreign-owned insurance companies and branches of foreign insurance companies. Besides, pursuant to the provisions under the *Regulatory Provisions on Insurance Agents*, these provisions shall apply to foreign-funded professional insurance agencies operating insurance agency business upon approval by the CBIRC. Furthermore, the *Regulatory Provisions on Insurance Brokers and the*

Regulatory Provisions on Insurance Public Adjusters have the same provisions thereof.

The establishment of representative offices in China by an overseas insurance entity shall also be subject to approval by the CBIRC. However, such representative offices are prohibited from engaging in insurance business activities in China.

Therefore, the branch of an overseas insurer, insurance broker and other types of insurance intermediaries are subject to the similar regulatory framework as locally incorporated entities.

8. What penalty is available for those who operate in your jurisdiction without appropriate permission?

According to the *Insurance Law*, any act establishing insurance companies, insurance assets management companies, professional insurance agencies and insurance brokers without authorization shall be banned, the illegal proceeds shall be confiscated and a fine of one to five times the illegal proceeds shall be imposed. Where there is no illegal proceeds or the illegal proceeds is less than RMB 200,000 in case of the insurance companies or insurance assets management companies, or the illegal proceeds is less than RMB50,000 in case of the professional insurance agencies or insurance brokers, a fine ranging from RMB 200,000 to RMB 1 million in case of insurance companies or insurance assets management companies, or a fine ranging from RMB 50.000 to RMB300,000 in case of the professional insurance agencies or insurance brokers, shall be imposed. As for foreign insurance institutions, the Insurance Law further provides that any of their representative office established in China without approval shall be banned and subject to a fine. If the circumstances are serious, the business license of the representative office may be revoked.

9. How rigorous is the supervisory and enforcement environment? What are the key areas of its focus?

The supervision and law-enforcing environment in China has become increasingly rigorous in recent years. In 2021, around 2,330 fines were imposed on insurance institutions by the CBIRC, with the total amount of more than RMB 318.8 million, involving 1,338 insurance institutions and 1,876 individuals. The key business areas mainly include internal control and compliance, affiliated transactions, management of intermediary business and employee behaviour management, as well as corporate governance, financial business data compliance, consumer protection, insurance funds investment, insurance claims management, etc.

10. How is the solvency of insurers (and reinsurers where relevant) supervised?

The solvency of insurers is supervised mainly in accordance with the *Insurance Law*, the *Administrative Provisions on the Solvency of Insurance Companies* and a set of rules of risk-oriented solvency supervision system (referred to as "Solvency II System"). As a principal rule, an insurance company shall establish the sound solvency management system, effectively identify and manage various risks, continuously improve its solvency risk management level, promptly monitor its solvency status, formulate solvency reports, disclose the relevant information on solvency, make proper capital planning, and ensure that its solvency satisfies the standards. Besides, an insurance company shall have capital corresponding with its risks and business scale and ensure that its solvency ratio will be no less than 100%. Insurance companies are categorized into three types: (i) companies under inadequate type with the solvency ratio less than 100%; (ii) companies under adequate type I with the solvency ratio between 100% to 150%; and (iii) companies under adequate type II with the solvency ratio higher than 150%. Insurance companies are also required compile and submit quarterly solvency reports under the Solvency II System to the CBIRC.

For an insurance company with a solvency ratio less than 100%, the company may be listed as a key regulated entity, and the following regulatory measures may be taken accordingly: (i) for insurance companies with a solvency ratio less than 70%, the CBIRC may require the company to propose a rectification plan to meet the minimum solvency ratio within a time limit, failing of which may result in order of capital increase, order of reinsurance, restriction of business scope, restriction on dividends to shareholders, etc.; (ii) for insurance companies with a solvency ratio between 30% and 70%, in addition to the measures listed above, the CBIRC may order the company to auction its assets, transfer its insurance business, limit the renumeration of management, restrict its commercial advertising or order the suspension of new business, etc.; (iii) for insurance companies with a solvency ratio less than 30%, the CBIRC may take over the company in accordance with the *Insurance Law*.

In terms of the reinsurance business, pursuant to the *Administrative Provisions on the Reinsurance Business*, where a reinsurance business is involved in the solvency report of an insurer, such content shall meet the requirements of the supervisory rules on the solvency of insurance companies as promulgated by the CBIRC.

