Market access and trade barriers faced by European insurers and reinsurers in foreign jurisdictions (June 2022)

ARGENTINA

European (re)insurers continue to face significant barriers when placing business in Argentina. While a number of positive measures related to the reopening of the Argentinian market were introduced in 2017, the scope of these provisions does not foresee the full opening of the market at the end of the planned implementation timeline.

Restrictions on cross-border reinsurers

In November 2016, the Argentinian regulator – the Superintendency of Insurance of the Nation (SSN) – published new requirements[1], complemented by further amendments in May 2017[2]. These reforms foresee the partial reopening of the market for registered foreign reinsurers (referred to by the SSN as "admitted reinsurers"), which are now allowed to cover:

- Compulsory cessions: The percentage of ceded premiums per contract that may be ceded by Argentinian insurers to admitted reinsurers has been gradually increased in recent years and currently stands at 75%.
- Facultative and catastrophe risks above $35m: These risks can be ceded by local insurers and reinsured by admitted reinsurers directly, in their entirety.
- An annually increasing portion of all other risks: Local reinsurers may not transfer more than 75% of aggregate premiums in a fiscal year to subsidiaries or companies belonging to the same financial conglomerate located abroad.

Certain requirements must be fulfilled to become a local reinsurer. Specifically:

- Capital requirements: To become a local reinsurer, foreign reinsurers must set up an Argentinian subsidiary or branch with capital equaling the greater of a) ARS 350m (approx. €7.7m)[3], b) 16% of premiums retained or c) 40% of gross written premiums[4]. Admitted reinsurers are also required to submit proof of credit rating.
- Intra-group restrictions: Local reinsurers cannot transfer abroad more than 75% of premiums to subsidiaries or companies belonging to the same financial conglomerate.

Insurance Europe considers that these requirements should be abolished, in order to take into account the specific characteristics of the global (re)insurance market, which relies on the diversification of risks by geography, line of business etc.

Compulsory investment constraints

While the scope and extent of compulsory investments have been partially addressed, foreign (re)insurers continue to face investment constraints that negatively affect their ability to make investment decisions in line with their business model and appropriate risk management.

The 2012–2020 Argentinian Insurance Plan established the levels of insurers' investment portfolios that need to be directed to medium and long-term infrastructure projects. An Eligibility Committee (formed of the Ministries of Economy and Industry and the SSN) identified the sectors and/or products in which these investments should be placed.

1 SSN Resolution 40163/2016, 11 November 2016
2 SSN Resolution 40422/2017, 5 May 2017
3 However, SSN Resolutions 40163/2016 (11 November 2016) and 40308/2017 (17 February 2017) foresee implementation of the capital requirement for entities authorised on or before 31 July 2016 in stages. This means, from 31 March 2018 the capital requirement will be ARS 250m, and from 31 December 2019 the full capital requirement will apply.
4 SSN Resolution 39957/2016, 29 July 2016

In January 2016, the new government eliminated most of the requirements for insurers to invest in certain government- approved investments. After the decision, which eliminated minimum investment levels of 18% for general (non-life) insurers, 14% for life insurers and 8% for workers' compensation insurers, the current regulations oblige both local and foreign insurers to invest at least 5% of their portfolios in SMEs.

Foreign exchange restrictions on reinsurance premium payments from Argentina

In September 2019, new foreign exchange regulations were implemented. Following that, the Central Bank of Argentina (BCRA) established that prior authorisation from the BCRA would be required for payments for services performed by related parties abroad. In addition, the BCRA clarified that prior authorisation would not be required for insurance premiums payments to foreign reinsurance companies to the extent that the payments are made to a foreign beneficiary admitted by SSN.

In October 2019, the SSN published a new resolution[5] identifying the foreign beneficiaries that will not be subject to foreign exchange restrictions on reinsurance premium payments from Argentina. It established that:

- Admitted reinsurers and collection agents appointed by those companies to collect payments derived from reinsurance premiums on their behalf (intermediaries) will both qualify as "foreign beneficiaries."
- Therefore, reinsurance premium payments from Argentina to reinsurance companies and their intermediaries will not be subject to prior authorization from the BCRA.

The resolution also creates a special registry in which intermediaries must enroll to receive reinsurance premium payments and establishes the documents that the admitted reinsurance companies appointing those intermediaries must file with SSN.

While the absence of prior authorisation requirements for insurance premium payments to admitted reinsurers and intermediaries is welcomed, **Insurance Europe takes the view that the restrictions on reinsurance premium payments to non-admitted reinsurance companies should be lifted**.

Recommendations and preferred outcomes

In the spirit of trade liberalisation, Insurance Europe supports the removal of all market access barriers and discriminatory requirements applied to foreign (re)insurers in order to fully open the Argentinian (re)insurance market. Restrictions on cross-border reinsurance, including on investment and the foreign exchange of reinsurance premium payments should be eliminated.

5 SSN Resolution 927/2019, 16 October 2019