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SPECIAL ISSUE

EMERGING MARKET GROWTH RISKS

[BRAZIL | CHINA]

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4. P/C insurance market hardening but outlook hazy: Hines panelists
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7. House approves changes to FSA use-it-or-lose-it rule
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BRAZIL

Brazil emerges as center for international expansion

By MARK A. HOFMANN

A Brazilian saying holds that "Brazil is the country of the future, and always will be."

That sardonic comment, which twists Austrian writer Stefan Zweig's praise for the nation as "the country of the future," may have held true once, but insurance industry observers now view it as a land of opportunity for foreign insurers.

Like China, Brazil is experiencing economic growth that is creating a growing middle class, according to observers. That creates a demand for insurance products of many kinds, personal and commercial. Added to that general economic dynamic is the fact that the country will play host to two of the world's biggest sporting events within the next four years.

The country's population is growing and was estimated to reach nearly 206 million this year.

According to the CIA, Brazil's estimated gross domestic product as measured in purchasing power equity grew 2.8% in 2011 to $2.284 trillion. The U.S. Department of Commerce ranked Brazil eighth on the list of the United States' biggest trading partners, with 2011 Brazilian exports to the United States amounting to $31.37 billion and imports from the United States totaling $42.94 billion.

The growth doesn't appear likely to slow, according to observers.

"In Brazil, huge infrastructure projects, offshore oil exploration and major new mining operations are coming online," said Stephen Fuller, vp-international external affairs for Warren, N.J.-based Chubb Corp. "These projects will generate large demand for various types of insurance and reinsurance."

"In Brazil, the country's economy is expanding across a range of industries in both manufacturing and services,"

See **BRAZIL** next page

CHINA

Rapid growth rate in China draws insurers' attention

By MARK A. HOFMANN

During the past 30 or so years, China has grown from being a relatively minor economic player globally to being the second-largest economy in the world.

And that makes it a particularly attractive market for insurers and brokers. As growth mounts in industries as varied as energy, television and spare auto parts, opportunities for the insurance industry abound, say observers.

China has the largest population in the world, estimated at 1.34 billion according to the CIA as of last June. Also according to the CIA, China had a gross domestic product of $11.3 trillion and a growth rate of 9.5% in 2011. The U.S. Department of Commerce reported that China was the third-largest market for U.S. exports, worth $10.88 billion, and the second-largest exporter of goods to the United States, with a value of $399.96 billion.

"China has relatively low labor costs and rapid growth rates," said Paul Wilkins, chairman and CEO of Marsh Greater China in Beijing. "The insurance industry and insurance broking industry are still new here."

"A study by McKinsey (& Co.) on the top 600 cities shows that by 2025, 136 new cities are expected to enter the top 600, all of them from the developing world and overwhelmingly—100 new cities—from China," said Jon Hall, executive vp of Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

"Globally, people moving out of the countryside into urban areas presents insurers with some real opportunities, in both commercial and personal lines," said Howard Mills, director and chief adviser with Deloitte L.L.P.'s insurance industry group in New York.

"I think that the real economic force in China is that China is one of the

See **CHINA** page 17

SPECIAL ISSUE

EMERGING MARKET GROWTH RISKS

Among developing economies, Brazil and China have emerged as key economic players on the global stage during recent decades.

For risk managers, brokers, insurers and reinsurers, effectively dealing with conditions in these countries can be critical to achieve success in their business.

While the countries are similar in many ways regarding their attractiveness to international businesses, the particulars of navigating their regulatory and economic waters can be quite different, particularly for brokers and insurers.

In this special issue of *Business Insurance*, we have provided some navigational tools to ply these sometimes treacherous waters. These include overviews of the two countries' insurance markets, the nature of regulation and the pitfalls it can present, and special risks that may affect all involved in the insurance transaction.

We also offer some expert commentary by outside observers about issues confronting the insurance markets in Brazil and China.

In addition, our data poster provides a snapshot of each country and its economy. It features research, gathered by official sources and refined by *Business Insurance*, about the insurance marketplace in each country: market size, major players and distribution channels. The data poster also provides an overview of each country's business climate.

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Compliance with local rules a top risk management issue

Insurance reforms create competition, limitations remain

By MARK A. HOFMANN

Making sure their programs comply with local regulations can be one of the biggest concerns for risk managers with exposures in Brazil, according to brokers.

The Brazilian economy is vibrant, and the country has a long insurance tradition, they say. While the nation's politics have sometimes been turbulent, political risk is not a huge concern in the country. But regulation, particularly regarding reinsurance, can present challenges for global risk managers.

