

A General Comparison between Hong Kong and PRC Insurance Law



Presented by: Christine Koo

Christine M. Koo & Ip, Solicitors & Notaries

Address : Room 601, 6/F, Tower 1, Admiralty Centre,
18 Harcourt Road, Hong Kong

Tel. No. : (852) 2526 7666

Fax No. : (852) 2523 6922

E-mail : christinekoo@cmkoo.com.hk

Date : 28th September, 2012



1. General Information
2. Types of Insurance Companies
3. The Criteria for an insurance license
4. Regulatory Authority
5. Insurance Products
6. Insurance Contracts
7. Self Regulations



1. General Information



Total No. of Insurance Companies in Hong Kong

	<u>Hong Kong</u>	<u>PRC</u>
◆ General:	96	60
◆ Life:	45	64
◆ Composite:	20	NIL (insurance group)



2. Types of Insurance Companies



Types of Insurance Companies

Hong Kong

- ◆ Life
- ◆ General
- ◆ Composite
- ◆ Captive
- ◆ Reinsurance
(life / general)

PRC

- ◆ Personal
- ◆ Property
- ◆ Not Available
- ◆ Not Available
- ◆ Reinsurance
(Personal/Propriety)



3. The Criteria for an Insurance License



How to Apply to Become an Insurance Company in HK/PRC

Hong Kong

- ◆ Insurance Companies Ordinance (ICO)
- ◆ 10 million (general)
20 million (life)
- ◆ Restriction on carrying on of insurance business
- ◆ Restriction on use of the word “insurance” or “assurance”



How to Apply to Become an Insurance Company in HK/PRC

PRC

- ◆ Regulations for Admin of Insurance Institution with Foreign Capital
- ◆ 200 million (RMB)
5 billion (USD)
30 years
- ◆ 2 years of Rep Office
- ◆ J.V. – Foreign shareholder not more than 50% personal
- ◆ CEPA



4. Regulatory Authority



Regulatory Authority

Hong Kong

- ◆ The Office of the Commissioner of Insurance

PRC

- ◆ China Insurance Regulatory Commission (CIRC)



Main Duties of Insurance Authority Regulate and Supervise

Hong Kong

China Insurance Law

- | | |
|--|--------|
| ◆ Auditor | ◆ same |
| ◆ Actuary | ◆ same |
| ◆ Power of Investigation | ◆ same |
| ◆ Power of Intervention | ◆ same |
| ◆ Actuarial Investigation
Report and Financial
Information | ◆ same |
| ◆ Margin of Solvency
Regulation | ◆ same |



5. Insurance Products



Insurance Products

Hong Kong

- ◆ Design own products

PRC

- ◆ All products subject to CIRC approval before launch

Main Types of Insurance Products

Hong Kong

- ◆ Life and Retirement
- ◆ General
- ◆ Group
- ◆ Invest-link

PRC

- ◆ same
- ◆ same
- ◆ same
- ◆ same



Insurance Product – Retirement Schemes

Hong Kong

- ◆ Occupational Retirement Schemes
- ◆ Mandatory Provident Fund Schemes

PRC

- ◆ under insurance law and Social Security Law



6. Insurance Contracts



Insurance Contract

Hong Kong

- ◆ Misleading statements etc. and false information; offences
- ◆ Insurable interest
- ◆ Juvenile policy

China Insurance Law

- ◆ same
- ◆ same
- ◆ under 16/18
- refund



Insurance Interest

Hong Kong

- ◆ The time when interest is required
- ◆ Effect of a policy without interest
- ◆ Requirement of insurable interest overcome by subsequent assignment

PRC

- ◆ same
- ◆ same
- ◆ same



Utmost Good Faith

Hong Kong

- ◆ Fraud
- ◆ Misrepresentation
- ◆ Duty of Disclosure
(Duty of Utmost
Good Faith)
- ◆ No “2 years” rule

By Contract

PRC

- ◆ same
- ◆ same
- ◆ same
- ◆ Has “2 years” rule



Assignment

Hong Kong

- ◆ Absolute Assignment
- ◆ Collateral / mortgage
 - *a temporary transfer of some policy rights by the policy owner to a bank or other lender to provide security for a loan*
- ◆ Inform insurer, no consent required

PRC

- ◆ same
- ◆ require consent from Life Insured
- ◆ same



7. Self Regulations



Self-Regulations

Hong Kong

- ◆ Hong Kong Federation of Insurers (HKFI)
- ◆ Code of Practice for the Administration of Insurance Agents

PRC

- ◆ Not available
- ◆ Insurance Association not self regulatory



Hong Kong

- ◆ Insurance Agents
Registration
Board (IARB)
- ◆ Insurance Claims
Complaints
Bureau (ICCB)

PRC

- ◆ CIRC
- ◆ Not Available



CHRISTINE M. KOO & IP, SOLICITORS & NOTARIES

Address : Room 601, 6/F, Tower 1, Admiralty Centre,
18 Harcourt Road, Hong Kong

Tel No. : (852) 2524 8996

Fax No. : (852) 2523 6922

E-mail : christinekoo@cmkoo.com.hk

Web-site : <http://www.cmkoo.com>



Q & A Session

PLEASE NOTE

The law and procedure on this subject are very specialised.

This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

請注意

本題目之法律及程序十分專門。此文章只屬一般性之解釋，供你參考，而不應被依賴為關於任何特定事件之法律意見。如需法律意見，請與我所律師聯絡。

Christine M. Koo & Ip, Solicitors & Notaries LLP

顧張文菊、葉成慶律師事務所 有限法律責任合夥

Copyright Reserved 版權所有