Content

Title：	Regulations Governing Insurance Enterprises Engaging in Operating Reinsurance and Other Risk Spreading Mechanisms Ch
Date：	2017.05.02
Legislative：	Articles 8 and 12 amended on 2 May, 2017.
Content：	Article 1 These Regulations are enacted pursuant to Article 147 of the Insurance Act (referred to as “the Act” hereunder). Article 2 An insurance enterprise shall establish risk management mechanism for its retained, ceded reinsurance and assumed reinsurance business in consideration of its risk bearing capacity, and draft a reinsurance risk management plan including but not limited to the following particulars, implement the plan accordingly, and review and revise it in a timely manner: 1.Retained risk management: Management guidelines for estimation of maximum reasonable loss according to risk characteristics per risk unit, risk bearing capacity, and maximum accumulated limit per risk unit. 2.Ceded reinsurance risk management: Management guidelines for the method of cession, arranging cession to reinsurer after the original insurance policy in force, selection of reinsurer, reinsurance broker and operational process for cession to reinsurer. 3.Assumed reinsurance risk management: Management guidelines for thelines of insurance, geographic regions, risk unit and accumulated limit of assumed reinsurance. 4.Intra-group reinsurance risk management: Risk management process and transaction procedures for ceding or assuming reinsurance within the group. The term “ceding reinsurance within the group” in subparagraph 4 of the preceding paragraph means an insurance enterprise ceding reinsurance to an affiliated enterprise or another subsidiary of the parent company. A foreign insurance enterprise engaging in exclusively reinsurance business may follow the laws and regulations of its home country or the systems of its head office by furnishing information on the laws and regulations of its home country or the systems of its head office, a statement of compliance with the laws and regulations of its home country or the systems of its head office, which are signed by the person-in-charge of its branch office in The Republic of China and reported to the competent authority for recordation, provided the laws and regulations of its home country or the systems of its head office are not laxer than the laws and regulations of the Republic of China. Article 3 An insurance enterprise engaging in reinsurance shall comply with the following operational provisions: 1. Arranging cession to reinsurers in conjunction with the established reinsurance risk management plan, and acquiring a written confirmation from reinsurer with regard to share of reinsurance, reinsurance premium rate, reinsurance commissions and other terms and conditions before the original insurance policy is in force or before the date the insurance liability for ceded portion starts. The preceding provision does not apply if the insurance enterprise complies with the management guidelines for ceded reinsurance risk management plan provided in subparagraph 2, paragraph 1 of the foregoing article. 2. If the reinsurance in the preceding subparagraph is arranged through an insurance broker, the insurance enterprise shall acquire the written confirmation from the broker and examine whether the reinsurer and the terms and conditions of reinsurance provided in the confirmation fit the instructions given to the broker. 3. After a treaty reinsurance contract has taken effect, the insurance enterprise should, in view of the nature of insurance risk, produce a complete reinsurance contract document within a certain period of time,