"From a risk management standpoint, a lot of focus would be on compliance," said Elizabeth Demaret, multinational client service director with Marsh Inc. in New York. Being in compliance with Brazilian insurance regulations "brings in the complexity of the reinsurance situation."

Last year, Brazil adopted regulations that limit the degree to which non-Brazilian reinsurers can reinsure Brazilian risks. Under the regulations, which took effect March 31, 2011, 40% of reinsurance business must be placed with Brazilian reinsurers, and the rules prohibit local insurers and reinsurers from ceding more than 20% of premiums to affiliated intragroup reinsurers located abroad.

Coverage has to be placed with admitted insurers, said Ms. Demaret. "It's a complex insurance market that makes the broker's role all the much more important."

"In Brazil, you need to focus on insurance," said Rick Jensen, managing director at Willis Group Holdings P.L.C. in New York. "Insurance is the tough one because it is a challenging jurisdiction with a lot of laws that are pretty stringent and stringently enforced."

Risk managers need to know that the laws are really strict, he said. "Find out what they are," he said. "There are many, and they are detailed."

40%

Under new regulations, which took effect March 31, 2011, 40% of reinsurance business must be placed with Brazilian reinsurers, and the rules prohibit local insurers and reinsurers from ceding more than 20% of premiums to affiliated intragroup reinsurers located abroad.

Mr. Jensen said Brazil requires the purchase of many lines of cover. In addition to third-party automobile liability coverage and the local form of workers compensation required in most countries, Brazil requires additional coverages including inland transit and cargo liability, he said.

Directors and officers liability also is an issue, said Mr. Jensen.

"You have to get a local policy," he said. He stressed that having the cover in place is "a major deal" because if there's no local policy in Brazil and there's an allegation of fraud, authorities can freeze corporate assets.

But there's good news as well, said Marsh's Ms. Demaret. "There's a lot of market capacity, and it's a fairly mature insurance market," she said.

Yet regulatory demands do not translate as major political risk concerns. Roger Schwartz, senior vp in Aon Risk Solutions' political risk practice in New York, said Aon rates the country as a medium-low risk in political terms. He said there is corruption in some areas, adding that security in some of the urban areas can be a problem.

Loss control also is not a major problem in Brazil, said Willis' Mr. Jensen. He said while the culture of loss control may not be as complete as it is in some other countries, it's not dramatically different than it is in many other countries.

Finding qualified personnel in Brazil can be a problem for risk managers, said David Battman, managing director-international business development for Gallagher International in London.

"For risk managers looking to recruit within Brazil, it's quite hard to hire people because of the high demand for qualified people," he said, adding that the demand for skilled labor is high across the Brazilian economy. "One of the best places to be a young to middle-aged reinsurance broker with multiple languages is in Brazil," he said. This creates opportunities for foreign nationals, he said.

Brazil: Emerges as center for expansion

CONTINUED FROM PREVIOUS PAGE

said Mr. Fuller. "Demand for our insurance products is thus becoming as diverse as it is in Europe or the U.S."

"The Brazilian insurance market is paying special attention to two key industries—energy and construction," said Luis Maurette, CEO of Willis Latin America, "With regards to energy, Petrobras—a huge state-run organization—is involved in petroleum exploration." Construction is "prospering and creating new opportunities for insurance companies," he said, adding that agribusiness is a "massively untapped market" that has the potential to "generate significant insurance premiums."

Two international sporting events also should spur future growth and increase the demand for insurance in Brazil, according to David Snyder, vp and associate general counsel of the American Insurance Assn. in Washington.

"Brazil is a major large and rapidly growing economy in Latin America," said Mr. Snyder. "That region is clearly a market for significant opportunities for insurers. Brazil has two major infrastructure challenges in the next few years—the World Cup and the Olympics—in addition to its rapid development of its general economy. It is clearly going to be a major market in Latin America and globally."

The country is slated to host the FIFA World Cup tournament in 2014, which is almost guaranteed to be a huge event in a country that has won more World Cups—five—than any other. Two years later, Rio de Janeiro will host the summer 2016 Summer Olympics.

"Brazil is in the spotlight," said Eugenio Paschoal, CEO of Marsh Inc.'s Brazilian operations. "There are opportunities for everybody everywhere."

Like other observers, he stressed the importance of infrastructure projects and the energy market. He also noted that small and medium-size enterprises are a big market in Brazil, creating demand for insurance and professional administration, which creates opportunities for brokers.

As is the case with China, the greatest growth potential in Brazil stems from a growing middle class and a growth in large domestically headquartered corporations, "many of which will begin to expand globally," said Jon Hall, executive vp of Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

"The growth of middle classes means more disposable income for cars and homes, leading to personal lines life and nonlife insurance opportunities," he said. "The growth in national and global corporations means more insurance opportunities for commercial nonlife insurers."

