

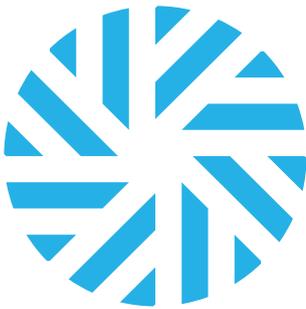
SPOTLIGHT ON:

EMERGING MARKETS

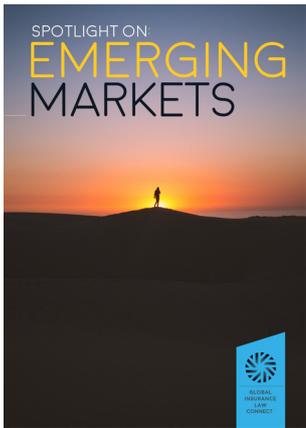


GLOBAL
INSURANCE
LAW
CONNECT

EXECUTIVE SUMMARY



GLOBAL INSURANCE
LAW CONNECT



This document does not present a complete or comprehensive statement of the law, nor does it constitute legal advice. It is intended only to highlight issues that may be of interest to customers of Global Insurance Law Connect. Specialist legal advice should always be sought in any particular case.

Welcome to our Spotlight on Emerging Markets.

As growth within the mature insurance markets stagnates, so carriers and brokers are looking for opportunities for growth in the emerging economies. When you consider that these countries include global economic giants China and India, you can see how important the 'emerging' players are for insurers.

These markets are growing rapidly, which make them exciting places to work and invest, but sometimes also higher risk. Each emerging market has its own complexities, its own legal structures, and often a distinct approach by its own government, which must be understood when considering growth prospects and possibilities for entering the market.

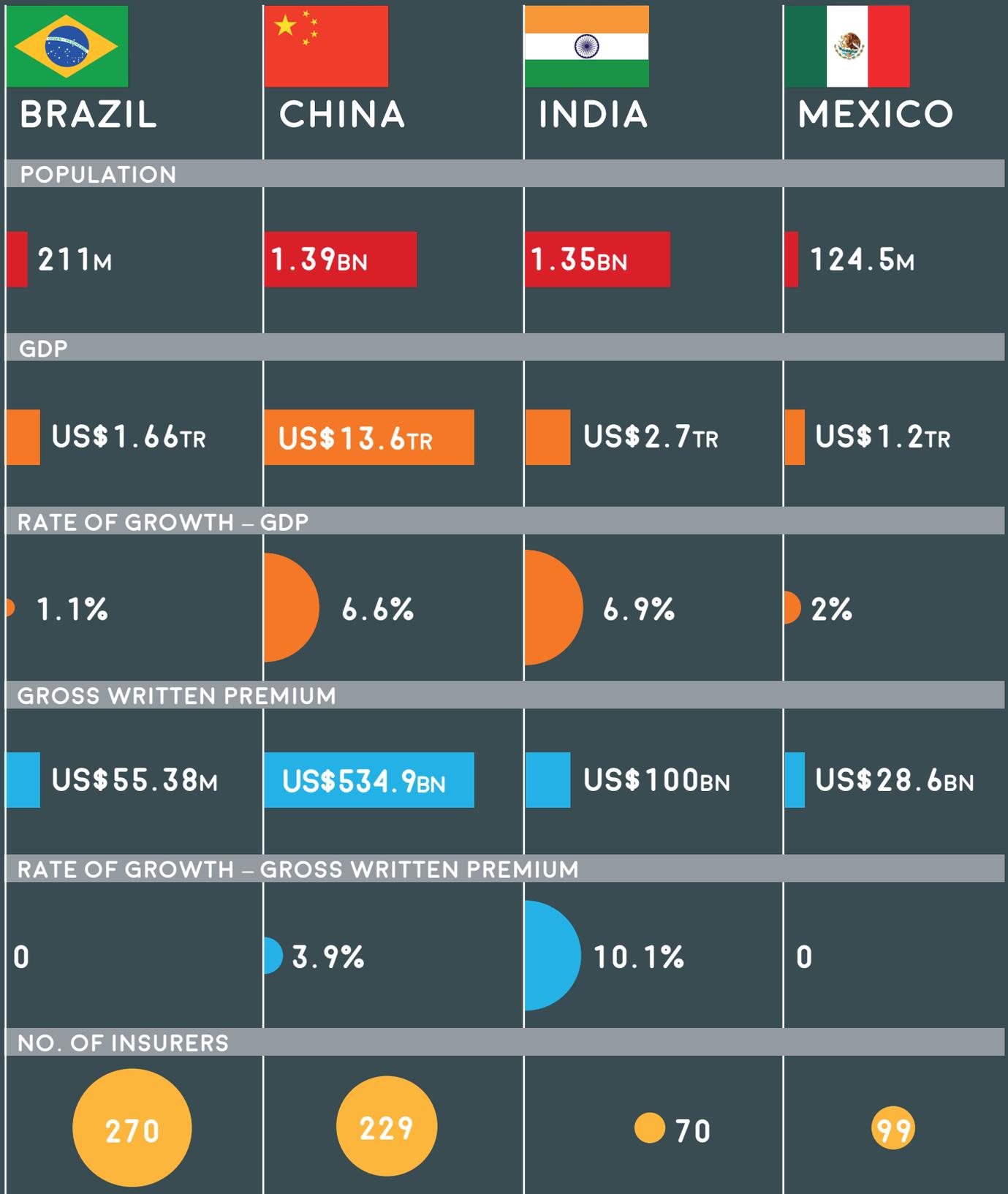
Common themes across the globe include the challenges of regulatory bodies that lack the experience of a mature market; over-heavy or protectionist interventions by governments, and conversely growth opportunities that demand a real focus on the possibilities of digital-only insurance, especially in consumer markets. It all makes for an area where knowledge really is king.

