

Order of the China Insurance Regulatory Commission

(No. 2 [2008])

The Measures for the Administration of Insurance Protection Fund, which were jointly formulated by the China Insurance Regulatory Commission, the Ministry of Finance and the People's Bank of China, are hereby promulgated and shall come into force on the date of promulgation.

Chairman of the China Insurance Regulatory Commission Wu Dingfu

Minister of the Ministry of Finance of the People's Republic of China Xie Xuren

Governor of the People's Bank of China Zhou Xiaochuan

September 11, 2008

Measures for the Administration of Insurance Protection Fund

#### Chapter I General Provisions

Article 1 For purposes of regulating the raising, management and use of insurance protection fund, protecting the legitimate rights and interests of the policyholders, promoting the healthy development of the insurance industry, and maintaining the financial stabilization, the present Measures are formulated according to the relevant laws and administrative regulations including the Insurance Law of the People's Republic China.

Article 2 The "insurance companies" as mentioned in the present Measures refer to the Chinese-funded insurance companies, Sino-foreign joint venture insurance companies, solely foreign-funded insurance companies and branches of foreign insurance companies, which are

established upon approval of the insurance regulatory institution and registered in China in accordance with the law.

Article 3 The “insurance protection fund” as mentioned in the present Measures refers to the non-governmental industry risks relief fund, which are founded by payment in accordance with the Insurance Law of the People’s Republic of China and the provisions of the present Measures, and used for assisting the policyholders and companies with ceded policies, or for handling the risks of insurance industry under the circumstances specified by Article 16 of the present Measures.

The “policyholders” as mentioned in the present Measures refer to the parties to insurance contracts who are legally entitled to claim for policy-related benefits when an insurance company is revoked or goes bankruptcy in accordance with the laws, including the applicants for insurance, the insured or the beneficiaries.

The “companies with ceded policies” as mentioned in the present Measures refer to an insurance company operating the life insurance business that accepts the legally transferred life insurance contracts from an insurance company operating the life insurance business which is revoked or goes bankruptcy in accordance with the laws.

Article 4 The insurance protection fund shall be divided into the property insurance protection fund and the life insurance protection fund.

The property insurance protection fund shall be founded by the payments from the property insurance companies.

The life insurance protection fund shall be founded by the payments from the life insurance companies.

Article 5 The insurance protection fund shall be used under the principle of protecting the interests of the policyholders and maintaining the stable and healthy operation of the insurance industry, and be subject to the centralized management in accordance with the laws and planned use as a whole.

Article 6 The wholly state-owned China's Insurance Protection Fund Co. Ltd (hereinafter referred to as the Insurance Protection Fund Company) shall be set up to be responsible for the raising, management, and use of the insurance protection fund according to the laws.

The Insurance Protection Fund Company shall operate independently in accordance with the laws, and its board of directors shall be responsible for the legitimate use and security of the insurance protection fund.

## Chapter II Insurance Protection Fund Company

Article 7 The Insurance Protection Fund Company shall establish and improve the company's governing structure, internal control system and risk management system according to the laws, operate under laws and conduct independent accounting.

Article 8 The Insurance Protection Fund Company shall conduct the following businesses:

- (1) Raising, managing and operating the insurance protection fund;
- (2) Monitoring the risks of the insurance industry, namely, putting forward proposals on supervisory disposal to the China Insurance Regulatory Commission (CIRC) when it finds there is a major risk in the operation and management of an insurance company, which is possible to endanger the policyholders and the insurance industry;
- (3) Offering relief to the policyholders and the companies with ceded policies or other individuals and institutions, or participating in the risks disposal of the insurance industry;
- (4) Participating in the liquidation of an insurance company when the company is revoked or goes bankrupt according to the laws;

(5) Managing and handling the compensation assets; and

(6) Other businesses authorized by the State Council.

In case the Insurance Protection Fund Company puts forward proposals on supervisory disposal to the CIRC according to the provisions of item (2) of the preceding Paragraph, it shall timely submit a copy of the relevant situations to the Ministry of Finance and the People' s Bank of China.

