

Content

Title :	Regulations Governing Foreign Investments by Insurance Companies <b>Ch</b>
Date :	2022.05.20
Legislative :	Amended on 20 May 2022 per Order No. Jin-Guan-Bao-Cai-Zi- 11104916621 of the Financial Supervisory Commission
Content :	<p>Article 2 Definitions of the phases referred to herein are as follows:</p> <ol style="list-style-type: none"><li>1. "Foreign government" means the central government and local government of a foreign country.</li><li>2. "Foreign bank" means a foreign bank which is ranked among the world's top five hundred banks in terms of its capital or assets or has established a branch within the territory of the Republic of China ("ROC").</li><li>3. "Foreign credit rating agencies" mean Moody's Investors Service, Standard &amp; Poor's Corp. and Fitch Ratings Ltd.</li><li>4. "Local credit rating agencies" mean Taiwan Ratings Corp. and Fitch Ratings Ltd., Taiwan Branch.</li><li>5. "Overseas and Mainland China area real property" means the land in a foreign country and Mainland China area and any buildings thereon, the right to the yields from such land or the right to develop such land and construct buildings thereon.</li><li>6. "Relationships of control and affiliation" have the same meaning as in Articles 369-2 and 369-3 of the Company Act and Article 6 of the Criteria Governing Preparation of Affiliation Reports, Consolidated Business Reports and Consolidated Financial Statements of Affiliated Enterprises.</li><li>7. Major sanctions and penalties mean major sanctions and penalties specified in Article 2 of the Regulations Governing Public Disclosure by the Financial Supervisory Commission of Material Enforcement Actions for Violations of Financial Legislation.</li></ol> <p>The total amount of the investment items as referred to as being rated by foreign credit rating agencies under these Regulations is calculated in the following manner:</p> <ol style="list-style-type: none"><li>1. In cases where the rating level of such investment is above the minimum credit rating level as set forth hereunder, the total amount of the investment shall be calculated based on the amount of investment that remains at a certain level when or after the investment is made as well as the amount of the investment that is upgraded or downgraded after the investment;</li><li>2. Save as otherwise provided in the preceding paragraph, in cases where such investment meets the minimum credit rating level set forth hereunder, the total amount of investment shall also include the total amount of investment downgraded under a certain rating level after the investment; provided that, however, if such investment is downgraded to a certain rating level that is not permitted hereunder, such investment shall be handled in accordance with the relevant insurance laws and regulations.</li></ol> <p>If no bond issuance ratings are available for meeting the requirements for the credit rating of the bond specified in Subparagraph 1 of Paragraph 1, Item 1 to Item 3 of Subparagraph 1 of Paragraph 4, and Paragraph 7 of Article 6, Subparagraph 1 to Subparagraph 3 of Paragraph 2 and Subparagraph 3 of Paragraph 3 of Article 7, Paragraph 1 of Article 10, and Subparagraph 1 of Paragraph 1 of Article 17, the credit rating of the issuance or guarantee institution from a foreign credit rating agency shall be used instead.</p> <p>Article 6 Where an insurer invests in the bonds issued by foreign central government related issuers mentioned in Subparagraph 1 of the preceding article, the investment shall be subject to the following conditions and limits:</p> <ol style="list-style-type: none"><li>1. The institution of the foreign central government shall have a rating of at least medium or its equivalent in terms of the level of support from the</li></ol>

central government as determined by a foreign credit rating agency. In addition, the credit rating of the issuance of the bond shall have a rating of AA- or its equivalent from a foreign credit rating agency.

2. An insurer's investment in bonds issued by an institution of a foreign central government shall not exceed 5% of the insurer's funds.

An insurer's investment in bonds issued or guaranteed by a foreign local government mentioned in Subparagraph 2 of the preceding article shall be subject to the following conditions and limits:

1. The bond shall have an issue rating equivalent to A- or above from a foreign credit rating agency, and the country the local government belongs to shall have a sovereign rating equivalent to AA- or above from a foreign credit rating agency.

2. The total amount of investment in bonds issued or guaranteed by a single foreign local government shall not exceed 5% of the insurer's approved foreign investment limit.

