

# Very Important Brazilian Regulatory Change to Foreign Reinsurers



On 12/10/19, it was published the Decree No. 10.167, that authorized:

- (i) insurance companies to cede to occasional reinsurers up to 95% of the total amount of the premiums ceded in reinsurance, based on all their operations in each calendar year;
- (ii) local reinsurers to retrocede to occasional reinsurers up to 95% of the total amount of their total emitted premiums, calculated based on all their operations in each calendar year.

The Decree No. 10.167/2019 revoked the Decree No. 6,499/2008, by which (i) insurance companies could cede to reinsurers up to 10% of the total premiums ceded in reinsurance, considering all their operations in each calendar year, and (ii) local reinsurers could retrocede to occasional reinsurers up to 50% of their total emitted premiums, considering all their operations in each calendar year.

When it comes to foreign reinsurers interested on the Brazilian market, the Decree No. 10.167/2019 brings a new perspective and increase the quantity and the value of possible reinsurance and retrocession operations, with a low cost (basically, the filing with SUSEP, the Brazilian insurance supervisor, of some information about the reinsurer and the indication of an attorney-in-fact resident in Brazil). The reinsurers already registered as occasional reinsurers are already benefited by the new rule.

From now, the registration in Brazil as an admitted reinsurer (another category of a foreign reinsurer registration) will only make sense for those reinsurers which (i) are domiciled in a tax haven (and, therefore, cannot be registered as an occasional reinsurer) or (ii) have some difficulty in presenting the rating and/or net equity required by law (admitted/\$100,000,000.00 and occasional reinsurers/\$150,000,000.00). It applies also



to reinsurers already registered as admitted reinsurers in Brazil, because they may change their status.

This is because the 5% advantage of admitted reinsurers over occasional reinsurers seems to be small compared to the costs related to (i) the minimum guarantee of US\$5,000,000.00 (or only US\$ 1,000,000.00 to life reinsurers) on an account in foreign currency to be maintained in Brazil and (ii) the mandatory maintenance of a representative office in the country (involving, for instance, internal controls, a representative and representative office, tax risks and other matters).

Finally, it is interesting to note that the percentage brought by the Decree is so high (95%) that it will be difficult to reach for local reinsurers (whose assignment

limit is calculated based on emitted premiums, not ceded, unlike what occurs with insurers). This is because the local reinsurers are obligated, as a general rule (excepted by certain business lines), to the minimum retention of 50% of their written premiums.

Other impacts may be commented on, but these seem to be the main effects of the Decree No. 10.167/2019.

Should you require any further clarification, we remain at your disposal.

Yours Sincerely,



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