

# 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](mailto:christinekoo@cmkoo.com.hk)

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4. Regulatory Authority
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# 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)



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## **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)



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# 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



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# 4. Regulatory Authority

# Regulatory Authority

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## 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

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

## China Insurance Law

- ◆ same
- ◆ same
- ◆ same
- ◆ same
- ◆ same
- ◆ same



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# 5. Insurance Products

# Insurance Products

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## Hong Kong

- ◆ Design own products

## PRC

- ◆ All products subject to CIRC approval before launch

# Main Types of Insurance Products

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## Hong Kong

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

## PRC

- ◆ same
- ◆ same
- ◆ same
- ◆ same

# Insurance Product – Retirement Schemes

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## Hong Kong

- ◆ Occupational Retirement Schemes
- ◆ Mandatory Provident Fund Schemes

## PRC

- ◆ under insurance law and Social Security Law





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# 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

## PRC

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



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# 7. Self Regulations

# Self-Regulations

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## 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**

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***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>



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# *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**

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