One of the strengths of Global Insurance Law Connect is our wide membership among specialist firms in emerging (as well as established) insurance markets. As these firms have unique and well-recognised expertise in insurance law in their own markets, we concluded that clients would find a spotlight on the local nuances of emerging markets helpful - a 'what's happening now' guide for insurers who have an interest in this area.

In addition, the comparison of different markets allows readers to understand common and particular themes, and to see how different countries have tackled different growth, regulatory and economic issues. We hope that you find our latest publication both interesting and useful.

Jim Sherwood,
Chairman, Global Insurance Law Connect

MARKETS SUMMARY





Number of insurers

270

- 123 Insurers
- 16 Local Reinsurers
- 75 Occasional Reinsurers
- 42 Admitted Reinsurers
- 14 Open Pension Entities



Country population

211M



GDP (2017) (R\$)

R\$6.8TR



Rate of growth in 2016

+1.1%

SANTOS BEVILAQUA ADVOGADOS

BRAZIL

CHANGES IN THE MARKET

A STRONG LOCAL MARKET, INITIALLY BASED ON A STATE-OWNED MONOPOLISTIC REINSURER, WHICH NOW HAS REPRESENTATION FROM THE MOST IMPORTANT GLOBAL PLAYERS IN INSURANCE AND REINSURANCE.



Gross written premium (R\$)

226.5M



GROWING LINES OF BUSINESS – SURETY, ENGINEERING AND RISK LIFE PRODUCTS.

THE EXTENDED ECONOMIC CRISIS HAS AFFECTED LARGER RISK LINES, SUCH AS SURETY, ENGINEERING AND OTHERS. CAR INSURANCE AND ACCUMULATION LIFE AND PENSION PRODUCTS ARE CURRENTLY THE MOST IMPORTANT LINES FOR INSURERS.



LOCAL LIFE COMPANIES INCLUDE BRADESCO, BANCO DO BRASIL AND SANTANDER.



IN P&C, PLAYERS INCLUDE AXA, CHUBB, MAPFRE, PORTO SEGURO AND ZURICH.



IRB IS STILL THE LARGEST REINSURER, BUT COMPETITION INCLUDES AUSTRAL (BRAZILIAN GROUP), LLOYD'S, MUNICH RE, SWISS RE AND OTHERS.

WHAT IS DRIVING THE MARKET?

REGULATORY CHANGES

In June of this year, SUSEP announced that it will focus its work on improving regulations in order to generate more competition and growth in the insurance sector. Following a period of regulatory stability, there have been recent developments.

The focus of the new SUSEP administration will also include a strong focus on improved service for insurance consumers, job generation in the insurance sector, and the creation of more insurtechs. SUSEP has already begun to evaluate measures to ease access to the insurance market for insurtechs in order to boost competition and improve insurance penetration.

