Provisions on the Administration of Representative Offices of Foreign Insurance Institutions of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Application and Establishment 2

Chapter III — Supervision and Administration 3

Chapter IV — Legal Liability 4

Chapter V — Supplementary Provisions 4

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Application and Establishment
- Chapter III — Supervision and Administration
- Chapter IV — Legal Liability
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Provisions are formulated for the purpose of strengthening the administration of representative offices of foreign insurance institutions in China, and in accordance with the Insurance Law of the People's Republic of China.

Article 2 — For the purpose of these Provisions, a "representative office of a foreign insurance institution" (hereinafter referred to as a "representative office") refers to a non-business operational office established within the territory of China by a foreign insurance institution, which is authorized by the foreign insurance institution to engage in liaison, market research, technical exchange, and other non-business operational activities.

For the purpose of these Provisions, a "foreign insurance institution" refers to an insurance company, reinsurance company, insurance intermediary company, insurance industry association, or any other insurance organization registered and established outside the mainland territory of China.

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Article 3 — Representative offices engaged in non-business operational activities within the territory of China shall comply with Chinese laws, regulations, and rules, and their lawful rights and interests shall be protected by Chinese law.

Article 4 — The financial regulatory authority under the State Council shall, in accordance with the law and the principle of prudent supervision, supervise and administer representative offices.

The local offices of the financial regulatory authority under the State Council shall, under the authorization of the financial regulatory authority under the State Council, supervise and administer the representative offices within their respective jurisdictions.

Chapter II — Application and Establishment

Article 5 — A foreign insurance institution applying for the establishment of a representative office shall meet the following conditions:

(1) It has been in sound business operation and in good financial standing;

(2) It has been lawfully registered and established in its home country for at least two years;

(3) Its main business is insurance business;

(4) It has not been subject to any major penalty by the regulatory authority of its home country within the past three years;

(5) Other conditions for prudent operation as prescribed by the financial regulatory authority under the State Council.

Article 6 — A foreign insurance institution applying for the establishment of a representative office shall submit the following documents:

(1) A formal application form;

(2) A certificate of lawful establishment issued by the relevant competent authority of its home country or by a relevant industry organization, or a copy of its business license;

(3) Its articles of association and a list of its principal responsible persons or a list of the members of its board of directors;

(4) Its annual reports for the preceding three years;

(5) A feasibility study report and an establishment plan for the representative office to be established;

(6) A letter of authorization for the proposed chief representative and other principal responsible officers, and their resumes and identity documents;

(7) A letter of opinion from the relevant competent authority of its home country or a relevant industry organization on the establishment of the representative office, or a report on the assessment of the applicant prepared by a rating agency;

(8) Other documents as required by the financial regulatory authority under the State Council.

If the documents listed in the preceding paragraph are not in the Chinese language, a Chinese translation shall be attached. All documents issued outside the territory of China shall be notarized and certified in accordance with the relevant provisions.

Article 7 — The applicant shall submit the application documents to the financial regulatory authority under the State Council. The financial regulatory authority under the State Council shall examine the application and make a decision on whether to approve the establishment within 20 working days from the date of receipt of the complete application documents. If it fails to make a decision within 20 working days, it may

extend the period by 10 working days with the approval of the responsible person of the financial regulatory authority under the State Council, and shall inform the applicant of the reasons for the extension. If the establishment is approved, a certificate of approval shall be issued.

Article 8 — The representative office shall be named by prefixing the name of the foreign insurance institution with "Representative Office in [name of the city where it is located]."

Article 9 — After the establishment of the representative office is approved, the foreign insurance institution shall, within six months from the date of approval, complete the establishment of the representative office. If it fails to complete the establishment within the time limit, it shall explain the reasons to the financial regulatory authority under the State Council.

Article 10 — The term of existence of the representative office shall be six years. If the representative office needs to extend its term after the expiration of the six-year term, it shall apply to the financial regulatory authority under the State Council 60 days before the expiration of the term, and may extend its term for an additional six years upon approval.

Article 11 — Where the representative office changes its name, chief representative, or principal responsible officers, it shall submit an application to the financial regulatory authority under the State Council for approval. Where the representative office changes its address, it shall report the change to the financial regulatory authority under the State Council for filing.