Foreign direct investment is increasing, said Corina Monaghan, vp of the political risk practice at Aon Risk Solutions in New York. She noted that sales of U.S. goods and services have increased in the past few years.

"There is a growing interest in trade credit insurance in Brazil because we are exporting more and more to Brazil," she said. "It's a very useful tool at the end of the day."

With gross domestic product up, unemployment down and a growing population, Brazil is a market with a lot of opportunities, she said. Foreign companies are interested in industries as varied as oil and gas exploration and hotels.

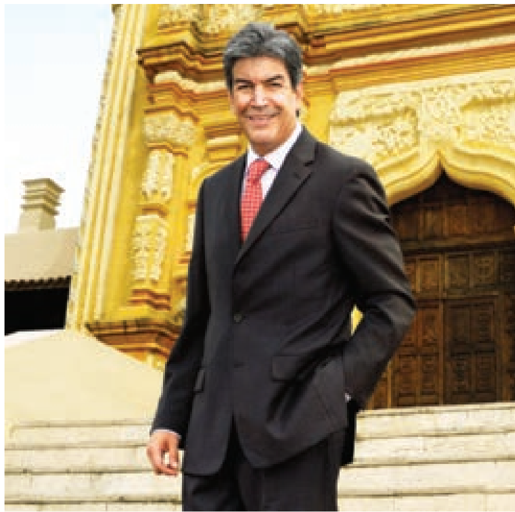
"It's kind of like the place that everybody believes in at the moment," said Ms. Monaghan.

GROWING ECONOMY

How Brazil's economy has grown in recent years

- Brazil's estimated gross domestic product as measured in purchasing power equity grew 2.8% in 2011 to $2.284 trillion
- The U.S. Department of Commerce ranked Brazil eighth on the list of the United States' biggest trading partners
- 2011 Brazilian exports to the United States amounted to $31.37 billion and imports from the United States totaled $42.94 billion

Source: CIA



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Perspectives

The opening of the Brazilian reinsurance industry offers opportunities and challenges for the brokerage industry worldwide. But the country itself recently has put regulations in place that hinder the activities of certain foreign reinsurers. Eridania Perez, a partner with Patton Boggs L.L.P. in New York, and Marcelo Mansur Haddad, a partner with Mattos Filho Advogados in São Paulo, discuss these rules and the fine-tuning that needs to take place.

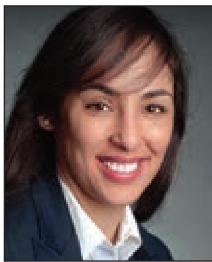
Pros, cons of Brazil's opening market

By Eridania Perez and Marcelo Mansur Haddad

Brazil is the largest nonlife insurance market in Latin America, representing nearly 40% of total premiums in the region.

However, the insurance and reinsurance markets have remained relatively undeveloped despite efforts by the Brazilian insurance regulatory and supervising agencies, the National Council of Private Insurance (known in Brazil as the CNSP) and the Superintendency of Private Insurance (SUSEP), to expand the reinsurance industry. CNSP and SUSEP made progress with the enactment of various regulations regarding Complementary Law No. 126, effective Jan. 15, 2007, which marked the pinnacle point and awakening of the Brazilian reinsurance market.

With the passage of Law No. 126/07 and its regulations, Brazilian regulatory authorities opened the Brazilian reinsurance industry to competition and ended the 69-year monopoly of the state-owned reinsurer IRB-Brasil Re. The opening of the local reinsurance market was welcomed by foreign reinsurers and by the brokerage industry as well.


Ms. Perez

Mr. Mansur

The opening of the local reinsurance market was welcomed by foreign reinsurers and by the brokerage industry as well.

According to Fabio Basilone, CEO of Cooper Gay do Brasil Corretora de Resseguros Ltda., the opening of the reinsurance market "changed it all" for brokers in Brazil, creating a range of significant opportunities.

Prior to the opening of the market, the reinsurance brokerage business in Brazil was limited to the placement of retrocessional coverage for the sole reinsurer in the country, IRB, predominantly in the London market. Brokers were not even allowed to intermediate business between insurance companies and IRB.

Today, "brokers doing business in Brazil have become a more complete and complex operation, working on a broader range of services for upstream and downstream clients," explained Mr. Basilone.

Brokers can now place both reinsurance and retrocession. They can support the placement of business for insurance companies and reinsurers established in Brazil or abroad, place large facultative business in the international market, develop new products with Brazilian insurers and reinsurers, and provide a wide range of services in the new market such as the collection of premium, payment of claims, and the design and wording of reinsurance coverage.