THE NEW GOVERNMENT HAS AMBITIOUS PLANS AND INTENDS TO CREATE INCENTIVES FOR INSURTECHS.

In July 2019, SUSEP issued an update on the embargoes and sanctions clauses for Brazilian insurance contracts which has caused a major stir among Brazilian insurers. The initial trigger was a specific case involving the Cuban beneficiary of a travel insurance policy.

AS A RESULT OF THE RULING, WHICH IS APPLICABLE TO ALL INSURANCE POLICIES ISSUED IN BRAZIL, BRAZILIAN INSURERS MAY BE HELD WIDELY RESPONSIBLE FOR SANCTIONS VIOLATIONS.

Notwithstanding market efforts to get the regulator to truly understand the issue, the regulator SUSEP's July Circular Letter revealed a real lack of knowledge of the consequences of non-adoption of, and disrespect for, the embargoes and sanctions clause in insurance contracts. Instead SUSEP made a grave error in choosing to understand that sanctions imposed by countries on other countries are contrary to Brazilian law, and the consequences for insurers are serious.

REGULATORY ACTION IS BEING DRIVEN BY CYBERSECURITY AND DATA PRIVACY CONCERNS.

In July 2018 a data protection bill was approved, which is due to come into force in 2020. Experience in other jurisdictions would suggest that that this will increase the demand for cyber insurance products. The government announced its intention to create a single regulator to oversee the country's insurance and pension industries, by merging SUSEP and Previc, which is the regulator for complementary pension funds.

ASSESSING THE CLAIMS ENVIRONMENT

BRAZIL HAS SEEN ITS FAIR SHARE OF ENVIRONMENTAL DISASTERS.

The most important recent claim has been the collapse of Vale SA's Corrego do Feijao mine in the town of Brumadinho. Earlier this summer, the Brazilian mining giant Vale agreed to pay out \$107m in collective moral damages and \$186,000 to each of the close relatives of nearly 300 people killed when a tailings dam collapsed at the iron ore mine.

This followed a landmark, \$5 billion damages claim against BHP for being "woefully negligent" in the run-up to a 2015 collapse of the Fundao tailings dam, which stored mining waste, which led to Brazil's worst environmental disaster. The claim, which will be largest group action ever to be heard in the UK, was served on Vale on behalf of 235,000 Brazilian individuals and organizations, including municipal governments, utility companies, indigenous tribes and the Catholic Church.

OPENING AND CLOSING DOORS

After the opening of the reinsurance market in 2007, based on the first right of refusal of the local reinsurers over the admitted and occasional (foreign) reinsurers, we saw several changes in the regulation to protect the local market and IRB, the state owned and former monopoly reinsurer.

Since 2017, protectionist regulations have been relaxed and we are back to the first refusal right system, where the requirements is that local reinsurers be offered 40% of each treaty or facultative risk, without restrictions to intragroup operations.

IT IS STILL A PROTECTED MARKET, AND THE COMPLEXITY OF THE REGULATION IS STILL A BARRIER TO ENTRY.

However, because of the recent changes, and the more liberal position of the new Federal Government, it is not expected that any more protectionist measures will be introduced.

The Government is planning to sell its IRB shares, which will be one more element to increase the likelihood of more open regulatory measures.

MARKET CONSOLIDATION

In the last few years, Brazil – along with the rest of the global re/insurance market, has seen consolidation in the market. The most important local phenomena has been the increase in the market share of global groups in the property and casualty market, making the Brazilian property and casualty market more like the global market in terms of players and products.



Number of insurers

229



Country population

1.39 BN



GDP (2017) (US\$)

13.6 TR



Rate of growth

+6.6%

BUREN CHINA

CHANGES IN THE MARKET

SINCE THE 1980S, WITH THE REFORM AND OPENING-UP OF THE INSURANCE INDUSTRY THIS HAS BECOME THE SECOND LARGEST INSURANCE MARKET IN THE WORLD. WITH AN INTEGRATED SYSTEM OF LEGISLATION, SUPERVISORY AUTHORITIES AND ASSOCIATIONS.



