Market access challenges: China

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In a recent amendment of the "Administrative Regulations of the People's Republic of China on Foreign-invested Insurance Companies" some discriminatory requirements for the establishment of branches of foreign insurers have been abolished. However, a broad range of discriminatory requirements and restrictions, as well as a lack of transparency, still prevail for reinsurers, despite the stated intention of the China Banking & Insurance Regulatory Commission (CBIRC) to open its banking and insurance to greater foreign participation.

Existing legislation and recent developments

Reinsurance is permitted on a cross-border basis. However, Chinese insurers face credit risk charges on all cessions, based on the solvency ratios and collateralised assets of the reinsurer. The charges applied to foreign (offshore) reinsurers are greater than those applied to domestic reinsurers.

For business conducted on a cross-border basis, discriminatory requirements are in place, as foreign reinsurers need to collateralise their reinsurance assets in order to avoid a credit risk charge of 58.8% for all cessions. Only by collateralising can foreign reinsurers lower the credit risk charge they face to 8.7%, assuming they meet the additional solvency requirement.

There are restrictions to the amount of business ceded to reinsurers. With the exception of aviation, aerospace, nuclear, oil and credit reinsurance contracts, the amount of proportional business ceded to any one reinsurer for any one risk should not exceed 80% of the sum insured or liability limit of the direct insurance policy. The amount of each facultative cession to an affiliated company of the cedant should not exceed 20% of the sum insured or the limit of liability of the direct insurance policy.

The Cyber Security Law that came into force on 1 June 2017 poses major challenges to corporations using cloud services with offshore storage. Legal checks and risk assessment by law firms are essential to cope with the myriad legal and IT guidelines, exposure drafts and technicalities from many different but inter-related Chinese government/semi-governmental agencies.

Insurers and reinsurers are required to calculate solvency in accordance with standards prescribed under China's Risk Oriented Solvency System (C-ROSS). Pursuant to C-ROSS, the CBIRC assigns each (re)insurer an Integrated Risk Rating of "A" to "D" every quarter, based on an evaluation of the company's core solvency ratio, comprehensive solvency ratio and various other non-capitalised risk factors.

Recommendations and preferred outcomes

There are signs that the Chinese authorities intend to facilitate foreign participation in the local banking and insurance sector. The RAB believes there is momentum to advocate the removal of all discriminatory requirements on foreign reinsurers from appropriately regulated jurisdictions such as the EU.