ADVISER

GLOBAL INSURANCE REGULATORY AND PREMIUM TAX UPDATE

The following insurance regulations and premium-related tax news could affect the insurance arrangements of a multinational group.

ARGENTINA – REINSURANCE FRAMEWORK

The Argentine Insurance Supervisory Authority (Superintendencia de Seguros de la Nación (SSN)) published Resolution 40422/2017 which came into effect on 1 July 2017.
Specifically, this new resolution:

1. Increases the portion of risks that local insurers will be able to cede to admitted reinsurers in the medium term. The resolution increases the portion of risks that local insurers can place directly with admitted reinsurers, increasing from 10% to 50% the volume of business that local insurers can place directly with admitted reinsurers under reinsurance contracts incepting from 1 July 2017. This threshold will be progressively increased with a two-stage increment, raising the limit by an additional 10% on 1 July 2018 (to 60%) and by an additional 15% on 1 July 2019 (to 75%).

2. Extends the scope of risks which local insurers can cede in their entirety to admitted reinsurers. From 1 July 2017, individual risks of facultative reinsurance and catastrophe reinsurance over USD35 million may be placed directly and entirely with admitted reinsurers.

3. Increases the amount of business permitted to be placed via intra-group retrocessions. Local reinsurers may now cede up to 75% of their aggregate premiums in any given fiscal year to admitted reinsurers within the same corporate group.

4. Permits the retrocession of group life and group burial insurance. The resolution lifts the requirement to reinsure group life and group burial insurance with local reinsurers, allowing these risks to be placed in the international market.

BRAZIL – DIRECTORS AND OFFICERS INSURANCE

Brazil's Superintendence of Private Insurance (SUSEP) published Circular 553 on 24 May 2017 issuing new guidelines for directors and officers (D&O) liability insurance.

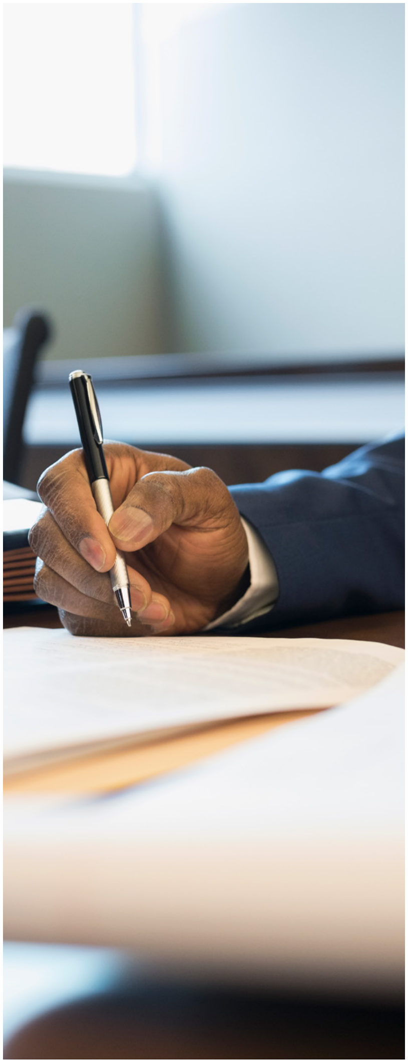
Insurance companies have a deadline of 180 days for product approval under these new rules, meaning that insurance policies must be renewed in compliance with Circular 553 from 20 November 2017 onwards. Prior to 20 November 2017, policies may be renewed under the current conditions; policies currently in effect will remain unaltered. This circular establishes several concepts that are important for regulating the D&O market, with new guidelines for certain types of coverage, such as:

FINES AND PENALTIES:

At the moment, D&O insurance covers only defence costs and appeal bonds when fines are imposed on insureds for their management acts. The new regulation offers the possibility of including unlimited coverage for fines as well as penalties imposed under civil and administrative law.

ENVIRONMENTAL DAMAGES:

The new regulation specifically states that environmental risks must be covered by environmental liability insurance, although insurance companies will continue to confirm the possibility of inclusion through extending the coverage.