Interestingly, it is estimated that the potential market for brokers in Brazil is approximately $2 billion in premium.

The opening of the local reinsurance market did not come without significant limitations for many key players, including challenges for brokers in the placement of reinsurance. For instance, survival life insurance policies ("seguro de vida por sobrevivência") and pension plans (except for the life-related risks included) can only be ceded to local reinsurers, and a local insurance company or reinsurer cannot cede in reinsurance and retrocession, respectively, more than 50% of the premium they have written during any given calendar year. This 50% limitation impacts the activities of brokers doing business in Brazil in that they have to deal with clients that feel they cannot target large and important risks in the country and maximize their premium because they cannot fully spread the risk, thereby affecting the need for placement of reinsurance. In addressing this challenge, brokers have worked with clients in revisiting business plans and creating strategies to comply with the regulatory requirements.

One of the most controversial provisions of the reinsurance regimen is the right of first refusal in favor of domestic reinsurers, under which 40% of each reinsurance risk must first be offered to local reinsurers. Only if local reinsurance capacity is lacking, by means of total or partial refusal by local reinsurers, can the risk be placed with a nonlocal reinsurer. The risk must be offered to, and placed with, nonlocal reinsurers with the same terms and conditions offered to domestic reinsurers.

One broker that places business in Brazil has indicated that the right of first refusal has not had a significant impact on the final placement of the risk, as at the end of the day it all depends on the relationship between brokers and underwriters. In addition, nowadays there are as many as 10 local reinsurers they can approach, and this number is expected to grow to more than a dozen in the near future. A bigger challenge for placing brokers is controlling the logistics of the offerings and receiving feedback from the local reinsurers in a timely fashion to ensure compliance with the regulatory requirements.

For example, local cedents must demonstrate the lack of capacity of the local reinsurance market, and show that the risk has been previously offered to all local reinsurers in the line of business of the intended risk. Further, they must show that such reinsurers have not accepted the offers. Some brokers have developed "workflow" software to help their teams follow every step of the placement, from the initial offerings to the binding and wording of the contracts.

A more recent and contentious regulation passed by CNSP involves a ban on the cession of risks to members of the same insurance company group located outside of Brazil. Effective March 31, 2011, the Brazilian regulatory authorities allow insurers to cede only up to 20% of the premium of each reinsurance treaty or facultative business to overseas companies that are affiliated with the ceding insurer or that belong to the same financial group.

How this 20% threshold is actually calculated is still controversial, especially considering that neither CNSP nor SUSEP has issued further clarification on this threshold. This regulation has received a chilly reception from foreign reinsurers, who see it as counterproductive to the development of the reinsurance market in Brazil, in particular because it jeopardizes the coverage and capacity for large risks in the country. For the brokerage industry, this regulation has not affected placement of reinsurance with local reinsurers. With respect to cross-border intracompany cessions, brokers have had to develop solutions and strategies for clients to continue operations in compliance with the 20% requirement.

While further changes to Brazil's reinsurance rules are needed to ensure that the insurance industry remains open to competition and that important projects in the country can be insured, the opportunities that the opening of the market has created for reinsurance brokers doing business in Brazil have been significant.

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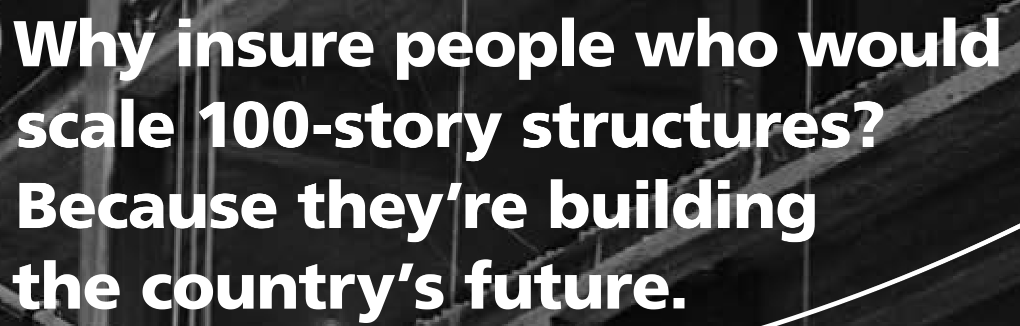

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Opinions

EDITORIAL

International opportunities

The global economy has made it imperative that U.S. companies—including brokers and insurers—be prepared to operate effectively on an international basis.

Brazil and China are two of the key global markets. Even smaller brokers may be called upon for expertise as clients explore business opportunities in these emerging markets.

