

INSURANCE AND REINSURANCE IN BRAZIL CHALLENGES AND OPPORTUNITIES

The (re)insurance sector faces many challenges of managing exposures in the current COVID-19 scenario, but many opportunities may emerge in the near future

New Wording for Brazilian Insurance Policies

SUSEP (Brazilian insurance authority) put forward for public review and comments the draft of a rule that, if approved, will divide the market into large risks and consumer risks. If sanctioned, the wording of large risks policies may be agreed between the parties with less interference from the regulator and consumer policies will be simplified. For instance, the mandatory competition clause will no longer be necessary and policies will not need to be structured as today in special and particular conditions, *i.e.*, they will be allowed to have unique conditions.

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BY THE INSURED

The rule aims to create more transparency and a better understanding of the wording of the policies by the insured, granting more autonomy for insurers. As a result, it is expected that insurance products will be more aligned with reinsurance ones and with insurance products sold abroad.

Introduction of ILS (Insurance-Linked Securities)

The Brazilian regulator also introduced another draft rule for public discussion allowing the creation of a locally domiciled reinsurer, whose exclusive purpose is to accept risks through reinsurance or retrocession agreements, but with the financing of its obligations arranged through the is-



suance of debt securities linked to the underlying re/insurance risks, similar to entities operating in other jurisdictions.

Additionally, other new draft rule will allow that insurers may raise funds through subordinated debt with a diversified source of financing. Instead of raising equity, the insurer will be able to raise debt both in the local and international markets.

Reinsurance Cessions

A recent regulatory change established new limits for reinsurance cessions benefiting occasional reinsurers (the reinsurer without an office or a bank account in Brazil), the new rule also authorizes the admitted reinsurer (the reinsurer with a local office) to convert its registration to occasional reinsurer, provided that the necessary requirements are fulfilled.

Insurtechs and Open Insurance

Recently, the Brazilian insurance regulator started a selection process for insurtechs to operate for a trial period, with more flexible authorization requirements than insurers. Also, a normative

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path has been set for the arrival of Open Insurance in Brazil.

Purchasing of Insurance Abroad

The possibility of purchasing insurance abroad is restricted to certain situations, including lack of coverage of risks in Brazil, which is proven by

the denial of coverage by Brazilian insurers operating in the insurance sector in which the risk falls. The previous regulation required at least 10 formal coverage denials and the new regulation reduced this number to 5. The new rule may increase the purchase of insurance abroad by Brazilian companies and residents.

Agribusiness

Agribusiness insurance continues to grow and credit insurance plays a key role in the current context.

Recently, the government granted several financial incentives to rural producers for contracting rural insurance. In addition, parametric insurance products related to this activity may increase.



Sanitation Law

A new sanitation law was recently approved and large infrastructure projects are expected to be developed as a result of such new framework. Large projects impact several lines of insurance, such as guarantee, property, engineering, liability, etc. Reinsurers will be an important player to cover higher risks.

Market Consolidation

Consolidation has always been an alternative in recessive economies, and bargain-hunting almost becomes a sport. Faced with so many challenges, the insurance industry has for some years been moving towards consolidation, but the current pandemic crisis seems to be accelerating the process.

Main Insurance Lines in Evidence

D&O (Directors and Officers Liability Insurance), credit, cyber and life in-

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surances always have been important instruments for protection, but in the current COVID-19 scenario, they became more essential than ever. Clinical trials insurance and professional liability insurance (errors and omissions) are also in evidence and tend to grow.

General Data Protection Act (LGPD)

The Brazilian equivalent to GDPR will enter into effect soon and insurers and reinsurers must comply with the new regulation. Companies are working hard to adapt their policies, contracts and systems to protect insured data. Consumers agencies may apply large penalties in case of violation of the new rules.

Claims

Judicial disputes involving business interruption coverage have not yet reached Brazil. Claims derived from policies that are part of a global insurance program have been facing their share of attention and the outcome of litigation abroad may influence litigation in Brazil.

Moreover, we are likely to see more litigation matters involving agreements for distribution of products entered into between insurers and retailers. These agreements have been negotiating by the parties and might become litigious. ■

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