Article 9 The Insurance Protection Fund Company shall set up a board of directors, and the members of the board shall be recommended by the CIRC, the Ministry of Finance, the People' s Bank of China, the State Administration of Taxation, and the Legislative Affairs Office of the State Council. The chairman of the board shall be the legal representative of the company, who shall be recommended by the CIRC and approved by the State Council.

The Insurance Protection Fund Company shall establish the relevant organizational structure and improve the governing of the company according to the Company Law of the People' s Republic of China.

Article 10 For purposes of assisting the policyholders and the companies with ceded policies in accordance with the laws, and handling the insurance risks, the Insurance Protection Fund Company may, after the financing plans are formulated by the CIRC upon deliberation with the relevant departments and approved by the State Council, take various ways in financing.

Article 11 The Insurance Protection Fund Company shall establish an information sharing mechanism of insurance companies with the CIRC.

The CIRC shall regularly provide the operation management information of the insurance companies such as finance and business to the Insurance Protection Fund Company. When the CIRC believes that an insurance company has hidden dangers of risks, it shall provide the special data and materials such as finance and business of this insurance company to the Insurance Protection Fund Company.

The Insurance Protection Fund Company shall have the obligation of confidentiality to all the data and materials of the insurance companies it learned.

Article 12 The dissolution of the Insurance Protection Fund Company shall be approved by the State Council.

### Chapter III Raising of the Insurance Protection Fund

Article 13 The sources of the insurance protection fund are as follows:

(1) The insurance protection fund paid by the domestic insurance companies in accordance with the laws;

(2) The compensation income legally obtained by the Insurance Protection Fund Company from the liquidation properties of a bankrupt insurance company;

(3) Donations;

(4) Investment yield of the aforesaid funds; and

(5) Other legitimate income.

Article 14 An insurance company shall, according to the following provisions, pay the insurance protection fund for the property insurance business or life insurance business it operates, and the insurance businesses for which the insurance protection fund has been paid shall be brought into the scope of relief from the insurance protection fund:

(1) 0.8% of the premium income for the non-investment property insurance; 0.08% of the business income for the investment property insurance with guaranteed income, and 0.05% of the business

income for the investment property insurance without guaranteed income;

(2) 0.15% of the business income for the life insurance with guaranteed income, and 0.05% of the business income for the life insurance without guaranteed income.

(3) 0.8% of the premium income for the short-term health insurance, and 0.15% of the premium income for the long-term health insurance; and

(4) 0.8% of the premium income for the non-investment accidental injury insurance; 0.08% of the business income for the investment accidental injury insurance with guaranteed income, and 0.05% of the business income for the investment accidental injury insurance without guaranteed income.

The “business income” as mentioned in the present Measures refers to the total amount paid to an insurance company by an applicant for purchasing a corresponding insurance product in accordance with an insurance contract.

Article 15 An insurance company shall timely pay the insurance protection fund, in full amount, into the special account of the Insurance Protection Fund Company, however, if the insurance company is under any of the following circumstances, its payment of the insurance protection fund can be suspended:

(1) If the insurance protection fund surplus of a property insurance company amounts to 6% of the company’ s total assets; or

(2) If the insurance protection fund surplus of a life insurance company amounts to 1% of the company’ s total assets.

In case the insurance protection fund surplus of an insurance company decreases or its total assets increase, and thus the proportion of the insurance protection fund surplus to the total assets cannot meet the requirements as prescribed by the preceding Paragraph, its payment for the insurance protection fund shall be automatically resumed.

The Insurance Protection Fund Company shall conduct separate accounting for the insurance protection fund paid by each insurance company and the changes thereof.

The insurance protection fund surplus of an insurance company refers to the accumulatively contributed insurance protection fund plus the apportioned investment incomes and minus the various apportioned expenditures and the amount of disbursement.

#### Chapter IV Use of the Insurance Protection Fund

Article 16 The insurance protection fund may be drawn under any of the following circumstances:

(1) When an insurance company is revoked or goes bankruptcy in accordance with the laws and its liquidation property is not enough to pay the policy-related benefits; or

(2) When the CIRC believes that, upon deliberation with the relevant departments, the insurance company has significant risks that may seriously endanger social public interests and financial stabilization.