Gross written premium (US\$)

534.9 BN



Rate of growth in 2018

+3.9%



CHINA HAS TWO OF THE WORLD'S FIVE LARGEST INSURERS. PING AN HAS A MARKET CAPITALIZATION OF \$243.57 BILLION WHILE CHINA LIFE INSURANCE IS THE BIGGEST PUBLIC LIFE INSURANCE COMPANY IN TERMS OF MARKET CAPITALIZATION IN THE WORLD WITH A MARKET CAP OF \$118.95 BILLION.



LIFE INSURANCE IS THE MOST ACTIVE CLASS OF BUSINESS.



RESTRICTIONS ON FOREIGN INVESTORS IN LIFE INSURANCE WERE RELAXED IN THE 2019 SPECIAL ADMINISTRATIVE MEASURES FOR FOREIGN INVESTMENT.

WHAT IS DRIVING THE MARKET?

REGULATORY CHANGES

- The China Insurance Regulatory Commission and China Banking Regulatory Commission merged to form the China Banking and Insurance Regulatory Commission (CBIRC) so now new licenses for insurance companies are issued by the CBIRC's Property Insurance Supervision and Personal Insurance Supervision departments.
- The *Measures for the Administration of the Equities of Insurance Companies* was issued in February 2018, which set the qualifications and required capital for existing and potential insurance company shareholders.
- The *Measures for the Administration of Independent Directors of Insurance Institutions* was issued in July 2018, to help them perform better and function more effectively.
- Detailed *Rules for the Implementation of the Regulation on the Administration of Foreign-Funded Insurance Companies* was issued in February 2018.
- *Measures for the Administration of the Utilization of Insurance Funds* was issued in January 2018.

SUPPLY CHAIN EXPOSED BY CLAIMS

THE TIANJIN PORT EXPLOSION ON AUGUST 12 2015 WAS THE THIRD-LARGEST MAN-MADE INSURED LOSS IN HISTORY.

Insurance claims were made on a wide range of different policies: property damage, business disruption, personal accident, life, commercial medical, group accidental injury, car insurance, accident and health insurance, liability insurance, cargo insurance, warehousing, fire, safety production liability. This event has led insurers to re-assess supply chain risks in China.

THE TIANJIN PORT EXPLOSION IS ESTIMATED AT +/- USD 3.0 BILLION.

OPPORTUNITIES FOR NEW ENTRANTS

China has two of the world's five largest insurers. Ping An has a market capitalization of \$243.57 billion while China Life Insurance is the biggest public life insurance company in terms of market capitalization in the world with a market cap of \$118.95 billion.

With no new no insurance licenses being issued at present, the only path into the industry for foreign investors is to purchase shares.

Since the start of 2019, the CBIRC has approved seven such transactions, including two involving foreign capital.

ALL CAPS ON FOREIGN INVESTMENT WILL BE REMOVED BY 2020.

In April, 2018 Chinese President Xi Jinping pledged that foreign capital would be allowed further access into the financial markets. All caps on foreign investment will be removed by 2020. The date was originally 2021 but Premier Li Keqiang announced on 2 July that this would happen one year ahead of schedule.

This means that China could have wholly foreign-owned life insurance companies as early as next year. The requirement to foreign companies to establish a representative office for at least two years before the incorporation of a local insurance company has been cancelled.

FOREIGN INVESTMENT ENVIRONMENT

ALTHOUGH THE INSURANCE MARKET IS BOOMING IN CHINA, FOREIGN-FUNDED INSURANCE COMPANIES STILL FACE SOME OBSTACLES.

Primarily that, according to the 2019 Negative List, the foreign stake in a life insurance company shall not exceed 51% until 2021. For joint venture insurance companies, China is different from other markets with respect to the incorporation of a branch office, the rectification of the senior managers and the proportion of each stake held, so that the strategic decisions of a joint venture company are always affected by shareholders, which will impact their efficiency and execution.

There is also a cultural difference in that foreign-funded insurance companies tend to pay more attention to the quality of service while China's insurance companies and customers attach more importance to price.

LOOKING TO THE FUTURE

The consequence of global climate change and the frequency of different natural disasters is becoming an increasing concern for international insurers/reinsurers, who while being more aware, are less well prepared to find solutions through new products.

There are a number of different routes they can pursue including: co-operating with scientists to establish ways to understand the damages from such systematic risks, using big data and the internet for the analysis and assessment of risks and further developing agricultural insurance especially for markets more dependent on agricultural resources.