11. What are the minimum capital requirements?

The minimum registered capital required for the establishment of an insurance company is RMB 200 million while such minimum amount might be increased by the CBIRC in consideration of the business scope or scale of the insurance company on a case-by-case basis pursuant to the *Insurance Law*. Where any insurance company applies for the establishment of provincial branches outside its registered domicile, it shall increase the registered capital no less than RMB 20,000,000 for each branch until the registered capital of such insurance company reaches RMB 500,000,000 according to the *Administrative Measures on the Market Access of Branches of Insurance Companies*. The registered capital of an insurance company shall be fully paid-up in monetary capital.

A branch of a foreign insurance company shall be allocated working capital of not less than RMB 200 million or equivalent in a freely convertible foreign currency without compensation by its parent foreign insurance company, and such minimum working capital amount might be increased by the CBIRC in consideration of the business scope or scale of the branch on a case-by-case basis.

12. Is there a policyholder protection scheme in your jurisdiction?

There are policyholder protection schemes in China.

Firstly, the explanation of standard clauses in the insurance contract shall be preferential to the policyholder or the insured party in case of any different understanding of such clauses. And an insurer shall highlight and expressly explain the insurance liability exemption clauses which may be invalid without such express explanations to the policyholder.

Secondly, where a policyholder fails to perform the obligation of providing truthful information intentionally or due to gross negligence and such failure affects the insurer's decision on underwriting or increase of premium rate, the insurer shall be entitled to rescind the contract within 30 days as of the date it knows. However, where an insurer is aware of the policyholder's dishonest disclosure at the time of conclusion of the contract or if a two-year period has lapsed as of the conclusion of the contract, the insurer shall not rescind the contract and shall still bear insurance liability upon occurrence of an insured event.

Furthermore, where an insured event occurs and the insurer holds the view that the relevant proof and materials are incomplete, the insurer shall promptly notify the policyholder, the insured party or the beneficiary in a one-off manner to provide the supplementary proof and materials. However, the insurer shall not refuse to pay compensation solely on the grounds that the evidence and information provided by the policyholder, the insured party or the beneficiary are insufficient to confirm the nature and cause of the insurance accident.

Last but not the least, the insurer shall promptly reply to policyholder's notification regarding the occurrence of an insured event within no more than 30 days for a complex case for assessment and pay the indemnity within 10 days as of reaching an agreement with the insured party or the beneficiary unless otherwise provided by the insurance contract. If the insurer failed to perform the abovementioned obligation promptly, the insurer shall, in addition to payment of insurance monies, compensate the insured party or the beneficiary for losses incurred therefrom.

In terms of the premium, pursuant to the *Insurance Law*, the insurer shall reduce the premium and refund the corresponding premium computed on a daily basis under any of the following circumstances, unless otherwise agreed in the insurance contract: (i) the relevant circumstances on which the premium rate is determined have changed, and the degree of risk of the subject matter insured is significantly reduced; or (ii) the insurable value of the subject matter insured is significantly reduced.

13. How are groups supervised if at all?

The insurance groups are supervised by the CBIRC mainly subject to the *Measures for the Supervision and Administration of Insurance Group Companies*, effective as of November 24, 2021.

In terms of the access of an insurance group company, establishment of an insurance group company shall be subject to examination and approval by the CBIRC and shall have reasonable equity structure and qualified investors who cumulatively control 50% or more of the equity of two or more domestic insurance companies and at least one of which satisfies all of the following conditions: (i) it has engaged in insurance business exceeding six years; (ii) it has gained profits for the past three consecutive years; (iii) its amount of net assets is not less than RMB1,000 million and total assets is not less than RMB10 billion at the end of the latest year; (iv) it has a sound corporate governance structure, sound organizational structure and effective risk management and internal control management systems；(v) its core solvency adequacy ratio is not lower than 75%, and its comprehensive solvency adequacy ratio is not lower than 150% for the latest four quarters; (vi) its overall risk rating for the latest four quarters shall not be lower than Grade B; and (vii) it has no record of any major illegal or irregular act or any major dishonest act in the latest three years. In addition, registered capital of no less than RMB 2,000 million, a sound governance structure, organizational structure, effective risk management and internal control management system, and qualified directors, supervisors and senior management personnel are also necessary criteria for the establishment of an insurance company group.