Article 17 The CIRC shall draft the risk disposal plans and using measures for drawing the insurance protection fund, which shall be submitted to the State Council for approval upon deliberation with the relevant departments.

The Insurance Protection Fund Company shall be responsible for handling registration, granting, fund allocation and other specific matters in accordance with the risk disposal plans and using measures.

Article 18 The Insurance Protection Fund Company shall manage the property insurance protection fund and the life insurance protection fund in separate accounts, and use them separately.

The property insurance protection fund shall be used only for offering relief to the policyholders of property insurance companies, and for conducting risks disposal on the property insurance companies under the circumstance of its having significant risks as identified in accordance with Article 16 (2) of the present Measures.

The life insurance protection fund shall be used only for offering relief to the policyholders of life insurance companies and the companies with ceded policies accepting the life insurance contracts, and for conducting risks disposal on the life insurance companies under the circumstance of its having significant risks as identified in accordance with Article 16 (2) of the present Measures.

Article 19 Where an insurance company is revoked or goes bankruptcy in accordance with the laws, and its liquidation properties are insufficient for paying the policy-related benefits, the insurance protection fund shall offer relief to the policyholders of non-life insurance contracts in accordance with the following principles:

(1) The policyholders' losses that are not more than 50,000 yuan shall be fully covered by the insurance protection fund; and

(2) If the policyholder is an individual, for the losses in excess of 50,000 yuan, the insurance protection fund will cover 90% of the extra; if the policyholder is an institution, for the losses in excess of 50,000 yuan, the insurance protection fund will cover 80% of the extra.

The policyholders' losses as mentioned in the preceding Paragraph refer to the balance between the policyholders' policy-related benefits and the compensations recovered from the liquidation properties.

Article 20 In case an insurance company operating the life insurance business is revoked or goes bankruptcy in accordance with the laws, its life insurance contracts shall be legally transferred to other insurance companies operating the life insurance business. If it cannot reach an assignment agreement with other insurance companies, the CIRC shall designate an insurance company operating the life insurance business to take over the said life insurance contracts.



Article 21 If the liquidation assets of an insurance company that is revoked or goes bankruptcy in accordance with the laws are insufficient to reimburse the policy-related benefits under life insurance contracts, the insurance protection fund shall offer relief to the companies with ceded policies according to the following rules:

(1) In case the policyholder is an individual, the relief amount from the policy-related benefits after the transfer shall not be more than 90% of the policy-related benefits prior to the transfer; and

(2) In case the policyholder is an institution, the relief amount from the policy-related benefits after the transfer shall not be more than 80% of the policy-related benefits prior to the transfer.

In case the insurance protection fund offers relief to a company with ceded policies according to the provisions of the preceding Paragraph, the relief amount shall be determined under the principle of protecting the small and medium policyholders' interests and rights so as to maintain the stability of insurance market and taking into consideration the situation of the insurance protection fund.

Article 22 For the purpose of protecting the legitimate rights and interests of the policyholders and in accordance with the actual situation of social economic development, the CIRC may, upon the approval of the State Council, adjust the amount and proportion of the relief from insurance protection fund in good time jointly with the relevant departments.

Article 23 In case an insurance company is revoked or goes bankruptcy in accordance with the laws, and thus the insurance protection fund offers relief to the policyholders or companies with ceded policies, the relief amount shall be deducted from the insurance protection fund according to the following sequence:

(1) The insurance protection fund surplus of the insurance company that is revoked or goes bankruptcy in accordance with the laws; and

(2) The insurance protection fund surplus of other insurance companies.

The amount to be deducted from the insurance protection fund surplus of other insurance companies shall be calculated according to the market share of the companies in the previous year.

Article 24 In case an insurance company is revoked or goes bankrupt in accordance with the laws, a policyholder can enter into an agreement on transferring the creditor's right with the Insurance Protection Fund Company after the decision of revocation is made or prior to the application for bankruptcy is filed with the people's court, and the Insurance Protection Fund Company shall pay the relief from the insurance protection fund to the policyholder and thus obtain the creditor's right of the policyholder to the insurance company.