As we report in this special issue, Brazil and China present their own opportunities and risks. The opportunities are obvious. Gaining entry into growing economies, particularly at a time when developed countries are struggling with an ongoing weak economy and government deficits, is in and of itself critical to a business' future prospects.

Both countries have a growing middle class, and a growing middle class means a growing demand for insurance products, both commercial and personal.

Having an enhanced ability to tap new talent is a plus as well. In a global economy, being able to count on people on the front line who understand local customs and conditions presents a definite competitive advantage.

But with opportunities also come risks.

For example, protectionism in Brazil's reinsurance markets could mean less choice for buyers, as well as diminished opportunities for international underwriters. Although Brazil has been largely immune to the type of economic nationalism that has infected neighboring Argentina and other nearby countries, there's no guarantee that the contagion could not someday affect South America's largest economy.

There are challenges in China as well. The nation's insurance regulatory structure in some ways resembles the United States' state-based regulatory system. Insurers and brokers must obtain licenses on a province-by-province basis. That can be an expensive and time-consuming process.

There also is the potential for political unrest that cannot be discounted. Disparities of wealth, particularly between booming cities and a depressed countryside, brew social problems and resentments. Given the strong clamp of China's communist government, a boiling over in the short term may seem unlikely. Then again, who in early 2010 predicted the extent of the Arab Spring of 2011?

For risk managers, brokers and insurers, the key issue is simple, yet potentially illusive: Making the most of these considerable opportunities while having in place a strategy that adequately addresses those risks.

LETTERS

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SCHILLERSTROM

COMMENTARY

Emerging markets on horizon

In this special issue, we've focused on Brazil and China as key emerging markets for brokers, insurers and risk managers.

Brazil and China are obvious choices: They're huge economies that are likely only to grow in importance. In fact, some studies project that China will surpass the U.S. economy in absolute terms—although by no means in per capita terms—sometime this decade.

There's been a less-than-subtle shift in how European and North American countries view emerging markets in recent decades. At the turn of the past century, developing countries generally were viewed as things to be exploited, not as potentially equal trading partners. Basically, it was a case of take the money and run.

MARK A. **HOFMANN**
SENIOR EDITOR

But particularly since China began opening its markets, attitudes have changed. You can't treat what's likely to be the world's largest economy like a poor cousin.

The mere fact that China has become such a major global economic player so quickly underscores one of the biggest challenges in dealing with emerging economies: the sheer speed with which economic conditions can change.

After all, at the time of Chairman Mao Zedong's death in 1976, China was suffering from years of self-inflicted economic wounds resulting from disastrous governmental policies such as the Cultural Revolution. No one foresaw that the economic reforms begun gingerly by his successor Deng Xiaoping would prove to be so fruitful so quickly. Unfortunately, the political reform did not accompany economic reform, leading to the possibility that political turmoil may lie ahead. Whether China's leadership would respond as violently to protests today as in Tiananmen Square in 1989 is unknown.

In Brazil, the story is not as dramatic, but still is worth noting. The quip that "Brazil is the country of the future and always will be" no longer holds true. Years of dictatorship have given way to a functioning democracy where even left-of-center governments support free-market approaches, albeit sometimes tinged with a bit of troubling protectionism.

The rapidity of change also is reflected in the experience of some members of the old Soviet bloc, which fell apart beginning in 1989. Who would have predicted then that Poland would have become a key economic player in Europe so quickly? What observer would have projected that Estonia—then part of the Soviet Union—would become a high-tech hotbed?

In the world of emerging markets, things can change almost overnight.

Look at last year's Arab Spring—the ultimate outcome of which may take decades to determine—and the recent opening of Myanmar. The only prediction I'm willing to make is that somewhere out there, there's a market emerging that could pay handsome dividends for the global insurance industry. We just don't know where it is right now.

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Growing economy fuels Brazil's insurance market

By MARK A. HOFMANN

As befits one of the world's expanding economies, Brazil enjoys a vibrant insurance market, observers say.

In 2010, premium volume in Brazil reached $64.09 billion, according to data by the New York-based Insurance Information Institute Inc. Nonlife premiums accounted for slightly less than half of the total at $30.85 billion.

Luis Maurette, CEO of Willis Latin America in São Paulo, said about 80 insurers operate in Brazil. The top five account for about 60% of the market and the top 10 account for about 75%, he said.

The two largest insurance companies—Itau Seguros S.A. and Bradesco Seguros S.A.—are controlled by the country's two largest banks, said Eduardo Marques, technical director at Marsh Brazil in São Paulo. But he said there are many international companies and, depending on the line of business, there may be five to 10 markets.