An insurer's investment in bonds issued or guaranteed by institutions of foreign local governments mentioned in Subparagraph 2 of the preceding article shall be subject to the following conditions and limits:

1. The institution of the foreign local government must be established and funded by the local government for the performance of public services or established with a special permit in accordance with laws. The appointment of its personnel, finances, or business management shall be directly or indirectly controlled by the local government. Funds gained from the institution's performance of public services or designated source of income of the institution shall be used as the source of funding for the repayment of debts.

2. The issuance and trading of the bonds and information disclosure shall meet related regulations established by the competent authority of securities in the respective countries of the issuers or other authorities established in accordance with securities laws of the country that are under the supervision of the competent authorities responsible for securities.

3. The bond shall have a rating of at least A- or its equivalent as determined by a foreign credit rating agency. The country the local government related issuers belongs to shall have a sovereign rating equivalent to AA- or above from a foreign credit rating agency.

4. An insurer's total investment in bonds issued or guaranteed by institutions of each foreign local government plus the total investment in bonds issued or guaranteed by the same foreign local government shall not exceed 5% of the insurer's approved foreign investment limit.

An insurer's investment in financial bonds, negotiable certificates of deposit or medium-term floating rate notes issued or guaranteed by a foreign bank shall be subject to the following conditions and limits:

1. Investment conditions:

(1) The bond issuer or guarantor shall have a credit rating equivalent to BBB+ or above from a foreign credit rating agency, unless the provisions of Items (2) or (3) hereof are met.

(2) An insurer that meets the following conditions may invest in bonds having a credit rating equivalent to BBB- or BB+ from a foreign credit rating agency:

A. The insurer was not subject to any major sanctions and penalties for violation of the Act in relation to the usage of insurer's funds in the most recent year, or remedial actions for the violation, if any, have been taken and affirmed by the competent authority;

B. The insurer has set up a risk management committee under its board of directors and set up a risk management department with a chief risk officer appointed to assume de facto responsibility for the overall risk management of the company;

C. The board of directors sets risk exposure limits annually and such limits are regularly controlled by the risk management committee or risk management department; and

D. The insurer's risk-based capital ratio for the most recent period reaches 250% or above, or the insurer has a credit rating equivalent to AA or above from a local or foreign credit rating agency in the most recent year.

(3) An insurer whose risk-based capital ratio for the most recent period

reaches 200% or above and meeting the conditions set out in Sub-items A and B of Item (2) hereof may invest in bonds having a credit rating equivalent to BBB from a foreign credit rating agency.

(4) Where an insurer invests in subordinated bonds, the credit rating of such bonds set out in the preceding three items may not be replaced by the credit rating on the issuance or guarantee bank of the bond from a foreign credit rating agency.

2. Investment limits:

(1) The total amount of investment in subordinated bonds having an issue rating equivalent to BB+ from a foreign credit rating agency shall not exceed 2% of the insurer's approved foreign investment limit.

(2) The total amount of investment in subordinated bonds having an issue rating equivalent to BBB to BB+ from a foreign credit rating agency shall not exceed 7.5% of the insurer's approved foreign investment limit or 30% of its owners' equity, whichever is higher. However, where the insurer obtains approval from the competent authority based on the proviso in Article 16, Paragraph 1 and the total amount of foreign securities mentioned in the preceding article that are put under the custody of Taiwan Depository & Clearing Corporation (hereinafter referred to as TDCC), domestic financial institutions, and branches of foreign financial institutions in Taiwan having a credit rating equivalent to A- or above from a local or foreign credit rating agency in the most recent year does not reach a certain percentage of the total amount of investment in foreign securities mentioned in the preceding article, the insurer shall observe the following provisions:

A. If the percentage of foreign securities under custody is less than 30%, the total amount of investment shall not exceed 6% of the insurer's approved foreign investment limit or 30% of its owners' equity, whichever is higher.

B. If the percentage of foreign securities under custody is 30% or higher and less than 50%, the total amount of investment shall not exceed 7% of the insurer's approved foreign investment limit or 30% of its owners' equity, whichever is higher.

(3) The total amount of investment in bonds and negotiable certificates of deposit issued or guaranteed by a single bank in combination with the total amount of investment in the stocks mentioned in Paragraph 1 of Article 7 herein issued by the same bank shall not exceed 5% of the insurer's funds and 10% of the owners' equity of the issuing bank.

(4) The total amount of investment in subordinated bonds having an issue rating equivalent to BBB, BBB- or BB+ from a foreign credit rating agency and issued or guaranteed by a single bank shall not exceed 10% of the insurer's owners' equity.

