



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

# BRAZIL



*Insurance Europe welcomes the progress made regarding recent modifications to the reinsurance and retrocession limits applicable to cessions to occasional reinsurers in Brazil. However, more ambition is needed to support the ability of European (re)insurers to place business in Brazil on a competitive, non-discriminatory basis*

### Restrictions on the reinsurance and retrocession limits applicable to cessions to occasional reinsurers

Positive measures have been taken with 2019 legislation<sup>1</sup> removing restrictions on the reinsurance and retrocession limits applicable to cessions to occasional reinsurers:

- Local insurance companies can now cede to occasional reinsurers up to 95% of the premiums transferred to reinsurers, calculated based on all transactions carried out in a given calendar year (the previous limit was 10%).
- Local reinsurers can also now cede in retrocession to occasional reinsurers up to 95% of the retroceded premium volume in relation to the risks they have underwritten, calculated based on all transactions carried out in a given calendar year (the previous limit was 50%).

In addition, local (re)insurance regulators are allowed to issue specific regulations authorising insurance companies to cede to occasional reinsurers more than the above-mentioned limit, in relation to certain lines of business or type of insurance. The Brazilian government is reviewing the possibility of also lifting the existing preferential offer system to local reinsurers.

In November 2021, the National Council of Private Insurance (CNSP) adopted a resolution regarding the operation of supervised and foreign reinsurers and brokers, which entered into force on 3 January 2022. It aims to simplify the rules and procedures related to the registration and licensing of Brazilian insurers, capitalisation entities, local and foreign reinsurers, as well as reinsurance brokers.

### Minimum insurance retentions by local cedants

Local (re)insurers are not allowed to cede more than 50% of the premiums received each calendar year<sup>2</sup>, which restricts the amount of business ceded to reinsurers. This results in high local exposure in the case of, for example, a natural catastrophe. Several classes of business are explicitly exempt from this requirement and are not considered when the minimum retention of 50% is calculated per calendar year. These are:

- For local insurers only
  - property risks (named risks and operational risks)
  - aviation hull
  - facultative aviation liability
  - energy insurance risks
- For local insurers and reinsurers
  - surety bonds
  - export credit insurance
  - rural insurance (ie agricultural risks)
  - domestic credit insurance

<sup>1</sup> Decree No. 10.167, dated 10 December 2019, amending Complementary Law No.126, January 2007

<sup>2</sup> Article 16 of Brazilian Council of Private Insurance (Conselho Nacional de Seguros Privados, CNSP) Resolution 168

## Right of first refusal

Cedants are required to cede or offer preferentially at least 40% of their reinsurance cessions to local reinsurers<sup>3</sup>. To satisfy the preferential offer requirement, cedants must engage in a formally regulated consultation process with the local market, offering at least 40% of each reinsurance risk on the same terms and conditions as to admitted or occasional reinsurers. The CNSP issued a 2017 resolution further clarifying that employing unfair practices to fulfil the preferential offer requirement may be punished and, in such circumstances, the reinsurance contract may be considered void.

In March 2021, the government discussed the possible merger of admitted and occasional reinsurer categories with entities becoming automatically licensed under the new category of “registered reinsurer”. The Brazilian government is also reviewing the possibility of lifting the existing preferential offer system to local reinsurers. It is understood that the requirement will be gradually reduced to zero over the next years.

These developments, if implemented, are positive.

## Recommendations and preferred outcomes

Insurance Europe supports close regulatory exchange between the EU and Brazil and takes the view that all discriminatory requirements applied to foreign (re)insurers should be removed, in the spirit of trade liberalisation.

Insurance Europe is the European insurance and reinsurance federation. Through its 36 member bodies — the national insurance associations — it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe’s economic growth and development. European insurers pay out over €1 000bn annually — or €2.8bn a day — in claims, directly employ more than 920 000 people and invest over €10.6trn in the economy.

<sup>3</sup> Article 11 of Complementary Law No.126, January 2007