"The level of competition is good," he said. "We don't feel there is premium control or price control."

"There are very strong domestic insurers there," said Howard Mills, director and chief adviser at Deloitte L.L.P.'s insurance industry group in New York. "It's a big investment in terms of marketing and building name recognition in order to compete."

Mr. Maurette said Brazil's insurance market is dominated by banks.

"Brazil's insurance market has experienced significant consolidation among the leading domestic firms, especially bank-affiliated groups, as well as increased participation by international insurance organizations," he said. "This trend will likely continue, leading to further consolidation and rationalization in market structure."

Placing insurance is "exactly as in the U.S. or Europe," said Marsh's Mr. Marques: The buyer comes to the broker and the broker identifies the insurance program the company needs.

"In Brazil, it is mandatory that all insurance must be sold by insurance brokers, whether a person or legal entity," said Mr. Maurette. He said Willis Brazil has more than 1,600 clients, most of them local companies or Brazilian multinationals.

Foreign brokers can operate freely in Brazil without the need for joint ventures, said Nicolau Daudt, CEO of JLT Re in Rio de Janeiro, a unit of Jardine Lloyd Thompson Group P.L.C.

"There are some 60,000 insurance brokers in Brazil; however, they do not all offer the same levels of service as would be expected in the U.S.," he said.

The Brazilian insurance market is strictly regulated, said Anna Tavares de Mello, a partner at law firm Trench, Rossi e Watanabe Advogados in Rio de Janeiro. To transact business in Brazil, insurance and reinsurance companies and brokers must be licensed by the nation's regulator, Superintendência de Seguros Privados.

Insurers have to file policy wording and premium ratings with SUSEP. Insurance policies also have to be written in Portuguese and poor translations can result in litigation, said Mr. Daudt.

Foreign companies that need coverage for operations in Brazil need to buy compliant policies if they want true protection, said Hugh Burgess, New York-based chief executive of the Americas region for Allianz Global Corporate & Specialty, part of Munich-based Allianz. S.E. Failure to comply could invalidate insurance, he said.

Insurance companies need to be incorporated in Brazil in the form of a Sociedade Anônima, and all insurance products must be registered with SUSEP, Ms. Tavares de Mello said. Insurers also must observe the nation's consumer protection law, she said.

Risk managers of non-Brazilian companies cannot rely on nonadmitted insurance and there are strict controls and limitations on insurers, said Mr. Marques.

"For multinational companies with global programs and captive arrangements, each case will be different and require its own solution. But it is possible for an insurer's overseas subsidiary to be part of a global program and cede to a global program whilst respecting

See MARKET next page

INSURANCE IN BRAZIL

Key facts about Brazil's market for insurance

- In 2010, premium volume in Brazil reached $64.09 billion and nonlife premiums accounted for slightly less than half of the total at $30.85 billion.
- About 80 insurers operate in Brazil; the top five account for about 60% of the market and the top 10 account for about 75%.

Source: Insurance Information Institute Inc., Willis Latin America

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Ingo Zimmermann, Head of EADS Corporate Insurance Risk Management

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Business environment good, but could be better

By STUART COLLINS

International clients of brokers and insurers that are attracted to Brazil by the country's stable political and economic environment face levels of bureaucracy, taxes, crime and corruption that typically are far greater than in their home markets.

Many companies come to Brazil because the business environment is more familiar than the other so-called BRIC countries of Russia, India and China, said Keith Martin, Rio de Janeiro-based director of international trade and investments with Aon Risk Solutions, a unit of Aon Corp. It also has a more stable public and private sector and a better-proven legal framework than some other BRIC countries, he said.

However, it is not without issues, said Mr. Martin. Myriad complex tax rules, corruption and a slow legal process are hurdles to overcome, he said.

The levels of bureaucracy and lack of rule transparency make Brazil a difficult country to do business in, said Corina Monaghan, New York-based vp at Aon Risk Solutions' political risk practice. "The complexity of tax rules is a real shock for investors, and compliance is difficult because there is a lot of over-complication and rules that are not common in the U.S.," she said.

Huge opportunities for foreign companies in Brazil's growing economy have to be weighed against the country's relatively high taxes and labor costs, said Carlos Caicedo, analyst and head of the Latin American team at London-based political risk consultant Exclusive Analysis Ltd.

"Foreign companies need to be aware of the high costs of labor and taxes in Brazil. The tax system is antiquated and has grown into a monster, with many layers of taxes," he said.

