

China: Interpretation of new administration rules for insurance asset management companies

In brief

After extensive consultation, the China Banking and Insurance Regulatory Commission (CBIRC) issued the Rules on Insurance Asset Management Companies (《保险资产管理公司管理规定》) (CBIRC Decree [2022] No. 2) ("**New Rules**") 5 April 2022. The New Rules will come into force on 1 September 2022.

Compared with the Interim Provisions on Insurance Asset Management Companies (《保险资产管理公司管理暂行规定》) (CIRC Decree [2004] No. 2) ("**Old Rules**") and other relevant regulations on the administration of insurance asset management companies, the core changes in the New Rules are as follows.

The abolition of restrictions on the shareholding ratio of foreign investors in insurance asset management companies

As early as 20 July 2019, the office of the Financial Stability and Development Committee of the State Council announced 11 measures to promote the opening up of the financial sector, including "to cancel the requirement that total shares of an insurance asset management company held by domestic insurance companies shall not be lower than 75%, and allow foreign investors' stake to exceed 25%." After that, Allianz Insurance Asset Management Company Limited, the first wholly foreign-owned insurance asset management company in China, was established. The New Rules also cancel the requirement that the total shares of an insurance asset management company held by domestic insurance companies shall not be lower than 75% in the Old Rules, and further clarify that the total shareholding ratio of domestic and foreign insurance group (holding) companies and insurance companies in insurance asset management companies shall exceed 50%.

Unified conditions and restrictions are set for all types of shareholders

The Old Rules did not specify the types of shareholders of insurance asset management companies and the conditions for other shareholders other than the main promoter shareholders, while the New Rules have clearly stipulated this. According to the New Rules, the shareholders of insurance asset management companies are classified into domestic shareholders and foreign shareholders. Domestic shareholders include domestic insurance group (holding) companies, insurance companies, other financial institutions and nonfinancial enterprises. Foreign shareholders include insurance group (holding) companies, insurance companies, asset management institutions, etc. Such provisions shall prevail where there are other provisions concerning the relevant shareholders in equity incentive or employee stock ownership plans carried out by insurance asset management companies.

The shareholders of insurance asset management companies shall meet the following conditions:

1. Have good corporate governance structure and internal control mechanism
2. Have good social reputation, credit record and tax payment record
3. The operation and management are in good condition, and there is no major illegal operation record in the last two years.

In this issue

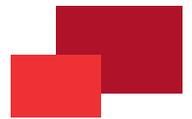
The abolition of restrictions on the shareholding ratio of foreign investors in insurance asset management companies

Unified conditions and restrictions are set for all types of shareholders

Clear time limits on the disposal of equity of the main promoters

First proposed the requirements of 'two participation and one control' for shareholders of insurance asset management companies

Specified the types of subsidiaries that insurance asset management companies can establish



4. The capital invested in the shares shall be self-owned capital, and no loan funds, entrusted funds or other non-self-owned funds may be invested.
5. The nonfinancial enterprise shareholders shall comply with the provisions of the relevant state departments for nonfinancial enterprises to invest in financial institutions.
6. The foreign institution shareholders shall comply with the laws and regulations of the country or region where they are located. The financial regulatory authority of the country or region where they are located has established good cooperation in supervision and management with the financial regulatory authority of the State Council.
7. Other prudent conditions provided by the CBIRC

In addition to the conditions mentioned above, stricter requirements are set for the main promoters of insurance asset management companies. The comparison between the New Rules and the Old Rules is as follows.

New Rules	Old Rules
<p>Article 10: The main promoters of an insurance asset management company shall be insurance group (holding) companies or insurance companies. In addition to meeting the conditions as prescribed in Article 9, the main promoters shall also meet the following conditions:</p> <ul style="list-style-type: none"> • Continuous operation for more than five years • No major violation of laws or regulations in business operation in the last three years • Have good financial standing and remain profitable in the last three fiscal years • The year-end total assets in the preceding year of the main promoters and other insurance company shareholders of the insurance asset management company are not less than RMB 50 billion or an equivalent amount of any convertible currency. • The comprehensive solvency ratio in the last four quarters is not less than 150%. • Other prudent conditions provided by the CBIRC 	<p>Article 8: There shall be at least one shareholder or promoter to be the insurance group (holding) company or insurance company when establishing an insurance assets management company, and the said insurance group (holding) company or insurance company shall meet the following conditions:</p> <ul style="list-style-type: none"> • Has been undertaking the insurance business for over eight years • No administrative punishment for violation of the provisions on capital arrangement in the past three years • The solvency ratio is not less than 150%. The total assets are no less than RMB 10 billion, while the total assets of the insurance group (holding) company are not less than RMB 15 billion. • Meets the solvency requirements stipulated by the CIRC • Has good corporate governance structure and internal control system • Has an asset-liability management department and risk control department, and has a complete investment information management system • The proportion of assets used and managed in a centralized way by the capital arrangement departments is not less than 50% of the total assets of the company, while such portion for an insurance company that has a life insurance business is not less than 80% of the total assets of the company. • Other conditions provided by the CIRC

