China revises key insurance and banking regulations; reforms may spark renewed foreign interest in China’s financial sector

23 October 2019

Decision of the State Council to amend the Administrative Regulations on Foreign Invested Insurance Companies and the Administrative Regulations on Foreign-invested Banks (国务院关于修改《中华人民共和国外资保险公司管理条例》和《中华人民共和国外资银行管理条例》的决定)

As the market continues to monitor the ebbs and flows of the US-China trade negotiations, the Chinese government continues to implement its reform commitments at a fast pace. As foreshadowed in a press conference by Chairman Guo Shuqing of the China Banking and Insurance Regulatory Commission (“CBIRC”) in May, the State Council published, on 15 October, amendments to key pieces of legislation which are aimed to further improve the operating environment for foreign banks and insurance companies in China (or “PRC”). This reform package comes shortly after the decision of the China Securities Regulatory Commission, on 12 October, to bring forward the timetable for full foreign ownership of securities, mutual fund management and futures brokerage companies to 2020. Truly, 2019 is shaping up to be a ground-breaking year for financial reform in China.

Banking reforms

Dual PRC presences: Foreign banks may simultaneously establish and maintain branches and wholly foreign-owned banks or Sino-foreign joint venture banks in the PRC (“Local Banks”).

Financial tests relaxed:

> Foreign shareholders of: (i) Local Banks are no longer required to have minimum total assets of USD10 billion; (ii) bank branches in the PRC are no longer required to have minimum total assets of USD20 billion.

> The PRC partner of a joint venture bank no longer needs to be a financial institution.

Insurance reforms

Business restrictions relaxed

Foreign bank branches’ capital requirements relaxed

Banking reforms

Dual PRC presences

Financial tests relaxed

Business restrictions relaxed

Foreign bank branches’ capital requirements relaxed

Insurance reforms
Business restrictions relaxed:
> The permitted business scope has been harmonised with local Chinese banks’, to include (i) issuance, settlement and underwriting of PRC treasury bonds and (ii) payment settlement.
> Local Banks/ foreign bank branches which satisfy CBIRC’s prudential requirements no longer need a separate approval from the CBIRC and one-year track record to conduct RMB business.
> Branches of foreign banks can accept fixed term RMB deposits from individuals at a minimum of RMB500,000 rather than 1m.

Foreign bank branches’ capital requirements relaxed:
> Foreign bank branches no longer need to hold at least 30% of their working capital in interest-bearing assets (with the new requirements, expected to give more flexibility, to be specified in further CBIRC rules).
> The minimum 8% ratio of the RMB portion of total working capital and reserves against RMB-denominated risk assets no longer applies where the parent bank has continuously met the capital adequacy requirements of CBIRC and its home jurisdiction.

See the table on the right for an at-a-glance view.

Insurance reforms
> The foreign shareholder of an insurance company in the PRC no longer needs to have (i) a 30-year operating track record and (ii) a representative office in the PRC in the previous two years.
> As announced by Chairman Guo Shuqing in May, revision of the 2007 rules applying similar requirements to foreign insurance brokers in the PRC, is expected soon.
> In addition to foreign insurance companies, foreign insurance groups and overseas financial institutions will be permitted to invest in foreign-invested insurance companies in the PRC. Detailed guidance will be released by the CBIRC, including new criteria to be met by foreign insurance groups (expected to be on equal footing with those applicable to Chinese domestic insurance groups).
> In July, CBIRC announced that the 25% cap on foreign shareholding in insurance asset management companies would be removed in the future. We also await the issuance of new rules in this area, including new criteria to be met by both foreign and Chinese investors.

To sum up, these reforms incentivise foreign banks and insurance companies/financial institutions to target a broader range of market segments on equal footing with PRC players, using less capital and in less time than was previously the case.

<table>
<thead>
<tr>
<th>Business restrictions relaxed</th>
<th>Insurance reforms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit scope harmonised with local Chinese banks, including issuance, settlement and underwriting of PRC treasury bonds.</td>
<td>The foreign shareholder of an insurance company in the PRC no longer needs to have a 30-year operating track record and a representative office in the PRC.</td>
</tr>
<tr>
<td>Local Banks/foreign bank branches satisfy CBIRC’s prudential requirements no longer need a separate approval and one-year track record.</td>
<td>As announced by Chairman Guo Shuqing, revision of the 2007 rules applying similar requirements to foreign insurance brokers in the PRC is expected soon.</td>
</tr>
<tr>
<td>Branches of foreign banks can accept fixed term RMB deposits.</td>
<td>Foreign insurance groups and overseas financial institutions will be permitted to invest in foreign-invested insurance companies in the PRC. Detailed guidance will be released.</td>
</tr>
<tr>
<td>Foreign bank branches no longer need to hold at least 30% of their working capital in interest-bearing assets.</td>
<td>In July, CBIRC announced the removal of the 25% cap on foreign shareholding in insurance asset management companies.</td>
</tr>
<tr>
<td>The minimum 8% ratio of the RMB portion of total working capital and reserves against RMB-denominated risk assets no longer applies.</td>
<td>We also await the issuance of new rules in this area, including new criteria to be met by both foreign and Chinese investors.</td>
</tr>
</tbody>
</table>

To sum up, these reforms incentivise foreign banks and insurance companies/financial institutions to target a broader range of market segments on equal footing with PRC players, using less capital and in less time than was previously the case.
This newsletter is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues presented here or on other areas of law, please contact one of your regular contacts.

Linklaters Zhao Sheng is the business name of Linklaters Zhao Sheng (FTZ) Joint Operation Office, which manages the joint operation between Linklaters LLP and Shanghai Zhao Sheng Law Firm. The joint operation has been approved by the Shanghai Bureau of Justice.

Linklaters LLP is a limited liability partnership registered in England and Wales with registered number OC326345. It is a law firm authorised and regulated by the Solicitors Regulation Authority. The term partner in relation to Linklaters LLP is used to refer to a member of the LLP or an employee or consultant of Linklaters LLP or any of its affiliated firms or entities with equivalent standing and qualifications. A list of the names of the members of Linklaters LLP and of the non-members who are designated as partners and their professional qualifications is open to inspection at its registered office, One Silk Street, London EC2Y 8HQ, England or on www.linklaters.com and such persons are either solicitors, registered foreign lawyers or European lawyers. Please refer to www.linklaters.com/regulation for important information on our regulatory position.

Shanghai Zhao Sheng Law Firm ("Zhao Sheng") is a partnership constituted under the laws of the People’s Republic of China ("PRC") and licensed to practise PRC legal services.

© Linklaters Zhao Sheng. All Rights reserved 2019

We process your data in line with our Global Privacy Notice. You can view this at www.linklaters.com/en/legal-notices/privacy-notice.

To opt-out of receiving any marketing emails from us, or to manage your email preferences and the personal details we hold for you, please contact: marketing.database@linklaters.com.