BUSINESS CLIMATE POSES CHALLENGES IN BRAZIL

- Complex tax rules
- Corruption in Brazilian government ministries
- Slow legal process
- Lack of transparency
- High taxes and labor costs
- Kidnapping for ransom and high crime rates

Labor laws are generous to workers and distort the labor market, said Mr. Caicedo. There is a large "informal" job market in Brazil because "favorable employee rights" discourage employment on a full-time basis, he said.

The tort system, which is similar to that in Continental Europe, also is bureaucratic, marked by a large number of appeals and the slow processing of court documentation, said Mr. Martin.

One of the main problems for foreign investors in Brazil is corruption in Brazilian government ministries, said Mr. Caicedo. For example a tender process for building a metropolitan rail system in São Paulo was canceled after newspapers announced the winners six months before the closing date.

However, the levels of political risk in Brazil now are far lower than a decade ago, said Ms. Monaghan. While Brazil is politically stable, there are differences in risk between its 27 states and 5,000 municipalities, she said.

For example, Brazilian foreign exchange rules freely allow dividends and capital to be repatriated to investors outside the country, but some restrictions are imposed by certain states and this is not always well understood, Ms. Monaghan said.

Political risk in Brazil has lessened greatly, said James Thomas, Miami-based political risk and trade credit underwriting manager for Zurich North America.

"Ten years ago, people were buying currency convertibility insurance, but this is rarely purchased today. The country now has low levels of political risk compared with its neighbors, and expropriation risk and political violence are not really an issue," Mr. Thomas said.

Still, there is interest in political risk insurance for heavily regulated sectors such as mining and power by virtue of their complexity, he said.

Despite little risk of political violence, there is concern among foreign companies about personal security and crime.

Kidnapping for ransom and high crime rates are problems in Brazil, said Thomaz Favaro, London-based security and political risk analyst in the Americas team at global risk consultancy Control Risks, a unit of Control Risks Group Holdings Ltd. "The security environment has failed to keep pace with gains in the economy."

Crime has dropped in Rio de Janeiro and São Paulo, but it has spread to smaller cities, and crime rates have risen in the north and northeast parts of the country and midsize cities, said Mr. Favaro. The bulk is petty crime and robbery, although theft is a particular problem.

"Law enforcement on the road is poor, and it is easy for thieves to steal cargo, even on major highways," Mr. Favaro said.

Brazil is a relatively open market for foreign companies, but there are restrictions.

As a country, Brazil believes in technology transfer, said Mr. Favaro. If the government looks to develop a sector, it will want to make sure that the domestic economy benefits, he said.

"Foreign investment has to help develop local industry and the regulations are there to protect local industry," said Mr. Marques.

In some sectors, companies are required to source at least 60% of goods and services internally, and local content comes at an additional cost, he said. For example a joint-venture oil company might be required to buy its rigs from Brazilian manufacturers.

There also is potential for increased levels of government intervention in strategic sectors such as oil and gas, including increased taxes and harsher regulation, said Mr. Favaro. However the risk of expropriation remains "negligible," he said.

Under the state-run reinsurance monopoly that existed in Brazil until 2008, there were few incentives for insurers and buyers to invest in risk management, said Mr. Marques.

As a result, loss prevention measures are not well-developed, but that is changing and companies are showing more interest in risk management services now the market has opened up, Mr. Marques said.

Aon's operations in Brazil also have observed a growing interest in risk management services such as enterprise risk management, said Mr. Martin.

"As Brazilian businesses increasingly list on stock exchanges in São Paulo, New York and London, modern risk management tools are becoming more common," he said.

Risk management is developing, but it would be dangerous to assume it is the same across all sectors and companies, said Hugh Burgess, New York-based chief executive of the Americas region for Allianz Global Corporate & Specialty, part of Munich-based Allianz S.E.

"There is a wide spectrum of risk management in Brazil, but it is improving and I expect relevant legislation—like fire prevention or corporate governance—will come in line with international standards over time," Mr. Burgess said.

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Market: Overall growth fuels insurance market

CONTINUED FROM PREVIOUS PAGE

local insurance laws, Mr. Marques said.

"Regulation in Brazil is changing, as in most of the insurance markets in Latin America, moving toward global trends," including a risk-based capital scheme, said Marcela Abraham, Mexico City-based division leader for Towers Watson Risk & Consulting Services Latin America.

Brazil's regulatory body is following its own approach, and risk-based factors are being developed by lines of business and for the different risks at different stages, she said. "I am trying to say a general one-time change on capital requirements is not going to take place. Instead, factors have already been issued for nonlife operations, credit and reinsurance risks, and regulators are working on risk factors to calculate capital requirements for life and annuities to be implemented in 2013."

