Market access and trade barriers faced by European insurers and reinsurers in foreign jurisdictions (March 2019)

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. In light of the ongoing negotiations of the EU's free trade agreement with the Mercosur countries, which include Argentina, these concerns should be addressed now by the European authorities.

Restrictions on cross-border reinsurers

In November 2016, the 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 ("admitted" reinsurers), who are now allowed to cover:

- Retrocession business Local reinsurers are permitted to retrocede their business to admitted reinsurers. Local insurers whose active reinsurance business constitutes up to 10% of their annual premiums are permitted to retrocede this business only to local reinsurers (in practice, very few insurance companies write reinsurance business).
- 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[3] Local insurers are currently able to place up to 60% of their ceded premiums per contract directly with admitted reinsurers. This threshold will be increased in a further step, raising the limit by an additional 15% (to 75%), from 1 July 2019.

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

- Capital requirement: To become a local reinsurer, foreign reinsurers must set up an Argentinian subsidiary or branch with capital equalling the greater of a) ARS 350m (approx. $22.8m)[4], b) 16% of premium retained or c) 40% of gross written premium[5].
- Intra-group restriction: Local reinsurers cannot transfer abroad more than 75% of premiums to subsidiaries or companies belonging to the same financial conglomerate.

Compulsory investments

The scope and extent of compulsory investments have been partially addressed over the past year, 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 establishes 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) identifies the sectors and/or products in which these investments should be placed.

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 them to invest at least 5% of their portfolios in SMEs.

1 SSN Resolution 40163/2016, 11 November 2016
2 SSN Resolution 40422/2017, 5 May 2017
3 ie individual facultative and catastrophe risks below $35m and all non-catastrophe treaty risk
4 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.
5 SSN Resolution 39957/2016, 29 July 2016

For additional information, please contact António de Araújo Costa, policy advisor, international affairs & reinsurance (AraujoCosta@insuranceeurope.eu, tel: +32 2 894 30 31) or Matti Salakari, policy advisor, public affairs (salakari@insuranceeurope.eu, +32 2 894 30 64).

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