As for the business rules, an insurance group company shall give priority to equity investment and management as its main business. An insurance company group could make investments into both insurance companies and non-insurance financial enterprises. However, the total investment amount in domestic non-insurance financial enterprises shall not exceed 30% of the consolidated net assets of the group at the end of last year. In some circumstances, an insurance group company may invest in non-financial enterprises related to insurance business such as investment to the shared service subsidiaries which mainly provide information technology services, audit, insurance policy management, catastrophe management, property management and other services and management to members of the insurance group, etc.

14. Do senior managers have to meet fit and proper requirements and/or be approved?

Senior managers including directors, supervisors and senior managers of an insurance company shall obtain qualifications for appointment approved by the CBIRC or its local office prior to appointment.

Generally, senior managers refer to the following personnel who have decision-making power or significant impact on the business management activities and risk control of insurance companies: (i) general manager, deputy general manager and assistant to general manager of a parent company; (ii) secretary of the board of directors, chief actuary, person-in-charge of compliance, person-in-charge of finance and person-in-charge of audit of a parent company; (iii) general manager, deputy general manager and assistant to general manager of a provincial branch company; (iv) general manager of any other branch company or central sub-branch company; and (v) Management personnel with the same official powers as the aforesaid senior managers.

To meet the qualification conditions, such senior managers shall have full capacity for civil conduct, good moral character and law-abiding and compliance records as well as the knowledge, experience and capability, time and conditions necessary, and independence required for performing the duties in China. Besides, the candidate of senior managers should have certain years of working experience, education background and other necessary qualifications to prove that they have possessed the requisite knowledge, capabilities and experience for the proposed appointment.

15. To what extent might senior managers be held personally liable for regulatory breaches in your jurisdiction?

Under current applicable PRC laws and regulations, senior managers of an insurance company might be held personally liable in three ways including administrative liability, compensation liability or even criminal liability for regulatory breaches.

Pursuant to the *Insurance Law*, where an insurance company violates the provisions, the senior managers who are in charge and directly accountable for such violation shall be given a warning as well as a fine ranging from RMB10,000 to RMB100,000; in case the violation is serious, the appointment qualification of the senior managers involved shall be revoked.

Senior managers who violate the provisions of laws and administrative regulations or the articles of association of the company when performing duties and causing losses to the insurance company, such as making use of related party transaction or occupational convenience to seek improper gains or divulge commercial secrets to harm the interests of the company, shall bear compensation liability in accordance with relevant laws.

In addition, where the violation constitutes a criminal offence, the senior managers who are in charge and directly accountable for such violation might be also held criminal liability pursuant to the laws applicable.

16. Are there minimum presence requirements in order to undertake insurance activities in your jurisdiction (and obtain and maintain relevant licences

and authorisations)?

Insurance business shall be operated by insurance companies duly incorporated pursuant to the applicable laws and administrative regulations, and other insurance organizations authorized to engage in insurance business pursuant to laws and administrative regulations. All entities engaged in insurance business must be authorized or licensed by the CBIRC, with the requirements on the minimum registered capital, business premises, qualified directors and managers, etc.

17. Are there restrictions on outsourcing services and/or operational resilience requirements relating to the business?

There are restrictions on outsourcing services such as qualifications and access of service providers, types of business, management of service providers, etc. An insurer may outsource part of the IT activities to IT service provider, assessment services to insurance appraisal institutions, and the intermediary service to insurance brokers and insurance agencies. In addition, insurers shall be prohibited to outsource insurance sales activities or pay commissions or other benefits to any organizations or individuals without legitimate qualifications. Such unqualified organizations and individuals shall not engage in insurance sales businesses directly, indirectly or under any pretext.

18. Are there restrictions on the types of assets which insurers or reinsurers can invest in or capital requirements which may influence the type of investments held?

Investment assets of insurance companies are classified into five major categories, namely, liquid assets, fixed income assets, equity assets, real estate assets and other financial assets, each subject to certain investment regulatory ratios. The total book balance of investments in equity assets must not exceed 30% of the total assets of the insurance company as at the end of the last quarter, real estate assets not exceeding 30% of the total assets, other financial assets not exceeding 25% of the total assets, and overseas investments not exceeding 15% of the total assets.