Number of insurers

70

24 Life insurers
34 General insurers (including health)
12 Reinsurers (including Indian reinsurers and Lloyd's)



Country population

1.35BN



GDP (2017) (US\$)

2.7TR



Rate of growth

+6.9%

KHAITAN LEGAL ASSOCIATES

INDIA

CHANGES IN THE MARKET

INDIA WAS EXPOSED TO INTERNATIONAL INSURANCE FIRMS AND PRACTICES DURING BRITISH RULE. IN 1999, THE INSURANCE REGULATOR IRDAI WAS ESTABLISHED. REFORMS WERE INTRODUCED IN 2000 WITH PRIVATISATION AND THE OPENING OF THE MARKET TO FOREIGN INVESTORS. IN 2015 THERE WERE FURTHER REFORMS. INCREASING FOREIGN PARTICIPATION AND A SECOND WAVE OF INSURANCE REFORMS IS NOW ON THE CARDS.



Gross written premium (US\$)

100BN



Rate of growth

+10.1%



MOST LEADING GLOBAL PLAYERS ARE PRESENT THROUGH JOINT VENTURES – INCLUDING AXA, ALLIANZ, GENERALI, LOMBARD, PRUDENTIAL AND AVIVA. AS WELL AS SWISS RE, MUNICH RE, AGCS SE, SCOR RE AND LLOYD'S.



INDIA REMAINS AN UNDER-INSURED NATION, WITH ONLY 3.69% OF GDP INSURED.

APART FROM MOTOR INSURANCE, AGRICULTURE (CROP), HEALTH AND PROPERTY ARE MOST ACTIVE.

WHAT IS DRIVING THE MARKET?

NEW REGULATION

The IRDAI (insurance regulator) has recently notified a regulatory sandbox framework to facilitate technological innovation in insurance. The objective is to balance the twin objectives of orderly growth and innovation in the insurance industry and the protection of policyholders.

Alternative Risk Transfer (ART) has been given express regulatory recognition/sanction for the first time, allaying apprehensions as to its legality, validity and enforceability and the IRDAI is keen to allow proposals on ART to help troubled direct insurers.

ALTERNATIVE RISK TRANSFER (ART) HAS BEEN GIVEN EXPRESS REGULATORY RECOGNITION/SANCTION FOR THE FIRST TIME.

The Reserve Bank of India, which is the exchange control regulator of India, recently liberalised the existing external commercial borrowings framework. Indian insurers are now eligible to raise debt by issuing redeemable preference shares and debentures from their foreign equity shareholders.

LIABILITY CLAIMS ON THE RISE

With a diversified topography and vast land mass, India can be geographically divided into several agro-climatic zones. Natural catastrophes/disasters in the form of floods and cyclones are very common so insurers are always prepared to face related claims from flood and cyclone every year.

Liability related claims especially in area of regulatory/statutory breaches by senior management (D&O, PI and others) have been on a rise, especially in the light of failure of several leading financial services companies and high level of non-performing assets of public sector banks and news reports of financial frauds.

DEVELOPMENTS TO LOOK OUT FOR

The regulator is currently weighing the option of shifting the calculation for the capital that insurance companies need to hold from a solvency-dominated regime to one that is risk-based.

Insurance companies are now embracing insurtech disruptors instead of trying to compete with them and are developing enterprise innovation models. IRDAI is granting access to start-ups and aggregators and is also enabling the innovation sandbox experiment.

INSURANCE COMPANIES ARE NOW EMBRACING INSURTECH DISRUPTORS INSTEAD OF TRYING TO COMPETE WITH THEM.

Much of the development in the market is focussed on mechanisms such as intelligent virtual assistants / chatbots, artificial intelligence and wearable devices. This means that insurers are often partnering with specialists in other sectors in order to create new channels to market. For example, relationships are being developed with a range of non-traditional parties in the insurance distribution space – these include these include retail aggregators (Amazon, Flipkart, etc.), telecommunication providers (Airtel, Vodafone, Jio, etc.), smart home devices manufacturers (Amazon, Xiaomi, etc.) , AR/VR device providers, telematics device manufacturers, sharing economy providers (Uber, Ola, OYO, etc.), transportation providers (IRCTC, bus providers), and messaging apps (WhatsApp, Facebook messenger, etc.).

INSURERS ARE OFTEN PARTNERING WITH SPECIALISTS IN OTHER SECTORS IN ORDER TO CREATE NEW CHANNELS TO MARKET.