Chapter III — Supervision and Administration

Article 12 — A representative office may engage in the following activities within the territory of China:

(1) Liaison, market research, technical exchange, and other non-business operational activities related to insurance products, services, and business;

(2) Other activities permitted by the financial regulatory authority under the State Council.

Article 13 — A representative office shall not engage in any operational insurance business activities within the territory of China, nor shall it enter into any contracts or agreements that may cause the foreign insurance institution to be deemed to be engaged in insurance business operations within the territory of China. It shall not engage in insurance agency or insurance brokerage activities, nor shall it collect insurance premiums, issue insurance policies, or issue insurance contract-related documents.

Article 14 — The chief representative of the representative office shall be a full-time employee of the foreign insurance institution and shall reside within the territory of China. The chief representative shall be responsible for the day-to-day operations of the representative office.

Article 15 — The representative office shall, within the first three months of each year, submit an annual work report for the preceding year and other relevant documents to the financial regulatory authority under the State Council.

Article 16 — The annual work report of the representative office shall be prepared in accordance with the standard form prescribed by the financial regulatory authority under the State Council and shall include the following:

(1) A summary of the representative office's activities for the preceding year;

(2) Information on the representative office's funding sources and expenditures for the preceding year;

(3) Information on changes in the representative office's personnel during the preceding year;

(4) Other matters as required by the financial regulatory authority under the State Council.

Article 17 — Where a representative office plans to hold a promotional or training activity, it shall report the activity to the financial regulatory authority under the State Council before the activity is held.

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Article 18 — The financial regulatory authority under the State Council and its local offices may conduct on-site inspections of representative offices as needed. When conducting on-site inspections, the inspectors shall produce their identification and inspection notice.

Article 19 — Where the financial regulatory authority under the State Council or its local offices conduct an on-site inspection of a representative office, the representative office shall cooperate and provide the required documents and materials in a timely manner.

Article 20 — The financial regulatory authority under the State Council and its local offices may consult with the chief representative of a representative office when necessary to bring to their attention issues requiring rectification or matters on which attention is required.

Chapter IV — Legal Liability

Article 21 — Where a foreign insurance institution establishes a representative office within the territory of China without approval, the representative office shall be banned in accordance with the law.

Article 22 — Where a representative office is found, during an on-site inspection, to have engaged in operational insurance business activities or to have engaged in any of the activities prohibited under Article 13 of these Provisions, the financial regulatory authority under the State Council may order it to make corrections and issue a warning. If the circumstances are serious, the relevant laws and regulations shall be applied in imposing penalties.

Article 23 — Where a representative office violates these Provisions and commits any of the following acts, the financial regulatory authority under the State Council shall order it to make corrections within a specified time limit and issue a warning. If the circumstances are serious, the financial regulatory authority under the State Council may order the representative office to be closed:

(1) Failing to submit an annual work report or other relevant documents as required;

(2) Failing to report the holding of a promotional or training activity as required;

(3) Failing to cooperate with or obstructing an on-site inspection conducted by the financial regulatory authority under the State Council or its local offices in accordance with the law;

(4) Engaging in other activities not permitted under these Provisions;

(5) Failing to rectify matters within the specified time limit after being consulted by the financial regulatory authority under the State Council or its local offices.

Article 24 — Where the term of a representative office expires and it fails to apply for an extension, or where its application for an extension is not approved, the representative office shall go through the cancellation procedures. If it fails to do so, the financial regulatory authority under the State Council shall cancel the representative office in accordance with the law.

Chapter V — Supplementary Provisions

Article 25 — These Provisions shall apply, mutatis mutandis, to the representative offices established within the territory of China by insurance institutions from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region.

Article 26 — Where the representative offices established within the territory of China by foreign insurance institutions before the implementation of these Provisions do not comply with the relevant provisions of these Provisions, they shall rectify the non-compliance within the time limit prescribed by the financial regulatory authority under the State Council.

Article 27 — These Provisions shall take effect on September 1, 2006. The Provisions on the Administration of Representative Offices of Foreign Insurance Institutions in China, promulgated by the China Insurance

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Regulatory Commission on March 12, 2004, shall be repealed simultaneously.

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