The following way of investment shall be prohibited: (i) deposit insurance funds in a non-banking financial institution; (ii) buy shares which are labelled “special treatment” or “special treatment – delisting risk warning”; (iii) invest in enterprise equities and immovables which do not comply with industry policies of the State; (iv) directly undertake real estate development and construction; (v) use investment assets derived from application of insurance funds, to provide guarantee or disburse loan to others, except for loans with personal insurance policy pledged as collateral; and (vi) any other investments prohibited by the CBIRC.

On November 12, 2020, the CBIRC issued the Notice on *Matters Related to Insurance Fund Financial Equity Investment (the “Notice”)*, which took effect immediately. The Notice has removed the restrictions on permissible industries for financial equity investments of insurance funds in order to strengthen insurance funds’ support to the real economy by way of equity investments.

19. How are sales of insurance supervised or controlled?

Sales of insurance are mainly regulated on the qualification of sales personnel and sales activities.

Firstly, insurance companies shall not entrust an organization which has not obtained the legitimate qualification to engage in insurance sales activities. Insurance sales personnel should have good moral character, the professional capacity for engaging in insurance sales and be subject to the training and management of insurance companies and insurance intermediary institutions.

In addition, certain sales acts are prohibited, such as defrauding, concealing important information relating to an insurance contract, giving a policyholder, an insured party or a beneficiary premium rebates or other benefits which are not stipulated in the insurance contract, etc.

Insurance companies and insurance intermediaries are required to record and keep the key materials involved in the insurance sales process through collecting audio-visual materials and electronic data so as to ensure that sales practices could be replayed and accessible.

Online insurance sales are also subject to the relevant requirements stipulated in the *Measures for the Regulation of Internet Insurance Businesses.* Besides, on June 30, 2020, the CBIRC issued the *Circular on Standardizing the Retrospective Administration of Online Insurance Sales Practices*, effective as of October 1, 2020 (*the “Circular”*), which seeks to address certain significant problems with online insurance and standardize online insurance sales activities. Focusing on the management of sales webpages and records of sales process, the Circular establishes a traceability system for online insurance sales activities to facilitate the reconstruction of the sales process, prevent misleading sales tactics and protect consumers' rights.

20. To what extent is it possible to actively market the sale of insurance into your jurisdiction on a cross border basis and are there specific or additional rules pertaining to distance selling or online sales of insurance?

There are specific rules regarding distance selling or online sales of insurance such as *the Administrative Measures for the Telemarketing Business of Personal Insurance Products, Measures for the Regulation of Internet Insurance Businesses* (the *"Measures"*), etc.

In case of telemarketing, an insurance company could set up a telemarketing center or entrust an insurance agency to carry out the telemarketing business. Insurance salespersons may not make random calls to arrange visits with strangers, or to arrange visits with clients by using the name of the telemarketing center of the insurance company.

In case of online insurance sales, the head office of an insurance company shall establish a uniform and centralized business platform and process flow to conduct centralized operation and uniform management of internet insurance businesses. In addition, The Measures have abolished the concept of third-party online platforms and provided that only insurance institutions (including insurance companies and insurance intermediaries) and their self-operated online platforms are permitted to conduct online insurance business. Among other requirements, professional insurance intermediaries conducting online insurance business must be nationwide institutions.

Internet enterprises can apply for insurance agency license. Non-insurance institutions are prohibited from conducting online insurance business, including providing consulting services for insurance products, comparing insurance products, calculating premiums and comparing quotations, designing insurance plans for policyholders, handling application procedures for policyholders and collecting premiums.

21. Are consumer policies subject to restrictions, including any pricing restrictions? If so briefly describe the range of protections offered to consumer policyholders

Some protections are offered to consumer policyholders, including but not limited to:

Where an insurer makes enquiries on the subject matter of insurance or the relevant information of the insured party, the policyholder shall provide truthful information. Where the policyholder fails to do so intentionally or due to gross negligence, to such extent that it affects the insurer's decision whether to accept the insurance or increase the premium rate, the insurer shall have the right to rescind the contract, which would commence on the date when the insurer becomes aware of the trigger event for rescission and shall expire if the right is not exercised within 30 days. An insurer shall not be able to rescind a contract if a two-year period has lapsed as of the conclusion of the contract.