After the liquidation, if the compensations obtained by the insurance protection fund are more than the paid relief, the insurance protection fund shall return the balance to the policyholder.

Article 25 The following businesses do not fall within the scope of relief from the insurance protection fund, and for which the insurance protection fund shall not be paid:

(1) Overseas direct insurance businesses undertaken by an insurance company;

(2) The ceded reinsurance business of an insurance company;

(3) The policy insurance businesses whose final risks shall be assumed by the state treasury as determined by the State Council;

(4) The enterprise annuity management businesses, such as the trustee of enterprise annuities and account manager, which are engaged in by an insurance company; or

(5) Any other businesses as identified by the CIRC jointly with the relevant departments that do not fall with the scope of relief from the insurance protection fund.

In the case of revocation and bankruptcy of an insurance company, if any of its directors, top management or shareholders is directly responsible for the revocation or bankruptcy of the company due to violation of laws, administrative regulations or the relevant provisions of the State, the insurance protection fund shall not offer relief for the policy-related benefits held in the insurance company by such a director or top management or for the policy-related benefits of property losses insurance held in the insurance company by such a shareholder.

## Chapter V Administration and Supervision

Article 26 The CIRC shall conduct supervision on the business of the Insurance Protection Fund Company and the raising, management, and operation of the insurance protection fund.

Article 27 The Ministry of Finance shall be responsible for the state-owned assets management and financial supervision of the Insurance Protection Fund Company.

The board of directors of the Insurance Protection Fund Company shall formulate the budget and final account plans of the Company and report them to the Ministry of Finance for approval.

Article 28 The Insurance Protection Fund Company shall establish a scientific performance appraisal system, and submit regularly the appraisal results to the CIRC and the Ministry of Finance and other relevant departments.

Article 29 The principles of safety, fluidity and profitability shall be followed in using the insurance protection fund, and the maintenance and appreciation of asset values shall be realized under the premise of ensuring the asset safety.

The use of insurance protection fund shall be confined to bank deposits, dealings of government bonds, the Central Bank bills, the central corporate bonds, and the financial bonds issued by the central financial institutions and other forms as approved by the State Council for using the fund.

Article 30 The Insurance Protection Fund Company may entrust a professional investment management institution with the investment management of the insurance protection fund, and put the insurance protection fund under entrusted investment management to a third party for custody.

Article 31 The Insurance Protection Fund Company shall submit the relevant reports according to the following provisions:

(1) Submitting monthly the situation of raising, operation and use of the insurance protection fund to the CIRC, the Ministry of Finance and the People' s Bank of China, and other relevant departments;

(2) Submitting the audited annual financial report of the company to the CIRC, the Ministry of Finance and the People' s Bank of China and other relevant departments in accordance with the relevant provisions; and

(3) Other reports to be submitted according to the laws.

In case the Insurance Protection Fund Company fails to timely submit the relevant reports to the relevant departments of the State in accordance with the present Measures, the relevant departments of the State shall order it to make correction.

Article 32 The Insurance Protection Fund Company shall regularly disclose to the insurance companies the relevant financial information of the insurance protection fund.

## Chapter VI Legal Liabilities

Article 33 In case an insurance company violates the provisions of the Insurance Law of the People' s Republic of China, and fails to timely pay the insurance protection fund in accordance with the present Measures, the insurance company, the top management directly liable, and the persons directly liable shall be subject to punishment by the CIRC according to the laws.

Article 34 In case any of the directors of the board, the top management, or other staffs of the Insurance Protection Fund Company uses the insurance protection fund in violation of the laws, administrative regulations and the present Measures, or illegally possesses the insurance protection fund by means of embezzlement, theft, and fraud, etc., and if a crime is constituted, he shall be subject to criminal liabilities.

#### Chapter VII Supplementary Provisions

Article 35 The power to interpret the present Measures remains with the CIRC, the Ministry of Finance and the People' s Bank of China.

Article 36 The present Measures shall come into force on the date of promulgation. The Measures for the Administration of the Insurance Protection Fund (Order No. 16 [2004] of the CIRC), which were promulgated by the CIRC on December 30, 2004, shall be abolished simultaneously.