

CHINA LEGAL BRIEFING* 200

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- 1 Administrative Regulations for Insurance Company (Amendment Draft)**
- 2 Administration Measures for the Food Circulation License**
- 3 Measures for the Food Safety Supervision and Management of Food Circulation Sector**

Administrative Regulations for Insurance Company (Amendment Draft) 保险公司管理规定（征求意见稿）

Issued By **The China Insurance Regulatory Company (Amendment Draft)**
Subject **Insurance Company**
Promulgated on **July 28th, 2009**
Source **<http://www.circ.gov.cn>**

On 28 July 2009, the China Insurance Regulatory Commission (hereinafter: CIRC) released the Administrative Regulations for Insurance Company (Amendment Draft) (hereinafter: “Amendment Draft”), to solicit public opinions until August 14th, 2009. This Amendment Draft is formulated about five months after the amending of the Insurance Law of People’s Republic of China (hereinafter: “Insurance Law”), which shall enter into force on 1st October, 2009. In this context most provisions of this Amendment Draft are amended in accordance with the Insurance Law. This Amendment Draft shall also apply to the conditions and procedures for establishing a foreign wholly-owned insurance company and the branches of Sino-foreign joint venture insurance companies, and if there is any confliction between this Amendment Draft and other insurance law or regulations, this Amendment Draft shall prevail.

The Amendment Draft sets up strict requirements on the entry into the insurance market, and makes it much more difficult to establish an insurance company, as well as the establishment of an insurance company’s branch. Furthermore, the Amendment Draft provides detailed requirements concerning the conditions and the procedures for setting up insurance companies and their branches.

The Amendment Draft stipulates that the main investor who prepares to establish an insurance company shall fulfill the following requirements: possessing sustainable profitability, having excellent reputation, having no serious violation of laws or regulations, and possessing net asset of at least 200 million. When the documents for establishment being submitted to authorities, the main shareholders statements for having no condition of serious violations of law and regulations in the latest three years are required, and the statement of the affiliate relationship among the investors is also necessary.

The Amendment Draft increases more requirements concerning the submitted documents for preparation of establishment of insurance companies as well as for the incorporation application of insurance companies. Most of the added requirements are aims to regulate

the self-administration of insurance companies, stabilize the order of the insurance market and control the potential internal risk of insurance companies.

The Amendment Draft cancels the provision that the insurance company can apply for a 3-months postponement after the expiry of the preparation period for the establishment. According to the new Amendment Draft, if the insurance company can't be established within 1 year after the approval by CIRC, the Approval Certificate issued by CIRC shall become automatically void.

The Amendment Draft cancels the regulation that a single shareholder cannot hold more than 20% of the total shares of an insurance company as well as the stipulation that all foreign shareholders cannot hold more than 25% of the total shares of the Insurance Company.

From these major amendments, it can be considered that the authorities are more focusing on the internal system of risk control and loosen the restrictions of the sources of fund of insurance companies.

Administration Measures for the Food Circulation License

食品流通许可证管理办法

Issued By	The State Administration of Industry and Commerce
Subject	Administration Food Safety
Promulgated on	May 30th, 2009
Source	http://www.saic.gov.cn

On 30th July, the State Administrative of Industry and Commerce (hereinafter: "SAIC") issued the Administrative Measures for the Food Circulation License (hereinafter: "Measures"). The Food Safety Law has set a principle which restricts the requirements for food operator to engage in food business. The Measures are formulated to implement this principle. According to the Measures, food operators are not allowed to engage in food businesses without obtaining the Food Circulation License and Business License.

The Measures generally stipulate that food operators, which are involved in the food circulation, shall obtain the Food Circulation License. There are two exceptions: the food manufacturers with a Food Production License selling their own food at their producing sites, as well as the food and beverage service providers with food and beverage license

selling their self-processed food in their food and beverage outlets are not required to obtain the Food Circulation License. For food operators, which have obtained the Food Healthy License before, the Food Healthy License shall remain in force within its validity. However, if there is any issue which shall lead to the alteration of Food Healthy License, or if the Food Healthy License expires, food operators should apply for obtaining a Food Circulation License. If the branch of a food company engages in the food business, each branch of the food company shall obtain a Food Circulation License.

Food operators must fulfill qualified requirements for obtaining the Food Circulation License. These requirements include: having business premises, storage facilities equipments and an environment appropriate to the type and quantity of provided food, having professionals, managers of food safety as well as regulations and rules to safeguard the food safety, having rational layout and equipment as well as technical processes.

According to the Measures, AIC shall be responsible for the approval and issuance of the Food Circulation License. The food operators shall submit the following documents to AIC in order to obtain the Food Circulation License:

- Application letter for Food Circulation License;
- Pre-approval letter of the company name;
- Using Certificate of the business premises which shall be appropriate to the food business;
- The Identification Certificate of the manager in charge of food safety;
- The list of equipment and device, which is appropriate to food business;
- Documents of layout and equipment, which is appropriate to food business;
- Regulations and rules for food safety;
- Other documents required.

The Food Circulation License has a validity of three years. If the applicant obtained the Food Circulation License by devious means, the applicant shall be prohibited to apply Food Circulation License again within 3 years. If the Food Circulation License was revoked, the chief principal of the said food company shall be prohibited to engage in food business for 5 years.

Measures for the Food Safety Supervision and Management of Food Circulation Sector

流通环节食品安全监督管理办法

Issued By **The State Administration of Industry and Commerce**
Subject **Administration Food Safety**
Promulgated on **July 30th, 2009**
Source **<http://www.saic.gov.cn>**

On 30th July, the State Administration of Industry and Commerce (hereinafter: “SAIC”) issued the Measures for the Food Safety Supervision and Management in Food Circulation Sector (hereinafter: “Measures”). The Measures clarifies the responsibilities of Authorities as well as the food operators. The Measures also clearly stipulates a series of administrative and management system to safeguard the food safety.

The Measures definitely stipulate that it is prohibited for food operators to sell 13 kinds of food. These include unqualified material for food, food in which harmful material exceeds a certain level, food which has no label, and food beyond expiry date, etc.

According to the Measures, employers, who engage in the food business, should accept physical examination on an annual basis, and only after they obtain the Healthy Certificate, they are allowed to engage in the food business. If food operators hire an employee, who didn’t get the Healthy Certificate; it shall be fined with not more than RMB 10,000. Besides, food operators should establish and carry out a Healthy File System for its employees.

The Measures also require the food operators to strengthen self-check and examination of food safety. When a food operator purchases food from another food provider, it is necessary for the food operator to check the relevant Certificate, Business License, and the Qualified Certificate of the food provider. Furthermore, food operators are required to establish a Record System of Checking and Verifying for Food Purchasing. In addition, food operators should regularly check and exam their food in storage as well as in sale.

In order to safeguard the legal rights of consumers, the Measures also stipulates that if individuals or other organizations make deceptive advertisement for food operators, and if such deceptive advertisement impair the legal rights of consumers, the said individuals and organizations shall assume joint liability with the food operators.

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