Upon occurrence of an insured event, the policyholder, the insured party or the beneficiary shall, at the time of making a claim for compensation or payment of insurance monies pursuant to the insurance contract, endeavor to provide the relevant proof and materials for ascertaining the nature, reason, extent of damages, etc., of the insured event to the insurer. However, the insurer shall not refuse to pay compensation solely on the grounds that the evidence and information provided by the policyholder, the insured party or the beneficiary are insufficient to confirm the nature and cause of the insurance accident, etc.

Upon receipt of a claim from the insured party or the beneficiary for compensation or payment of insurance monies, the insurer shall promptly and no later than 30 days for a complex case make an assessment, unless otherwise stipulated in the insurance contract. If the claim falls under insurance liabilities, the insurer shall perform the obligation of compensation or payment of insurance monies within 10 days from reaching an agreement with the insured party or the beneficiary unless otherwise provided by the insurance contract. If the insurer failed to perform the abovementioned obligation promptly, the insurer shall, in addition to payment of insurance monies, compensate the insured party or the beneficiary for losses incurred therefrom.

In terms of the premium, pursuant to the *Insurance Law*, the insurer shall reduce the premium and refund the corresponding premium computed on a daily basis under any of the following circumstances, unless otherwise agreed in the insurance contract: (i) the relevant circumstances on which the premium rate is determined have changed, and the degree of risk of the subject matter insured is significantly reduced; or (ii) the insurable value of the subject matter insured is significantly reduced.

22. Are the courts adept at handling complex commercial claims?

In recent years, with the continuous improvement of Chinese judicial system, the capability of the courts to deal with complex commercial claims cases has been gradually enhanced. Some special courts have been established to hear complex commercial claims. For instance, in 2018, Shanghai Finance Court was established to hear civil and commercial financial cases of first instance that previously fall under the jurisdiction of immediate people's courts in Shanghai. On March 19, 2021, Beijing Finance Court was also established. Besides, on 28 February 2022, the Chengdu-Chongqing Financial Court, the third financial court in China, was established to exclusively govern some of the financial-related civil and commercial cases as well as relevant financial-related administrative cases that should be under the jurisdiction of the intermediate people's courts within the territory of Chongqing municipality and the Twin Cities Economic Circle in Sichuan Province.

In November 2019, the Supreme People's Court issued the *Minutes of the National Court Work Conference for Civil and Commercial Trials* (the *"Minutes of Trials"*), which contains 12 parts and 130 questions in the summary, covering most areas of civil and commercial trials, such as finance, bankruptcy, etc. The *Minutes of Trials* discusses the front-line difficult and complex issues in civil and commercial trials, covers the latest developments of civil code, company law, securities law, bankruptcy law and other laws, closely tracks the latest regulatory policies in the financial field, and is quite helpful to solve the complex commercial claims in a more consistent manner.

In February 2022, the Supreme People's Court issued Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the General Principles of the Civil Code of the People's Republic of China, which provides detailed explanations and regulations on important and difficult issues such as civil rights and civil capacity, guardianship, declaration of missing person and death, civil legal acts, agency, civil liability and statute of limitations, etc., and is of great significance to commercial judicial practice of China. Besides, the Supreme People's Court and local courts have also issued some interpretations concerning insurance laws as well as the performance of insurance contracts.

23. Is alternative dispute resolution well established in your jurisdictions?

There are generally two types of alternative dispute resolutions under the *Civil Procedure Law (2017)*, including mediation and arbitration. Since 2012, the Supreme People's Court has cooperated with the CBIRC in exploring more alternative dispute resolution of insurance disputes. In 2016, the Supreme People's Court and the CIRC (the former CBIRC) co-issued the *Opinion on Fully Promoting to Establish the Connection Scheme between Litigation and Mediation for Insurance Disputes* in order to establish the multiple dispute resolution mechanism for insurance disputes within the whole area of China. In November 2019, the Supreme People's Court, the People's Bank of China and the CBIRC co-issued the *Opinions on Comprehensively Promoting the Construction of a Diversified Settlement Mechanism for Financial Disputes* and simultaneously released ten typical cases of financial disputes with diversified settlement, formally establishing a diversified settlement mechanism for financial disputes.

Basing on the data released by the CBIRC, since 2020, the banking and insurance industry dispute mediation organizations have successfully resolved a total amount of over 150,000 pieces of disputes.