An insurer's total amount of investment in foreign currency denominated negotiable certificates of deposit issued by a branch of a foreign bank in Taiwan (including offshore banking unit) or a branch of a Mainland China bank in Taiwan mentioned in Subparagraph 4 of the preceding article and in foreign currency denominated negotiable certificates of deposit issued by a domestic bank mentioned in Subparagraph 5 of the preceding article shall be subject to the limits specified in Paragraph 2 of Article 4 herein.

An insurer's investment in foreign currency denominated financial bonds issued by a domestic bank mentioned in Subparagraph 5 of the preceding article and in foreign currency denominated corporate bonds issued by a domestic enterprise mentioned in Subparagraph 6 of the preceding article shall be subject to the following conditions and limits:

1. Subparagraphs 2 and 4 of Paragraph 1 and Paragraph 2 of Article 146-1 of the Act shall apply mutatis mutandis to the investment conditions.

2. The investment amount shall be subject to the limits set out in Subparagraphs 2 and 4 of Paragraph 1 and Paragraph 2 of Article 146-1 of the Act.

An insurer's investment in foreign currency denominated commercial papers mentioned in Subparagraph 7 of the preceding article shall be subject to the condition that such commercial papers shall have a credit rating equivalent to BBB+ or above from a foreign credit rating agency and shall be subject to the following limits:

1. The total amount of investment in foreign currency denominated commercial papers issued or guaranteed by a single company and securities

as specified in Subparagraph 13 of Article 5 or under the subparagraphs of Paragraph 1 of Article 7 herein which are issued or guaranteed by the same company shall not exceed 5% of the insurer's funds and 10% of the owners' equity of the issuing company, unless the provision of Subparagraph 2 hereof is met.

2. If the corporate bonds and commercial papers issued or guaranteed by a company are guaranteed by a third party and meet the following conditions, the total amount of investment in foreign currency denominated commercial papers issued or guaranteed by such company, as well as those issued or guaranteed by the third party, and securities mentioned as specified in Subparagraph 13 of Article 5 or under the subparagraphs of Paragraph 1 of Article 7 herein which are issued or guaranteed by such company and the third party shall not exceed 5% of the insurer's funds and 10% of the owners' equity of the third party:

(1) The third party and the company have prepared consolidated financial statements in accordance with generally accepted accounting principles (GAAP).

(2) The owners' equity of the third party exceeds that of the company. Article 11 For insurer's investment in real estates overseas and those in the Mainland China area, such investment shall be limited to those that have been legally utilized and have generated profits at the time of investment and shall be subject to the following restrictions:

1. The ratio of regulator capital to risk-based capital at the end of the most recent period is at least 200%.

2. There are no major sanctions and penalties for violations of the Act in relation to the usage of insurer's funds in the most recent two years and there are no major violations of the internal control procedures governing various applications of funds in the most recent two years, or rectification of those violations has been carried out and affirmed by the competent authority.

3. The board of directors shall establish a risk management committee or the company shall set up a risk management department and a chief risk officer in charge of overall risk management.

Total amount of investment as set forth in the preceding paragraph may not exceed 1% of the insurer's funds or 10% of its owners' equity.

Notwithstanding the foregoing, in cases where an insurer's risk-based capital ratio for the most recent period is above 250%, such total amount of investment may not exceed 2.5% of the insurer's funds and 40% of its owners' equity; in cases where an insurer's risk-based capital ratio for the most recent period is above 300%, such total amount of investment may not exceed 3% of the insurer's funds and 40% of its owners' equity.

The requirement that the real estate has been legally utilized and generated profits at the time of investment as set forth in paragraph 1 means that rent ratio is above 60% and meets the return on investment corresponding to the local economy.

Article 13-1 To file an application to invest in an overseas banking enterprise, the insurer must meet the following requirements:

1. The insurer must meet at least one of the following requirements:

(1) The average risk-based capital ratio of the insurer over the most recent 3 years is above 250%.

(2) The owner's equity at the end of the most recent period divided by the total asset excluding separate account is above 6%.

2. The insurer shall possess the professional capability and experience for sound operation and management of a banking enterprise.

3. The insurer's various reserve funds amortized during the previous year must be consistent with the legal requirements.

4. The insurer is not subject to any event that may interfere with sound operation, as determined by the competent authority, and in the immediately preceding year, the insurer has not been subject to any major sanctions and penalties related to the usage of insurer's funds by the competent authority, except if such event has been substantially improved, as determined by the competent authority.

