

## [Not Your Average Assignment of Contracts: New Provisional Measures Governing Transfers of Insurance Business](#)

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By [Yuan Min](#) and Li Wenzhi King & Wood's [Insurance](#) Group

In order to regulate transfers of insurance business by insurance companies, the China Insurance Regulatory Committee (CIRC) recently issued the *Provisional Measures on Administration of Insurance Business Transfers by Insurance Companies* (the "**Measures**"), which will become effective on October 1, 2011.

"Transfers of insurance business" refers to when an insurance company decides to transfer all or part of its insurance business to another insurance company through mutual consultation and negotiation. This transfer mechanism is a way for insurance companies to voluntarily exit from the insurance market. The Measures do not apply to the following circumstances: (i) an insurance company that engages in the life insurance business and is transferring its insurance business as a result of being closed down or being declared bankrupt; (ii) an insurance company that fails to meet the prescribed solvency requirements and is forced by the regulatory committee to transfer its insurance business; and (iii) an insurance company in the reinsurance business.

In essence, the Measures mainly contain the following: (i) a requirement that all transfers of insurance business must be approved by the CIRC; (ii) the basic principles governing insurance business transfers, including the principles of equality, intent, transparency, fairness, and the protection of the legal rights of policyholders and insureds; (iii) the rules governing how the transferee and the transferor shall assume the obligations and liabilities in the process of transferring the insurance business, and the conditions and qualification requirements for the transferee; and (iv) a requirement that the transferor obtain the consent of policyholders and insureds to the proposed transfer.

The issuance of the Measures carries great significance for the regulation of insurance companies exiting from the insurance market, the better utilization and integration of resources in the insurance market, and the improved protection of the legal rights of policyholders, insureds, and beneficiaries.