Furthermore, in order to meet the needs to provide non-contact mediation services under the normalization of Covid-19 prevention and control, the CBIRC and the Supreme People's Court have cooperated to develop an online litigation and mediation docking system for banking and insurance disputes resolution (the "Online Litigation and Mediation Docking System") on the basis of the existing offline litigation and mediation docking mechanism, which was officially launched in September 2021. In coordination with the Online Litigation and Mediation Docking System, the CBIRC and the Supreme People's Court co-issued the N*otice on the Establishment of the Online Litigation and Mediation Matchmaking Mechanism for Disputes in the Banking and Insurance Sector,* which specifies that the collection and management of information of mediation organizations and mediators should be conscientiously conducted, the business process of online litigation and mediation docking should be rationalized, and online audio and video mediation should be strengthened.

24. Is there a statutory transfer mechanism available for sales or transfers of books of (re)insurance? If so briefly describe the process.

Since an insurance policy has its cash value, it could be transferred as a financial asset under certain conditions in two ways: one is to transfer the ownership of the policy and the other is to use the policy as a guarantee or collateral for a loan. The insurance company should be notified in writing when the transfer is made. Notwithstanding the foregoing, a property insurance policy is prohibited to be pledged.

In case that an insurance company operating a life insurance business is cancelled or declared bankrupt, the life insurance contract it holds must be transferred to another life insurance company. If such insurance company fails to reach an agreement with another insurance company, the CBIRC could designate insurance companies in the life insurance business to accept the aforesaid transfers.

25. What are the primary challenges to new market entrants? Are regulators supportive (or not) of new market entrants?

The main challenge for new entrants is to develop competitive insurance products, have a good sales and service team, establish nationwide branches network, and promote internet insurance business. The COVID-19 epidemic, cyber security issue, enhanced protection of personal information as well as the slowing economic growth also bring great challenges.

For instance, the CBIRC issued the *Guiding Opinions on the Digital Transformation of the Banking and Insurance Industries*, effective as of January 10, 2022 (the "*Guiding Opinions*"). The *Guiding Opinions* explicitly requires the banking and insurance institutions to future promote the digital transformation of business operation and management in below aspects: (i) actively develop industrial digital finance and build digital financial services platforms;(ii) vigorously promote the digital transformation in personal financial services sector and to expand online channels for personal financial services; (iii) prompt the construction of online platforms for financial transaction and effectively improve the efficiency of investment transactions and risk management; and (iv)build digital operation service system and continuously improve the operational capacity.

From the perspective of digital transformation in the banking and insurance industries in China, in such a period of change, if new market entrants can innovate in building digital service capacity based on the characteristics of a broad Internet audience, there is the possibility of rapid growth in business and scale.

26. To what extent is the market being challenged by digital innovation?

The insurance industry market is being challenged by the digital innovation more and more. Internet property & casualty insurance premium income in 2019 was RMB 83.862 billion, an increase of 20.60% year-on-year, which was 12 percentage higher than the growth rate of the overall property & casualty insurance market over the same period.

In the first half of 2020, a total of 72 property insurance companies launched internet insurance business, and the accumulated premium income of internet property & casualty insurance totaled RMB 37.112 billion.

Basing on the Market Research Report on Internet Property Insurance for the First Half of 2021 released by the China Insurance Association, the Internet property insurance market achieved a cumulative premium income of RMB 47.2 billion in the first half of 2021, up 27% year-on-year, much higher than the overall premium growth rate of 2% for the entire property insurance industry. Meanwhile, the Internet property insurance business penetration rate in the first half of 2021 rose to 6.4% compared with the rate of 5.9% in 2020.

27. How is the digitization of insurance sales and/or claims handling treated in your jurisdiction, for example is the regulator in support (are there concessions to rules being made) or are there additional requirements that need to be met?

While internet insurance business is growing quickly, the CBIRC is gradually tightening the regulation on internet insurance business. In the year of 2020, CBIRC promulgated the *Measures for the Regulation of Internet Insurance Businesses* (the "*Measures*") as well as the *Circular on Standardizing the Retrospective Administration of Online Insurance Sales Practice* (the "*Circular*"). The Measures ban unlicensed institutions and individuals from participating the online insurance businesses, including selling and offering consultancy services of insurance products. While the Circular further detailed requirements of online insurance sales practices by both insurance companies and insurance intermediaries.

