



瑞士文斐律师事务所北京代表处

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## **The Administrative Measures of Representative Offices of Foreign Insurance Institutions (No. 5 [2006])**

外国保险机构驻华代表机构管理办法(2006年第5号)

Issued By	<b>China Insurance Regulatory Commission</b>
Subject	<b>Representative Offices of Foreign Insurance Institutions</b>
Promulgated on	<b>July 12<sup>th</sup> 2006</b>
Effective from	<b>September 1<sup>st</sup> 2006</b>
Source	<b><a href="http://www.circ.gov.cn">www.circ.gov.cn</a></b>

The Administrative Measures of Representative Offices of Foreign Insurance Institutions (No. 5 [2006]) (the “Measures”) have been promulgated by the China Insurance Regulatory Commission (“CIRC”) in order to strengthen the administration of representative offices of foreign insurance institutions, and for further opening up Chinese insurance market. The Measures shall replace the previous Measures for the Administration of Foreign Insurance Institutions’ Representative Offices in China from 2004.

The terms “foreign insurance institutions” mean the insurance companies, reinsurance companies, insurance agencies, insurance associations, and other insurance organizations that registered outside of China. The terms “representative offices” refer to the representative offices established by foreign insurance institutions in China which engage in such non-business activities as contact and market investigation.

A foreign insurance institution that applies for establishing a representative office must meet the following conditions:

1. It must be in good business condition.
2. It must have obtained professional experience in the insurance market for more than 20 years, or it has come into existence for more than 20 years.
3. It has no records of major violation of laws or rules within 3 years prior to the application date.
4. It complies with other prudential conditions prescribed by the CIRC.

The following documents are required for applying for establishing a representative office:

1. a formal application form;
2. an application letter to the chairman of the CIRC, signed by the board chairman or general manager;
3. a photocopy of the business license or lawful certificate for opening the business or registration certificate, which was checked and issued by the relevant competent authority of the country or region of the locality;

4. the articles of association of the office, a name list of the board members, and a name list of the management staff or main partners;
5. the annual reports of the 3 years prior to the application date;
6. the opinions issued by the relevant competent authority of the country or region of the locality on the applicant's establishment of the representative office inside the territory of China, or a recommendation letter issued by the industrial association of the involved industry. The opinions or recommendation letter shall state the records of penalties imposed upon the applicant during the 3 years prior to their/its issuance;
7. a power of attorney to the chief representative signed by the board chairman or general manager;
8. relevant certificates of the chief representative to be appointed;
9. the feasibility report of establishing the representative office;
10. resumes of the chief representative; and (11) other documents prescribed by the CIRC.

Furthermore, a maximum of 3 foreign employees in each representative office are allowed, and the chief representative must stay within China for a period of no less than 240 days per year. Any representative office established without approval by violating the present Measures shall be banned by the CIRC in accordance with the law.

### **The Opinions Regarding Standardizing the Access and Administration of Foreign Funds of Real Estate Market (No. 171 [2006])**

关于规范房地产市场外资准入和管理的意见(建住房[2006]171号)

Issued by	<b>Ministry of Construction, Ministry of Commerce; the National Development and Reform Commission, People's Bank of China; the State Administration for Industry and Commerce and State Administration of Foreign Exchange</b>
Subject	<b>Foreign Funds of Real Estate Market</b>
Promulgated on	<b>July 11<sup>th</sup> 2006</b>
Effective from	<b>July 11<sup>th</sup> 2006</b>
Source	<b><a href="http://www.cin.gov.cn">www.cin.gov.cn</a></b>

The Opinions regarding Standardizing the Access and Administration of Foreign Funds of Real Estate Market (No. 171 [2006]) have been promulgated in order to standardize foreign investments in the real estate market. Foreign employees of representative offices or branches of foreign institutions who have been working or studying in China for more than

1 year may buy commercial houses for self-use in line with their actual needs. They cannot buy any commercial house for other reasons.

The registered capital of foreign-funded real estate companies shall not be less than 50% of total investment where such total investment exceeds 10 million US dollars. Where foreign investors acquire shares or ownership of Chinese real estate companies via merger and acquisition or by other means, the employees and bank debts of the merged or acquired Chinese real estate companies shall be reasonably cleared. The foreign investors with bad records shall not be allowed to engage in the aforesaid activities.

The foreign investors which have not obtained the approvals and business licenses cannot engage in the business activities of the real estate industry. Where the registered capital is not fully paid, where the certificate of land use right is not obtained or where the capital used to engage in the operation of real estate project is less than 35% of the total investment, the foreign investors shall not be allowed to get a loan from both home and abroad, and shall not be approved for undertaking foreign exchange and conversion.

## **Royalty Fees Will Be Imposed On Using Music Video by Karaoke Since August**

卡拉OK使用音乐电视收费8月初启动

Issued by **China Audio & Video Association**  
Source [www.chinaav.org](http://www.chinaav.org)

According to CCTV, the main state-owned TV station of China, its reporters were told by the National Copyright Administration (“NCA”) that, since August 2006, karaoke operators will be imposed royalty fees for using music video, . The proposal of RMB 10 Yuan per karaoke room was made by the China Audio & Video Association. According to CCTV, the Ministry of Culture is to start a national administrative system of karaoke, with the purpose of tackling piracy of music recordings protected by intellectual property (IP) rights.

“It is expected that the charging of royalty fees will be started from very beginning of this August”, the media reported. There are also claims that the karaoke operators will be sued if they reject to pay the royalty fees. According to the NCA, such karaoke operators will be fined, and their license may be even cancelled.

Currently, pirate music video is commonly used by karaoke operators. Consumers make payments to the karaoke operators, but the copyright owners, publishers and related persons are not paid by the karaoke operators.

According to the media, there are more than 100,000 Karaoke operators in China, and the total profit of this industry is estimated to reach billions of RMB, according to industry insiders and experts.

This movement may be a good start for a further protection of IP rights. However, some experts also point out that the administrative system introduced by the Ministry of Culture is in conflict with this royalty fee program and that related procedures and rules are not accomplished yet. The idea is good, but there is still a long way to go to turn the good plan into reality.

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