

The main challenges for the reinsurance market

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The extended reinsurance monopoly, characteristic of a phase through which Brazil went, left marks which have not yet been completely overcome. The old system meant that the insurance industry acted according to the will and willingness of the single state reinsurer, who curbed creativity in the industry while also having a strong influence on direct insurance, which remained stagnant when compared to developed countries. Insurance products remained standardised and inert for decades, without any evolution, a stagnation that did not reflect the desires of a consumer society, nor the significant changes in law, as the 1990 Consumer Protection Code and the 2002 Civil Code clearly exemplify. Only now some new products begin to emerge, albeit still in an incipient manner. Even the most innovative insurers suffer resistance from the regulatory authority, whose structure is sustained on the foundations of a closed market. The partially anachronistic Decree-Law 73/66

assigns roles to Susep, such as the determination of standardised conditions for insurance coverage (art. 36, "c"), which no longer fit in with the 21st century open market of current times. Therefore, it is necessary to rethink and modify it urgently. The opening of reinsurance is a process and it needs to be followed and complemented in all forms.

In behavioural terms, there is no doubt that in the five years after its opening in 2008, many procedures had to be modified. Reinsurance, particularly for insurers who operate with large risks, has a strategic importance now, which was meaningless in the previous egalitarian and monopolistic regime. Practically all insurers were multiline operators, indicating why reinsurance was of no importance to them. This becomes evident in the way that current insurers pursue their respective focus of activity. Some of them, even those large and traditional insurers in the country, decided to operate only on mass insurance, of

easy commercialisation and with a reduced range of values at risk. That way, they do not necessarily depend on reinsurance, while investment capital remains at lower levels. Instead of diving into the "new market" and specialising in large risks, with the corresponding support of operations through consistent reinsurance programs, they preferred to retreat.

In certain cases, the Brazilian insurance market will have much to lose due to this business posture, since large and traditional players will not compete in the commercialisation of insurance for large risks. In contrast, foreign insurers, who were a mere representative force before in the country, can actually achieve a new position in the national ranking because they are professionals in their places of origin and have the support from reinsurance, as well as already being in operation in other markets more mature than that in Brazil. They also have a more accurate idea of their roles and responsibilities within the open and



direct insurance system, including the retention of risks, and at levels compatible with the activity. Thus, they are not mere redistributors of risk to reinsurers. It is the duty of an insurer to retain a significant portion of risk. They can and should bring cutting-edge technology to the domestic market, which is still the large gap perceived in this transitional moment. They have behaved according to the rules of a closed and monopolised market for decades and now they should emerge, bringing real innovation and international expertise. If Decree-Law 73/66 needs to be modified, and it certainly does, this point should be included among the "new features" of the regulatory authority in the 21st century: "To require and monitor the necessary transfer of technology to the domestic insurance market, as demanded from foreign insurers operating in Brazil, and according to optimal standards currently in place in their

home countries." From this cogent and transformative paradigm as far as the Brazilian reality is concerned, the other players will also be required to operate according to the same original international practices: reinsurers and brokers. A true "virtuous circle", which the State can and should foster immediately, on behalf of all insurance consumers in the country, replacing the roles and practices already corroded by time and with no added value in this new moment for Brazil and its insurance market. It is no longer the regulatory body's responsibility to develop the direct market, creating insurance products, for example. That role and interest are restricted to the private insurance market itself, which must take control of the development process required by Brazilian society. That national-developmental view of the state is something of the past, and should be detached from the industry. The European market has experi-

enced a process of transformation and modernisation from the 1960s and now it is the turn of the Brazilian market.

Presently, national insurance and reinsurance markets are undergoing some difficulties. The main reason lies in the lack of technology for risk underwriting in the Brazilian market. The performance of the sector is based solely on "commercial practices", lacking adequate grounds for pricing risk. That procedure is not sustainable and requires urgent change. The focus, which today is exclusively on commercialisation and not on the product, should be promptly redirected. The level of commissions (direct insurance brokerage) is extremely high compared to other intermediate services in Brazil, being excessive even when it is measured against the foreign insurance market. Such a scenario is untenable. Consumers pay a high price for insurance and do not even get the best product. The administrative process of claims settlements for medium and large risks drives not only the high costs in the country to the point of exorbitance, but also the great number of conflicts – including those judicial ones, as well as scant technological expertise which prevails in the activity. As is the case worldwide, with the open reinsurance market, the management of claims becomes once again the responsibility of insurers, instead of the reinsurers. The monopolist reinsurer had absolute and atypical control of the activity. Insurers need to quickly overcome this transitional stage, by specialising in the activity in a

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fitting manner. The control of the claims management is an exclusive role of the insurer, as opposed to the reinsurer, or the loss adjuster, who would only be responsible for determining the causes and establishing the appraisal of damages, without going into the merits of whether the claim ought or ought not to be covered.