5. The investment is subject to the approval of the insurer's board of directors. If the insurer is a subsidiary of a financial holding company, the investment is subject to the approval of the board of directors of such financial holding company.

6. The insurer shall establish an internal procedure related to the investment in overseas banks and the operation and management of the other businesses invested by such banks. Such procedure, including any amendment shall be implemented after approval by the insurer's board of directors. If the insurer is a subsidiary of a financial holding company, such internal procedure, including any amendment, shall be implemented after approval by the board of directors of the financial holding company.

7. The insurer's board of directors shall establish a risk management committee or an interior risk management department and one chief risk officer shall assume responsibility for the overall risk management of the company.

8. An effective investment management and risk control procedure shall be established and implemented after approval by the board of directors.

When applying to invest in any overseas insurance-related enterprise other than the banking enterprise, in addition to Subparagraphs 3 to 5, Subparagraph 7 and 8 of the previous paragraph, the insurer must also meet the following requirements:

1. The insurer must meet at least one of the following requirements:

(1) The average risk-based capital ratio of the insurer over the most recent 3 years is above 200%.

(2) The owner's equity at the end of the most recent period divided by the total asset excluding separate account is above 6%.

2. If the insurer's shareholding in the invested insurance-related enterprise or in any business further invested by such invested business constitutes a relationship of control and affiliation as defined in the Chapter of Affiliates under the Company Act, an internal procedure related to operation and management shall be established and implemented only after approval by the insurer's board of directors. The same shall be applicable in case of any amendment.

Article 15 Where an insurer has formulated the processing procedure and risk monitoring and management measures concerning the foreign investment and obtained the approval of the board of directors, the insurer may proceed with the foreign investment within the limit of 10% of its funds. The processing procedure concerning the foreign investment according to the preceding Paragraph of this Article shall include the making of written analysis reports, the records of the implementation of the procedure, and the submittal of the review reports. Relevant documents shall be kept for at least five years.

The risk monitoring and management measures for foreign investment mentioned in the first Paragraph of this Article shall include risk management policies, risk management framework and risk management system. The risk management system shall include the identification, assessment and monitoring of the risks of foreign investments, the execution of the control over exposure limit, and the alteration procedure.

To increase the limit on foreign investment, the insurer shall submit the application form (as shown in the appendix) according to the following provisions:

1. Where the insurer complies with the following provisions, the limit on its total overseas investment may be enhanced to 25% of its funds:

(1) The insurer complies with the provisions of Paragraph 1 to Paragraph 3 of this Article.

(2) There are no major violations of the internal control procedure governing various applications of funds in the immediately preceding year, or the violations have been rectified and the rectification has been affirmed by the competent authority.

(3) According to the evaluation of a certified actuary or an external investment organization, the proposed overseas investment is beneficial to the business of the insurer.

(4) The insurer produces a complete investment handbook with instructions of risk management system.

2. Where the insurer complies with the following provisions, the limit on its total foreign investment may be enhanced to 30% of its funds:

(1) The insurer complies with the provisions of the preceding Subparagraph.

(2) In the immediately preceding year, the insurer has not been subject to any major sanctions and penalties related to the usage of insurer's funds by the competent authority, or its rectification of the violations

has been done and got affirmed by the competent authority.

3. Where the insurer complies with the following provisions, the limit on its total foreign investment may be enhanced to 35% of its funds:

(1) The insurer complies with the provisions of the preceding Subparagraph.

(2) The value-at-risk of the foreign investment classified to financial assets at fair value through profit or loss, financial assets measured at fair value through other comprehensive income has been calculated, and the calculation is performed at least once a week.

(3) For the foreign investment classified to financial assets measured at amortized cost, an appropriate model has been designed to analyze, identify and quantify the associated risks and reported that the risk assessment of the situation to the board of directors at least once every half year.

(4) In the immediately preceding two years, the insurer has not been subjected to any fine or disciplinary actions related to the usage of insurer's funds by the competent authority, or the rectification of the violations has been done and got affirmed by the competent authority.

(5) In addition to set up a risk control committee under the board of directors, the insurer has also established a risk control department with an assigned chief risk controller to assume de facto responsibility for the overall risk management of the company. The scope of risk management over the foreign investment at least shall include assessment and management of associated risks and impact on the insurer's solvency.