MARKET LIBERALISATION

The Indian government relaxed the Foreign Direct Investment (FDI) limits for insurance intermediaries to 100% and statutory notifications have been released effecting this change. New limits for insurance companies will also be announced after consultation with stakeholders. It is likely that the FDI ceiling will be revised up from the current level of 49%.

IT IS LIKELY THAT THE FDI CEILING WILL BE REVISED UP FROM THE CURRENT LEVEL OF 49%.

Several initiatives are in the pipeline to develop the International Financial Services Centre – Gujarat International Finance Tec-City. Relaxation in applicable taxes, eligibility conditions are underway. Formation of a new dedicated financial services regulator is also proposed to facilitate single-window clearances.

BARRIERS TO ENTRY

There are foreign investment caps on direct carriers (life, non-life, health and reinsurance) and the ownership and control of direct carriers must be with Indian parties. Indian cedants have to offer reinsurance placement to Indian reinsurers or the branch offices of foreign reinsurers in India before placing business with cross-border reinsurers.

AREAS OF DEVELOPMENT

Cyber insurance is developing as a result of the growth in digitisation and increase in exposure. The global market for cyber insurance is expected to increase rapidly, with a CAGR of 27% between 2017 and 2024. The market in India is still in its nascent stage, with the number of policies sold in 2018 totalling around 350, with IT businesses and financial services as early adopters. M&A insurance is also gaining traction as investments (inward, outward and within the domestic market) are increasing but also the associated risks, as economic conditions become more volatile and financial risk exposure increases.



OCAMPO 1890 MEXICO

Number of insurers

99

March 2019

CHANGES IN THE MARKET

IN 1879, WITH THE PROMULGATION OF THE FIRST CIVIL CODE OF MEXICO, INSURANCE CONTRACTS WERE LEGISLATED FOR THE VERY FIRST TIME, WITH THE EMPHASIS ON THE INSURANCE AND ACTUARIAL TECHNIQUE AS THE BASIS OF ALL INSURANCE CONTRACTS.



Country population

124.5M



Gross written premium (US\$)

28.6BN

LIABILITY IN MEXICO IS CURRENTLY A HOT TOPIC, AS THE SUPREME COURT HAS RULED TO INCORPORATE PUNITIVE DAMAGES AS PART OF A "FAIR INDEMNIFICATION".



GDP (2017) (US\$)

1.2TR



Rate of growth in 2018

+2%



THE KEY PLAYERS ARE:

- AXA
- ALLIANZ
- GRUPO NACIONAL
- PROVINCIAL
- CHUBB
- INBURSA
- MAPFRE
- METLIFE
- SEGUROS BANORTE
- ZURICH

SURETY KEY PLAYERS:

- ATLAS
- CHUBB
- ASERTA
- SOFIMEX



MARKET COMPOSITION (END 2017)

- LIFE 39.8%
- MOTOR 21.3%
- PROPERTY WITHOUT MOTOR 18.7%
- HEALTH & CASUALTY 15.8%
- PENSION 4.4%

WHAT IS DRIVING THE MARKET?

NEW MARKETING CHANNELS

The largest sector of the Mexican market is currently life insurance. At the end of the first quarter of 2019, life insurance was responsible for 43.9% of total sales of insurance products. However, there is a well-recognised opportunity for growth in other categories of insurance in the country.

SOME 81 MILLION PEOPLE IN MEXICO USE MOBILE PHONES. AND 89% OF THESE USE THE INTERNET ON THEIR PHONES.

Some 81 million people in Mexico use mobile phones, and 89% of these use the internet on their phones. This fundamental

fact is driving insurers to shift their focus from the traditional Mexican intermediated model, where most insurance is provided by individual brokers, bancassurance agents or authorized non-insurance agents.

As a result the regulator is keen to receive new proposals from insurers to develop **NEW MARKETING CHANNELS. SUCH AS THE CREATION OF INSURTECH-BASED PRODUCTS.**

Fintech law is now operating in Mexico, and the regulator has created an active sandbox environment. Already there are some initiatives being tested in the sandbox which use mobile channels to widen insurance distribution along with other shifts towards insurtech.

STRUCTURAL AND POLITICAL CHANGE

The Mexican market is also undergoing other structural changes. President Andres Manuel Lopez Obrador has decided that state employees will no longer be provided with private insurance benefits (life, health and property), and they will only have access to social security services. This could result in significant further uptake of privately purchased insurance products.