Due to lack of knowledge and techniques for insurance underwriting, not to mention the low quality and poor legal precision in the wording of policies, claims are invariably managed outside the comfort zone, demanding the input of countless and costly experts, consultants and lawyers. Insurers interfere little, if at all, in the respective cases, despite having full obligation towards their policyholders. Such a scenario, together with claims management and coupled with low technicality during the underwriting process, demonstrates the current under-developed state of the Brazilian insurance market, and this requires urgent changes. Solutions exist and they are perfectly possible to be materialised. All of them converge towards "focused specialisation" and extreme

"professionalism" of the activity. The time for "amateurism" is over.

It is not advisable to expect a surge of growth based on mega events like the World Cup or the Olympic Games, which represent little in terms of risks and new business, and the insurance/reinsurance market, as a whole, already knew that. Only the politicians made proselytising speeches on the subject. Infrastructure works did not even get past the planning stage. Only the naive believed the ready-made speeches. The reality is certainly different.

So, in conclusion, the main challenges for the reinsurance market in my view are as follows:

- To wait for the much needed professionalization of the national insurance market, not yet accomplished since the reinsurance opening in 2008;
- To overcome the lack of specialisation of the insurance market in terms of underwriting and claims handling;
- To amend the lack of technical and legal compliance of the wording in insurance coverages in all lines of business; a source of many conflicts when claims

occur. The fact that the regulatory authority sets standard models does not overcome this shortcoming, given that official texts are also poor with regards to best technical practice. Besides, in the 21st century within an open and globalised market regime, it is no longer the role of the State to offer such services through the regulatory body. However, it is the responsibility of the State to permanently pursue the economic health of the system – supervising the technical provisions and reserves of claims on behalf of all insurance consumers in the country. Insurance products must be designed exclusively by insurers, as is the case in developed countries. The legal framework already provides the principles and objective limits for the activity;

- To neutralise the unpreparedness of certain brokers in the market, who focus on "good reinsurance deals" by means of "bad risks", and then later seek the support of insurers for the operation, whose procedure is in the opposite direction of reinsurance, entirely distorting its technique and essence. Such conduct can no longer exist,

requiring complete neutralisation, since it undermines the whole scenario and the maturing process of the reinsurance opening in the country. Such anti-technical and even unprofessional attitude does not add anything positive to the direct insurance market and should be promptly rejected. This is not the mission, in fact, of a professional broker in an emerging market;

- To conduct a review of the intervention by the State within the sector. The anachronistic behaviour of the regulatory authority in the direct market, especially when it standardises insurance wordings for reasons no longer consistent with the current scenario, greatly contributes to its current level of underdevelopment when compared to other countries. Decree-Law 73/66 needs to be

revised, or even revoked, in the pursuit of new important paradigms for the regulatory authority within the system;

- The market reserve of 40% for local reinsurers, as established in Complementary Law (CL) and revocable only through the enactment of another CL, is no longer justified today given that reinsurance is typically an international pooling activity, not requiring the construction of a "domestic reinsurance market". This nationalist view is misleading and does not reflect the global reality;
- To resize the costs and the final price of direct insurance in Brazil. Current costs are extremely high when compared with leading nations, particularly regarding personal insurance policies. Overlapping charges on direct insurance operations (commis-

sioning of insurance brokers paid on unrealistic bases, expenditures in claims management etc.) are responsible, in large part, for this reality and price levels, which limits the correct spread amongst potential insurance consumers in the country. Insurance has not yet been democratised in Brazil and the main reason lies precisely in such costs, which are unreasonably high; and

- The limitation of intergroup retrocession at 20%, which causes major harm to foreign companies in relation to national ones, whose differentiated treatment contravenes the fundamental principle of equality established in the Brazilian Federal Constitution. This limitation needs to be reviewed and revoked on behalf of the progress of the insurance and reinsurance market in the country, in order to place Brazil at the same level as other developed markets.

It is the responsibility of the private insurance market to establish its procedural agenda and to urgently pay heed to all those points of conflict which keep it behind other countries. ●

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