which contains the terms and conditions of reinsurance, reinsurance clauses and contents, and all relevant ancillary contracts, and have all reinsurers sign the contract. The aforementioned period of time shall not be more than nine (9) months from the date the reinsurance contract takes effect. The preceding provisions do not apply to assumed reinsurance that is under special circumstances, provided the insurance enterprise provides the competent authority with pertinent proof document.
An insurance enterprise shall safely file the aforementioned reinsurance contract documents, the written confirmation of insurance brokers and relevant correspondences for at least five (5) years after the expiry of insurance liability.
Article 4 The reinsurance contract document mentioned in subparagraph 3, paragraph 1of the foregoing article shall meet the following criteria:
1. The contract wording and contexts are consistent throughout and the terminologies used are defined.
2. The contract specifies applicable law and court of jurisdiction.
3. The contract specifies rights and obligations of the parties concerned.
4. The contract specifies the scope of coverage, including the types of risks covered, types of reinsurance and limits of liability.
Article 5 An insurance enterprise can include accounts as reinsurance transactions in its financial reports prepared in accordance with Guidelines for the Preparation of Regulations Governing the Preparation of Financial and Business Reports by Insurance Enterprises only if its reinsurance contract meets one of the following criteria:
1. The reinsurer has in substance assumed all insurance risks associated with the ceded portion of the original insurance policy; or
2. The portion of policy ceded to the reinsurer under the reinsurance contract carries significant insurance risk and it is reasonably likely that the reinsurer will assume significant loss under the reinsurance contract.
If the reinsurance contract serves the purpose of financing or might not meet the criteria specified in the preceding paragraph, the insurance enterprise may act in accordance with the provisions in the preceding paragraph only if an appointed actuary has conducted reasonable testing in accordance with the practice standards drawn up by The Actuarial Institute of the Republic of China and has provided a statement declaring compliance with the provisions in the preceding paragraph by the insurance enterprise. Where the reinsurance contract contains different lines of reinsurance, evaluation and testing shall be conducted for each line of reinsurance.
Article 6 A non-life insurance enterprise shall not assume reinsurance ceded by a life insurance enterprise. A life insurance enterprise shall not assume reinsurance ceded by a non-life insurance enterprise. The preceding provisions do not apply to insurance enterprises with approval from the competent authority in accordance with paragraph 1, Article 138 of the Act.
Article 7 Entities meeting any of the conditions below are eligible reinsurer to whom an insurance enterprise may cede its business to:
1.An insurance enterprise approved by the competent authority to engage in concurrently or exclusively reinsurance business in the Republic of China.
2. A foreign insurance enterprise approved by the competent authority to engage in concurrently or exclusively reinsurance business in the Republic of China.
3. A foreign reinsurance or insurance organization with a credit rating above a certain level from an international credit rating agency.
4. A reinsurance organization, insurance organization or risk spreading mechanism allowed operating reinsurance business according to the laws of the Republic of China.
5. Other reinsurance organizations, insurance organizations or risk spreading mechanisms approved by the competent authority.
If the reinsurer to whom the insurance enterprise cedes its business to does not meet the criteria in the preceding paragraph, the ceded reinsurance is deemed unqualified.
Article 8 Credit rating above certain level from an international credit rating agency referred to in subparagraph 3, paragraph 1 of the foregoing article shall mean ratings from any of the following credit

rating agencies:
1.BBB or higher from Standard & Poor's Corporation;
2.B++ or higher from A.M. Best Company;
3.Baa2 or higher from Moody’s Investors Service;
4.BBB or higher from Fitch Group;
5.twA+ or higher from Taiwan Ratings Corporation; or
6.An equivalent rating from any other rating agency recognized by the competent authority.

Article 9 An insurance enterprise shall comply with the provisions in Article 7 herein when ceding reinsurance through an insurance broker.

If the insurance broker in the preceding paragraph is a foreign insurance broker but not licensed by the competent authority, the ceded reinsurance is deemed unqualified. The preceding provision does not apply where the ceded business is a line of insurance that has been approved by the competent authority to be insured by an offshore insurer.

Article 10 In the case that a Non-Life insurance enterprise arranges proportional reinsurance, the retention premium rate shall not be lower than the reinsurance premium rate and original premium rate.

In the case that a Non-Life insurance enterprise arranges non-proportional reinsurance, each of retention-layers premium rate shall not be lower than the higher-layer premium rate or the weighted average reinsurance premium rate of the same layer, and the premium level for each layer should conform to a reasonable premium allocation proportions.

The Non-Life insurance enterprise should not underwrite the risk of written line by way of facultative reinsurance after the risk ceded. However, aviation insurance, nuclear insurance and captive reinsurance are not included.

Where a Non-Life insurance enterprise violates preceding three paragraphs, in addition to being imposed disciplinary actions according to the Article 170-1 of the Insurance Act, and an Appointed Actuary should provide explanations in its annual certified actuarial report.

Article 11 When a Non-Life insurance enterprise cedes its major commercial fire insurance business or cargo insurance business, if the reinsurance is a type of non-proportional facultative reinsurance and each of portions is ceded to domestic non-life insurers, including but not limited to the arrangements of primary layer and policy deductible or self-insurance retention buy down/buyback, the reinsurers must include foreign reinsurance or insurance organization with a credit rating above a certain level from an international credit rating agency or professional reinsurance enterprises approved by the competent authority to engage exclusively in reinsurance business in the Republic of China and those organization or enterprises quote price based on original scope of cover and jointly assume at least 30 percent of the ceded business at the original coverage.

If a Non-Life insurance enterprise fails to comply with the provisions in the preceding paragraph in ceding its business, in addition to being imposed disciplinary actions according to the Article 170-1 of the Insurance Act, and the various reserve funds and ratio of total adjusted net capital to risk-based capital calculation must comply with relevant regulations of the unqualified ceded reinsurance.

Article 12 Credit rating above certain level from an international credit rating agency referred to in paragraph 1 of the foregoing article shall mean ratings from the following credit rating agencies:
1.A or higher from Standard & Poor’s Corporation;
2.A or higher from A.M. Best Company;
3.A2 or higher from Moody’s Investors Service;
4.A or higher from Fitch Group;
5.twAA+ or higher from Taiwan Ratings Corporation; or
6.An equivalent rating from any other rating agency recognized by the competent authority.