STATE EMPLOYEES WILL NO LONGER BE PROVIDED WITH PRIVATE INSURANCE BENEFITS (LIFE, HEALTH AND PROPERTY).

President Lopez Obrador's new administration, which came into power in 2018, and constituted a significant shift in political approach for Mexico, has also announced new policies to deliver financial services to the poorest people in Mexico. This further means that insurers are being asked to provide new products to satisfy this market segment.

THERE IS AN EXCITING FEEL TO SOME DEVELOPMENTS IN MEXICAN INSURANCE.

FOREIGN INVESTMENT

MEXICO REMAINS AN OPEN ENVIRONMENT FOR FOREIGN INVESTMENT.

It has no restrictions on foreign investors wishing to develop insurance carriers, as long as the home country and Mexico have a trade agreement. Registration for foreign insurers or reinsurers to write reinsurance in Mexico, is open to all of those carriers willing to do so.

IN THE MAIN, FOREIGN COMPANIES ARE ENTERING THE MARKET AS NEW CARRIERS. CURRENTLY THERE ARE JAPANESE, CHILEAN AND AMERICAN INSURERS WAITING FOR THEIR AUTHORIZATION TO START WRITING INSURANCE IN MEXICO.

The last important merger was the Chubb Ace deal that took place three years ago and currently, while there are foreign investors that have filed to enter the Mexican market as new insurance carriers, there are no international mergers or acquisitions on the radar.

WEARABLE TECHNOLOGIES

INSURERS ARE CURRENTLY EXPLORING THE USE OF WEARABLE OR HUMAN TECHNOLOGY TO VALIDATE POLICY PURCHASES.

Insurers are currently exploring the use of wearable or human technology to validate policy purchases. Some insurers are innovating and updating their systems to sell life insurance through electronic means, allowing a human signature to be replaced with biometric identifications, such as the fingerprint or a retinal scan. This has previously only been used in property insurance markets, but the idea is now spreading across other categories of insurance, and will help to reduce fraud, as well as cut costs for the customer.

SURETY AND BONDS

Finally, a significant legal change for insurance provision was passed into law in 2013 and came into force in 2015. This was **THE CREATION OF A LEGAL FRAMEWORK TO ALLOW SURETY INSURANCE TO BE SOLD BY MEXICAN INSURANCE COMPANIES.**

The change has taken time. First steps were taken during 2018, when several bond companies filed to be transformed into surety insurance companies, which allowed them to issue surety and surety bonds in line with the insurance branches that they had previously had authorized. The result is that surety insurance is now an option in the Mexican market, and there are players ready to sell it. Now, the majority of insurers are waiting for the state to begin tendering processes for contracts on new construction projects, which are likely to include surety insurance as an alternative guarantee to secure contractors' obligations.

ALTHOUGH DEVELOPMENTS HAVE BEEN SLOW, IT IS EXPECTED THAT OVER TIME THE INSURANCE SECTOR, THROUGH SURETY PRODUCTS, WILL BE ABLE TO TAKE A LARGER MARKET SHARE IN GUARANTEEING PROJECTS FOR THE MEXICAN GOVERNMENT, GRADUALLY REPLACING BONDS IN THIS MARKET.

EMERGING MARKETS: CONTACTS



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Santos Bevilaqua Advogados services the insurance, reinsurance, private pension, supplementary healthcare and capitalization markets, and all the legal demands that they may entail (civil, litigation, regulatory, corporate, labor, tax and others).



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Buren Legal has been active in China since 1999 and operates the oldest Dutch law firm branch in China (established in 2004) under the name HeLan Haoda (荷兰浩达).

Buren's Shanghai office consists of a diverse team of specialists servicing multinational corporations across all sectors.



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Khaitan Legal Associates (KLA) is a full service independent Indian law firm with offices in Mumbai and London as well as correspondent offices across different cities in India. KLA prides itself in being one of the leading Indian law firms in the area of insurance law and regulation.



Ocampo 1890

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Ocampo 1890, S.C. is a boutique law firm specialized in high-profile litigation.

Proud to be the oldest law firm in Mexico, having been established in 1890 by Pedro Ocampo, Ocampo 1890, S.C. is renowned for its direct contact and personalized attention to every case.

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