CANADA – SASKATCHEWAN PROVINCIAL SALES TAX (PST)

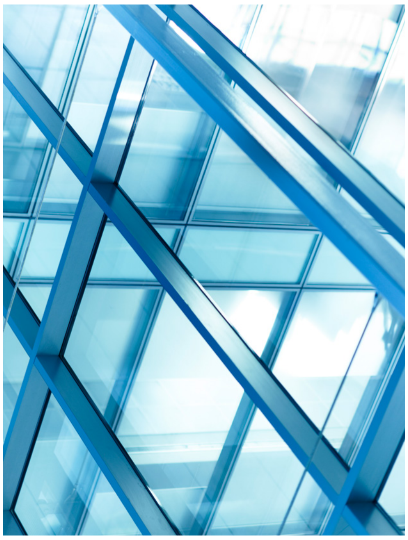
With effect from 1 August 2017, all policies incepting on or after this date will be subject to 6% provincial sales tax on premiums relating to risks located in this province. When a taxable insurance contract is purchased from an insurance company that is not licensed to collect the PST, the insured must self-assess and remit the tax directly to the Revenue Division. Companies are required to self-assess the PST and report it on their respective PST return. PST is payable at the time of purchase of insurance.

GHANA – REINSURANCE RESTRICTIONS

The Ghana National Insurance Commission (NIC) has issued new reinsurance guidelines that all insurers must adhere to with effect from 1 July 2017 otherwise they could face penalties.

In summary, the guidelines state the following:

1. An insurer shall not transact direct business with a foreign intermediary. Such transactions should be through a local intermediary.
2. An insurer shall ensure that before reinsuring any business overseas, available local capacity (treaty and facultative) is exhausted.
3. Risks located in Ghana must be carved out of the global programme and placed locally using local policy terms and rating. After exhaustion of local capacity and the NIC's approval, the reinsurance may be placed with the insured's preferred global reinsurer. Such local policies should have the difference in conditions/difference in limits clause to protect the international client where there is a limitation in scope of cover on the local policy wording.



4. All transfer of premiums outside the country must be approved by the NIC in advance. The insurer is required to complete a prescribed form providing full details of the insurance and reinsurance arrangements.
5. No overseas reinsurance placement should be made in respect of motor, workmen's compensation, general accident, personal accident, goods-in-transit, life insurance, fidelity guarantee, and professional indemnity. Where there is not enough local capacity for these classes of risks, the NIC's approval must be sought before recourse to overseas insurance.

INDIA – GOODS AND SERVICES TAX (GST)

With effect from 1 July 2017, non-life insurance premiums paid to local Indian resident insurers will be subject to GST at the rate of 18%. This new tax replaces the 15% Service Tax.

- Tax on all insurance policies issued in India will increase to 18% from the current tax of 15%.
- Tax on all fees remitted locally by an insured in India will increase to 18% from the current tax of 15%.

NEW ZEALAND – FIRE AND EMERGENCY SERVICES LEVY (FSL)

According to the Fire and Emergency New Zealand Act 2017 and the Fire and Emergency New Zealand (Levy Rates and Information Requirements in Transitional Period) Regulations 2017, with effect from 1 July 2017 every local insurance company, with which any property is insured against fire under any contract of fire insurance made in New Zealand, must pay a levy at a rate of 10.6 (increased from 7.6) cents per annum for every $100 of the amount for which the property is insured for the period of the contract of fire insurance. The new rate will apply to all policies incepting on or after 1 July 2017.

FSL applies to buildings, contents/plant, stock, and other property (that is not excluded property for the purposes of FSL) insured against the peril of fire howsoever caused, including policies insuring property from damage by non-fire perils where subsequent damage by fire is insured.

Whilst the local insurer is responsible for payment of FSL for any policy placed by a local broker, the insured is responsible for payment of FSL for any non-admitted policy. The FSL must be paid by the 15th day of the second month following the start of the policy. Late payment of the FSL will attract interest and potentially penalties - financial and criminal.

TANZANIA – REINSURANCE RESTRICTIONS

The Tanzania Insurance Regulatory Authority (TIRA) issued a circular letter on 6 June 2017 stating that it is aware that the local insurance regulations are not being adhered to. Consequently, it has designed various specific forms that must be completed and submitted to TIRA for fronting of risks and payment of premiums to non-resident insurers. It is now mandatory for local insurance companies seeking to place insurance business abroad on grounds of lack of local capacity to complete and submit appropriate forms to TIRA in advance (not less than 30 days prior to date of inception).

Additionally, appropriate forms must be completed and submitted to TIRA in advance when seeking an approval to remit reinsurance premiums outside the country.

These new requirements came into effect from 1 July 2017.

CONTACT

If you have any questions about insurance regulations and premium-related tax issues, please contact:

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