Article 13 Where an insurance enterprise has unqualified ceded reinsurance under the Regulations herein, the insurance enterprise shall, in accordance with the requirements set forth by the competent authority, evaluate the effect of unqualified reinsurance on its assets, liabilities or reserves, and present or disclose the evaluation results in its financial statements or supervision reports.

Where an insurance enterprise engages in ceding life insurance with insurance period over one year under these Regulations, such insurance enterprise may recognize the ceded liability reserve under the reinsurance asset on its balance sheet. The requirements for recognition, the amount which may be recognized, and the criteria that a ceded reinsurance company shall meet, accounting treatment and information that shall be disclosed in the financial statements shall be prescribed by the competent authority.
Where an insurance enterprise engages in the business mentioned in the preceding paragraph, the competent authority may, based on the types of ceding reinsurance business engaged in, request that the insurance enterprise record as the special reserve under owner's equity the amount the insurance enterprise recognizes under the reinsurance asset as ceded liability reserve deducting the income tax calculated under IAS No.12. The insurance enterprise shall not distribute or appropriate such special reserve for any other purposes unless approved by the competent authority. The insurance enterprise shall disclose in footnotes to financial statements.

Article 14 The risk spreading mechanism referred to in Article 147 of the Act means finite reinsurance or other unconventional reinsurance to spread insurance risk by means of transfer, swap or securitization.
The term "finite reinsurance" referred to in the preceding paragraph means a reinsurance contract under which the insurance risk transferred is limited to a certain range and the contract also serves the purpose of financing.
Where an insurance enterprise does not comply with the Regulations herein in the conduct of business in the preceding two paragraphs, the competent authority may restrict or suspend such business undertaken by the insurance enterprise.

Article 15 An insurance enterprise that intends to engage in the business mentioned in the foregoing article shall draft a management procedure and report to the competent authority for recordation after being approved by its board of directors; the preceding provision applies to any subsequent amendment thereto. In the case of a foreign insurance enterprise, the management procedure shall be reported to the Supervisory Authority for recordation after being signed by person-in-charge of its branch office in The Republic of China.
The management procedure in the preceding paragraph shall include the following:
1. Purpose of transaction, motives of transaction, basis for determination, delineation of responsibility, and evaluation of benefits;
2. Operating procedure;
3. Accounting treatment;
4. Internal control and audit system; and
5. Other matters designated by the competent authority.

Article 16 When an insurance enterprise engages in or terminates the business provided in Article 14 herein, the insurance enterprise shall obtain the acceptance or approval of its board of directors or a function (personnel) authorized by the board of directors, and the approval of the competent authority beforehand.

Article 17 An insurance enterprise that engages in the business provided in Article 14 herein shall disclose the following particulars in its financial statements or notes to financial statements:
1. Purpose, reasons and expected benefits of engaging in such business.
2. Related expense or income from the business, including:
(1)reinsurance premium, and any additional reinsurance expenses or other expenses under experience accounts; and
(2)claims and payment recoverable from reinsurers, commissions, and any additional reinsurance receivables or other income under experience accounts.
3. Net profit/loss generated from the business for the current period.
4. In case of change to the business or contract, reasons for such change and effects on profit/loss.
5. Method of accounting treatment.
6. Other matters designated by the competent authority.

Article 18 Entities to whom an insurance enterprise cedes its business provided in Article14 herein shall meet one of the following

criteria:
1. A professional reinsurance enterprise registered in the Republic of China.
2. A foreign professional reinsurance enterprise or organization with credit rating specified in Article 12 herein.
3. Other institutions or organizations approved by the competent authority.

Article 19 An insurance enterprise that engages in the business provided in Article 14 herein shall include at least the following particulars in the contract:
1. Scope of risk assumed, contents and limits of payment.
2. Conditions for termination of the contract.
3. Arrangement in case a party to the contract becomes insolvent.
4. Account handling between parties to the contract.
5. Other matters designated by the competent authority.

Article 20 Article 6 and Article 11 herein do not apply to an insurance enterprise engaging in exclusively reinsurance business.

Article 21 These Regulations shall enter into force from April 1, 2008.

The amendment to these Regulations comes into enforcement upon the date of promulgation. The amendment promulgated on December 28th, 2011 shall come into force on January 1st,2013.

Data Source：Financial Supervisory Commission Laws and Regulations Retrieving System