According to the foregoing provisions, the following are the amendments to the conditions that the main promoters shall meet:

1. The condition on the punishment of the main promoters is more demanding, changed from only administrative punishment for violating the provisions on the use of funds is not allowed to any major illegal business operation record is unacceptable.
2. The requirement that the main promoters shall remain profitable in the last three fiscal years has been added.
3. As for the requirement for the total assets of the main promoters, the Old Rules require that the total assets of the main promoters are not less than RMB 10 billion, and the total assets of the main promoters are not less than RMB 15 billion if the main promoters are insurance group companies (holding companies); while the New Rules require that the year-end total assets in the preceding year of the main promoters and other insurance company shareholders are not less than RMB 50 billion or an equivalent amount of any convertible currency.
4. The New Rules no longer require that the proportion of assets used and managed in a centralized way by the capital arrangement departments is not less than 50% of the company's total assets, while such portion for an insurance company that has a life insurance business is not less than 80% of the company's total assets.



Clear time limits on the disposal of equity of the main promoters

The New Rules clearly stipulate that the main promoters, controlling shareholders and actual controllers of insurance asset management companies shall adhere to the long-term investment concept and make a written commitment to hold the equity of insurance asset management companies for not less than five years. During the holding period, they shall not pledge or establish a trust over the equity, unless otherwise specified by the CBIRC.

First proposed the requirements of 'two participation and one control' for shareholders of insurance asset management companies

Article 15 of the New Rules stipulates that there shall be no more than two insurance asset management companies invested by the same investor and its related parties and persons acting in concert, among which there is at most one insurance asset management company directly, indirectly or jointly controlled, unless approved by the CBIRC. In other words, an investor and its related parties and persons acting in concert can invest in at most two insurance asset management companies, and at most one insurance asset management company can be controlled.

This is basically consistent with the investment restrictions of insurance company shareholders. According to Article 30 of the Measures for the Administration Of Equity Of Insurance Companies (《保险公司股权管理办法》) (CIRC Decree [2018] No. 5), investors, their related parties and persons acting in concert can only become the controlling shareholders of one insurance company that is operating similar businesses. The total number of investors, their related parties and persons acting in concert who become controlling and strategic shareholders of an insurance company shall not exceed two. Those regulations illustrate that the restrictions on the number of shareholders' investments in insurance asset management companies and insurance companies have become consistent.

Specified the types of subsidiaries that insurance asset management companies can establish

In 2012, the Notice On Relevant Matters concerning Insurance Asset Management Companies (《关于保险资产管理公司有关事项的通知》) (Bao Jian Fa [2012] No. 90) stipulated that insurance asset management companies can set up subsidiaries in accordance with relevant provisions to engage in certain asset management businesses. The New Rules further specify the types of subsidiaries that insurance asset management companies can set up, which are subsidiaries engaging in financial management, public funds, private funds, real estate, infrastructure, or other asset management businesses or entities related to asset management businesses.

In addition to the above changes, the New Rules also make clear and specific requirements in corporate governance, risk management and optimization of business operation, to strengthen the independence and risk management capabilities of insurance asset management companies, reinforce the institutional constraints for corporate governance supervision comprehensively, and maintain the safety of insurance funds and other long-term funds effectively.



Contact Us



Martin Tam

Partner

martin.tam@bakermckenzie.com



Ada Hu

Partner

huguangjian@fenxunlaw.com

© 2022 Baker & McKenzie. **Ownership:** This site (Site) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms, including Baker & McKenzie LLP). Use of this site does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion:** All information on this Site is of general comment and for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulation and practice are subject to change. The information on this Site is not offered as legal or any other advice on any particular matter, whether it be legal, procedural or otherwise. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any information provided in this Site. Baker McKenzie, the editors and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this Site. **Attorney Advertising:** This Site may qualify as "Attorney Advertising" requiring notice in some jurisdictions. To the extent that this Site may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. All rights reserved. The content of this Site is protected under international copyright conventions. Reproduction of the content of this Site without express written authorization is strictly prohibited.