28. To what extent is insurers' use of

customer data subject to rules or regulation?

The laws on customer data protection in China are tightening and new laws and regulations were promulgated in succession during these two years. Generally, life insurance companies should manage and use customer information in accordance with the principles of legality, reasonableness, security, and confidentiality, properly maintain personal insurance business documents that record customer information, take effective measures to ensure the security of customer information and prevent leakage of customer information. It is strictly forbidden to illegally use, leak or resell customer information.

On September 6, 2020, the CBIRC published the *Circular on Regulating the Health Management Services of Insurance Companies*, pursuant to which when providing health management services, an insurance company should not provide any client's personal information or health data to any third party without clients' prior consent and shall protect data security and personal privacy in accordance with laws.

The *Data Security Law*, effective as of September 1, 2021, sets forth various basic rules for data security protection and management.

Furthermore, the *Personal Information Protection Law*, effective as of November 1, 2021 the "*Personal Information Protection Law*"), further establishes the rights of individuals in personal information processing activities and provides in a comprehensive manner the obligations and responsibilities of all types of personal information processors.

For example, pursuant to the *Personal Information Protection Law*, if an insurance company provides the customer's personal information to other personal information processors, the insurance company shall inform the same customer of the name, contact details of the recipient as well as the purpose and method of processing, etc. and shall obtain the same customer's separate consent.

29. To what extent are there additional restrictions or requirements on sharing customer data overseas/on a cross-border basis?

There are such requirements regarding the cross-border transfer of data.

Firstly, the *Personal Information Protection Law* provides the general rules for sharing personal information on a cross-border basis, pursuant to which, one of the following conditions shall be satisfied before a domestic personal information processor share personal information to the entity outside the territory of the China due to business or other needs: (i) apply to the competent cyberspace administration department of China for security assessment for cross-border transfer of personal information; (ii) have been certified by a specialized agency for protection of personal information in accordance with the requirements of competent cyberspace administration department of China; (iii) enter into a contract with the overseas entity who receive the personal information in a standard contract form as formulated by the cyberspace administration of China, specifying the rights and obligations of both parties; and (iv) satisfy other conditions prescribed by laws, administrative regulations or the cyberspace administration of China. The *Personal Information Protection Law* further requires the domestic personal information processor shall take necessary measures to ensure that the activities of processing personal information by the overseas recipient meet the standards for protection of personal information as prescribed herein.

Besides, the Cyberspace Administration of China issued the exposure draft of *Measures for the Security Assessment of Outbound Data* as well as the *Measures for Evaluating the Security of Transmitting Personal Information and Important Data Overseas (Exposure Draft)* separately on October 29 2021 and April 11, 2017, both of which further specify the conditions, requirements as well as procedures of security assessment as well as governmental approval (if any) for cross-border transfer of data to overseas entities.

30. To what extent are insurers subject to ESG regulation or oversight? Are there regulations/requirements specific to insurers? If so, briefly describe the range measures imposed.

The current international initiative closely related to ESG in the insurance industry is the Principles for Sustainable Insurance ("PSI"), launched by the United Nations Environment Programme Finance Initiative (UNEP FI) in 2012. The PSI covers ESG issues in corporate strategy, risk management and underwriting, product and service development, claims settlement management, sales and marketing, investment management, etc., with regular disclosures on the progress of implementation to insurers, reinsurers and intermediaries, among other entities.

On April 22, 2020, the World Earth Day, Ping An Insurance announced that it had signed the PSI, becoming the first insurance organization in mainland China to do so. After that, China Pacific Insurance as well as China Pacific Insurance (Group) Co., Ltd. successively signed the PSI in 2021, becoming the second and third domestic insurance company that join the PSI.

31. Over the next five years what type of business do you see taking a market lead?

In our opinion, in the area of insurance products, internet insurance, health insurance, pension insurance, liability insurance, commercial insurance in the fields of education, child-care, housekeeping, culture, tourism, sports, etc. could play important roles in Chinese insurance market in the next five years.

In terms of market participants, we believe that the three main players – insurance companies, insurance intermediaries and third-party administrator ("TPA") – will continue to innovate ways of cooperation in the future.

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