

China to Allow 100% Foreign Ownership in Life Insurers from January 1, 2020

December 11, 2019

On December 6, 2019, the China Banking and Insurance Regulatory Commission (the “**CBIRC**”) announced in a brief notice (the “**Notice**”) that starting from January 1, 2020, the current 51% cap on foreign ownership in Chinese life insurers will be removed and foreign investors will be allowed to own 100% in Chinese life insurers. This move has been expected for some time but happens earlier than anticipated.

On the same day, the CBIRC also released the long-awaited amendment to the Implementation Rules for the Administrative Regulations on Foreign-Invested Insurance Companies (the “**Amendment**”), which took effect on November 29, 2019. Consistent with the amended Administrative Regulations on Foreign-Invested Insurance Companies issued by the State Council of China in October (the “**Amended Administrative Regulations**”), the Amendment implemented relaxation on market access by removing the requirements that a foreign insurance company must have engaged in insurance business for more than 30 years and have maintained a representative office in China for at least two years before it can establish a foreign-invested insurance company in China. Other major revisions in the Amendment include:

- **Requirements on major shareholder.** The Amendment added a new requirement that a foreign-invested insurance company must have at least one insurance company as its major shareholder, which is defined as the largest shareholder or a shareholder who may otherwise exercise material influence over the company’s operations. A major shareholder is subject to a five-year lock-up period, after which if it intends to transfer shares, it shall ensure that the company meets the regulatory solvency requirements. As overseas non-insurance financial institutions are also permitted under the Amended Administrative Regulations to invest in foreign-invested insurance companies, this new requirement presumably aims to ensure that foreign-invested insurance companies have proper expertise and financial support from their shareholders and maintain a stable shareholding structure.
- **Clarification of requirements on Chinese shareholders.** The Amendment clarified that a Chinese shareholder in a Sino-foreign joint venture insurance company must meet the requirements under the Administrative Measures for Equity Interests in

Insurance Companies, which primarily govern the Chinese insurance companies with less than 25% foreign ownership. Consistent with the current common understanding in the industry, this means, among other things, that a single Chinese shareholder is not permitted to own more than one third of the share capital in a Sino-foreign joint venture insurance company, although it would not be applied retrospectively to existing insurance companies in China.

- **Unified requirements on establishment of branches.** The Amendment removed the provisions relating to capital, application materials and procedure requirements for setting up branches by foreign-invested insurance companies, but simply provided that the relevant CBIRC rules shall be followed. This does not bring significant changes at the written policy level, as domestic and foreign-invested insurance companies in China are already generally subject to similar requirements under the CBIRC rules governing establishment of branches; although CBIRC emphasised in a statement on the Amendment that the intention of this change is to ensure foreign and domestic insurers compete under unified requirements. This is presumably intended to deal with reports that foreign-invested insurance companies have historically been subject to lengthy reviews and more restrictions in practice with respect to new branch applications, which impacted their ability to grow and gain market share.

The Notice, together with the Amendment, mark continued efforts by the Chinese government to fulfil its commitments to further open up the Chinese financial industry to foreign investors. It remains to be seen how these new measures will be implemented in practice, and in particular, how long the CBIRC review and approval procedures will be. The lack of some details in the Amendment and other regulations, such as the definition for “material influence over the company” that may result in a shareholder being deemed as a major shareholder, further adds uncertainty and unpredictability.

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We will continue to monitor developments in this area. If you have any questions, please do not hesitate to reach out to your regular Debevoise contacts.

Debevoise & Plimpton LLP, as all other foreign firms in China, is not admitted to practice PRC law. This update is based on our review of the relevant laws and on our general experience dealing with similar matters. We would be pleased to arrange for assistance from licensed Chinese counsel should you require a formal opinion on any of the matters referred to herein.



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