

Legal 500

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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?

In China, the drafting of insurance contracts is strictly regulated by the National Financial Regulatory Administration (NFRA) based on a comprehensive legal and supervisory framework which to ensure fairness and legality.

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

Yes, different types of insurers such as life, property, and reinsurance companies are subject to different regulatory requirements, the terms of the regulatory requirements will specify the types of insurers that are regulated.

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

Yes, insurance brokers and other market intermediaries are also regulated by the NFRA and must adhere to specific codes of conduct and disclosure requirements.

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?

Authorization or licensing from the NFRA is required to conduct insurance business in China. The time to obtain such permission varies, with key criteria including but not limited to capital adequacy, business plans, and compliance records.

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

There are restrictions on the ownership and control of insurers in China, including limitations on foreign ownership.

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

It is not permitted to insure or reinsure risks in China without proper authorization or licensing, violations may be subject to administrative penalties.

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?

Branches of overseas insurers in China are subject to a regulatory framework similar to that for locally incorporated entities.

8. Are there any restrictions/substance limitations on branches established by overseas insurers?

Branches established by overseas insurers in China may face specific restrictions and requirements, mainly in accordance with the Regulations on the Administration of Foreign-funded Insurance Companies, the Company Law and other laws and regulations, and is approved by the National Financial Regulatory Administration.

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

Operating without appropriate permission in China can result in administrative penalties such as fines, cessation of business, and/or other legal consequences.

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

The insurance regulatory environment in China is extremely strict, with a focus on consumer protection, market conduct, and financial soundness.

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

The NFRA supervises the solvency of insurers through regular financial reporting and on-site inspections.

12. What are the minimum capital requirements?

Insurers are required to meet minimum capital requirements of RMB 200 million, which aims to ensure that insurers have sufficient financial resources to deal with solvency risks.

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

China does have a policyholder protection scheme in place to safeguard consumer interests, relevant legislation and judicial practice tend to protect the interests of insurance consumers.

14. How are groups supervised if at all?

Insurance groups are subject to group-wide supervision by the NFRA to ensure financial soundness and compliance across the group.

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

Senior managers must meet fit and proper requirements and obtain approval from the regulator. The relevant requirements are reflected in the Insurance Law, the Regulations on the Administration of the Qualifications of Directors, Supervisors and Senior Managers of Insurance Companies and other laws and regulations.

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

Senior managers may be held personally liable for specific regulatory breaches, types of penalties may involve warnings, fines, revocation of qualifications, etc.

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

licenses and authorisations)?

Conducting insurance activities in China requires meeting certain presence requirements, including but not limited to approval, office locations and personnel.

18. Are there restrictions on outsourcing services, third party risk management and/or operational resilience requirements relating to the business?

Insurers must comply with specific regulations when outsourcing services to ensure risk management and operational resilience. For example, the Measures for the Supervision of Information Technology Outsourcing Risks of Banking and Insurance Institutions make special provisions for the information technology outsourcing activities of insurance institutions, with the main purpose of strengthening risk management and control.

19. 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?

Insurers are subject to specific asset type and capital requirements when making investments.

20. Are there requirements or regulatory expectations regarding the management of an insurer's reinsurance risk, including any restrictions on the level / type of reinsurance utilised?

Insurers are required to manage reinsurance risks and adhere to specific restrictions on the use of reinsurance.

21. How are sales of insurance supervised or controlled?

Insurance sales are strictly supervised by the NFRA to ensure compliance. In order to ensure legal compliance, NFRA has formulated a series of strict regulatory regulations.

22. 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?

Cross-border insurance sales marketing in China is subject to specific rules and restrictions.

23. Are insurers in your jurisdiction subject to additional requirements or duties in respect of consumers? Are consumer policies subject to restrictions, including any pricing restrictions? If so briefly describe the range of protections offered to consumer policyholders

Insurers must comply with specific consumer protection regulations, including price restrictions. Relevant legislation reflects the preference protection for insurance consumers. For example, according to the Administrative Measures for the Protection of Consumer Rights and Interests of Banking and Insurance Institutions, eight rights of consumers should be protected, including the right to know, the right to make their own choice, and the right to fair trade, etc.

24. Is there a legal or regulatory resolution regime applicable to insurers in your jurisdiction?

There is a legal or regulatory resolution regime applicable to insurers in China, based on the Insurance Law, including judicial interpretations, regulatory provisions and other laws and regulations.

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

Chinese courts have relevant capability in handling complex commercial claims.

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

Alternative dispute resolution is somewhat established in China, such as industry mediation, judicial mediation, & arbitration, etc.

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

There is a statutory transfer mechanism available for the sale or transfer of books of insurance or reinsurance.

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

New market entrants face challenges such as stringent regulatory requirements and market competition. Regulators are supportive of new market entrants.

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

In China, digital innovation is challenging the traditional insurance market and driving industry transformation.

30. 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?

Regulators are supportive of the digitization of insurance sales and claims handling but have set additional requirements.

31. To what extent is insurers' use of customer data subject to rules or regulation?

Personal information and data protection is becoming more stringent. Insurers must strictly comply with specific rules and regulatory requirements when using customer data.

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

There are additional restrictions and requirements on cross-border sharing of customer data.

33. To what extent are insurers subject to ESG regulation or oversight? Are there regulations/requirements, including in connection with managing climate change and climate change related financial risks specific to insurers? If so, briefly describe the range of measures imposed.

Insurers are subject to certain environmental, social, and

governance (ESG) regulation or oversight. For example, driven by the concept of ESG, the insurance industry continues to innovate green insurance products to provide risk protection for sustainable development.

34. Is there a legal or regulatory framework in respect of diversity and inclusion to which (re)insurers in your jurisdiction are subject?

Insurers must comply with legal or regulatory frameworks on diversity and inclusion.

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

In China, digital insurance and health insurance are expected to take a market lead in the next five years.

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