4. The insurer which applies for increase of limit on total foreign investment to more than 35% of its funds shall comply with the following provisions:

(1) The insurer complies with the provisions of the preceding Subparagraph.

(2) It has been more than one year since the insurer obtained the approval for increase of the limit on total foreign investment to 35% of its funds.

(3) The board of directors specifies the exposure limit each year and regular risk management is implemented by the risk management committee or risk management department.

(4) The insurer's risk-based capital ratio as of the end of the most recent period reaches 250% or above, or the insurer has a AA- equivalent or higher credit rating from the foreign or local credit rating agencies in the immediately preceding year.

(5) The insurer has not obtained any other approval for increase of the limit on total foreign investment in the current year.

5. The insurer which applies for increase of limit on total foreign investment over 40% of its funds shall comply with the following provisions:

(1) The insurer complies with the provisions of the preceding Subparagraph.

(2) The insurer's risk-based capital ratio, both in the most recent year and the average of the most recent 3 years, has never fallen below 250%, or the insurer has a AA+ equivalent or higher credit rating from the foreign or domestic credit rating agencies in the immediately preceding year.

(3) The insurer has established an internal risk model to quantify the overall risk of the company.

(4) The insurer has not obtained any other approval for increase of the limit on total foreign investment in the current year.

Calculation of "value at risk" referred to in Item (2) of Subparagraph 3 of the preceding paragraph of this Article means that on the basis of data of the samples which are taken either on a weekly basis for a minimum period of three years or on a daily basis for a minimum period of one year, with the data updated once a week at least, the value at risk for ten trading days is calculated with the confidence level set at 99% and the back testing is performed every month.

The competent authority may, in view of the business performance of the insurer, determine the exact increment in the limit referred to in Subparagraphs 4 or 5 of Paragraph 4.

The aforesaid increment shall be limited to 5% of the insurer's funds.

However, the competent authority may, in view of the overall business performance of the insurer, make proper adjustment thereto year by year.

If the product structure consolidated score of a life insurance company for the most recent year meets the criteria determined by the competent authority, one of the following measures may be adopted:

1. Within the maximum limit stipulated under Paragraph 2, Article 146-4 of

the Act, the limit of overseas investment allowed under Paragraph 1 or 4 may be increased by 1% of the funds.

2. In the calculation formula under Paragraph 2, Article 15-2, 40% of various reserves for non-investment-linked life insurance business may be increased to 42%.

Article 17 The aggregate amount of the following investments shall not exceed 5% of the disposable funds of the insurer:

1. Convertible bonds and corporate bonds with warrants shall have a credit rating a credit rating equivalent to BBB+ to BB+ from a foreign credit rating agency;

2. Private placement of corporate bonds mentioned in Subparagraph 13 of the article 5.

3. Hedge funds, privately offered funds, infrastructure funds and commodity funds;

4. Collateralized debt obligations of which part of the underlying assets are below BBB- or equivalent credit rating from the foreign credit rating agencies, except those with less than 5% of its underlying assets below the above rating and were invested in accordance with relevant regulations before the promulgation of these Regulations.

5. Collateralized debt obligations with such underlying asset pool based on a leverage financing structure or contains subprime mortgage loans or leverage loans.

Insurers with any of the following circumstances are not allowed to conduct the investment listed in the preceding Paragraph:

1. The insurer has been subjected to any major sanctions and penalties in the immediately preceding year for violations of the Act with regard to the usage of insurer's funds, except that remedial actions for the violation, if any, have been taken and affirmed by the competent authority.

2. The ratio of regulatory capital to risk-based capital at the end of the most recent period is less than 250%, except that the above ratio is between 200% and 250% and the insurer gets a AA equivalent credit rating or above.

3. Neither a risk management committee subordinate to the director board has been set up, nor a chief risk officer has been assigned and an interior risk management department has been established to assume de facto responsibility for the overall risk management of the company.

When an insurer makes investments under Subparagraph 3 of Paragraph 1, aside from complying with Subparagraph 2 of the preceding paragraph when signing an investment commitment contract with the trading counterparty, the insurer shall, for contracts entered after the implementation of these Regulations amended on January 28, 2022, not participate in subsequent capital injections stipulated in the contract, provided the insurer fails to comply with Subparagraph 2 of the preceding paragraph for the most recent two consecutive periods.