In Brazil, there is a lot of "engagement with global regulators" by the International Assn. of Insurance Supervisors, said Deloitte's Mr. Mills, a former New York state superintendent of insurance.

"The Brazilian insurance market has recently gone through deregulation," said Jon Hall, executive vp of Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global. He said reforms included ending the state-owned Instituto de Resseguros do Brasil S.A.'s reinsurance monopoly in 2008.

"However, the implementation of these changes will take years to take effect," he said, "Unlike China, the (Brazil) market is fragmented with a number of domestic and international carriers."

Brazilian policies use similar concepts and clauses as the United States and Europe but with some differences, said Mr. Daudt. For example, Brazilian policies must include an intermediary clause that defines the duties of a broker as well as an arbitration clause.

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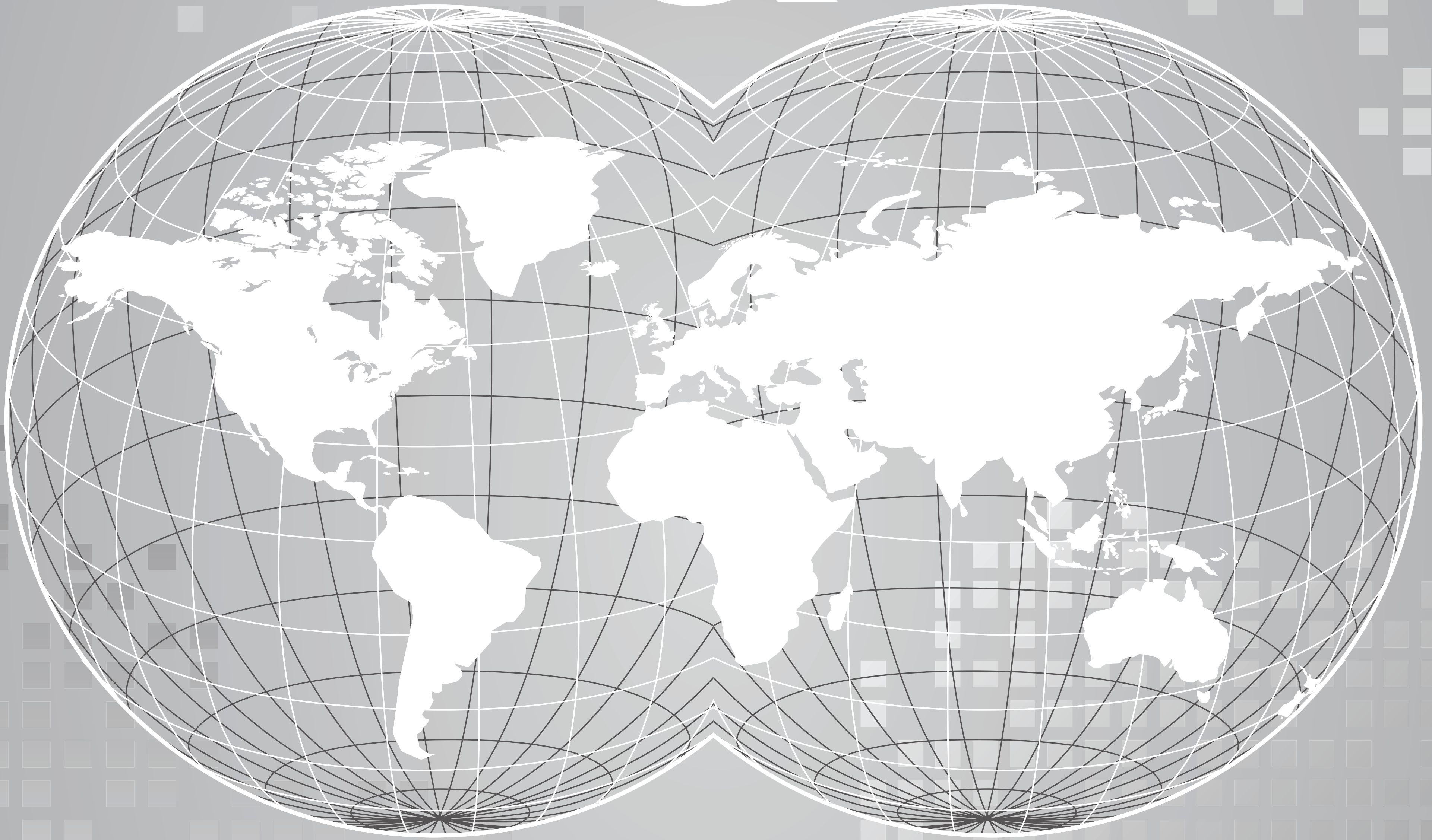

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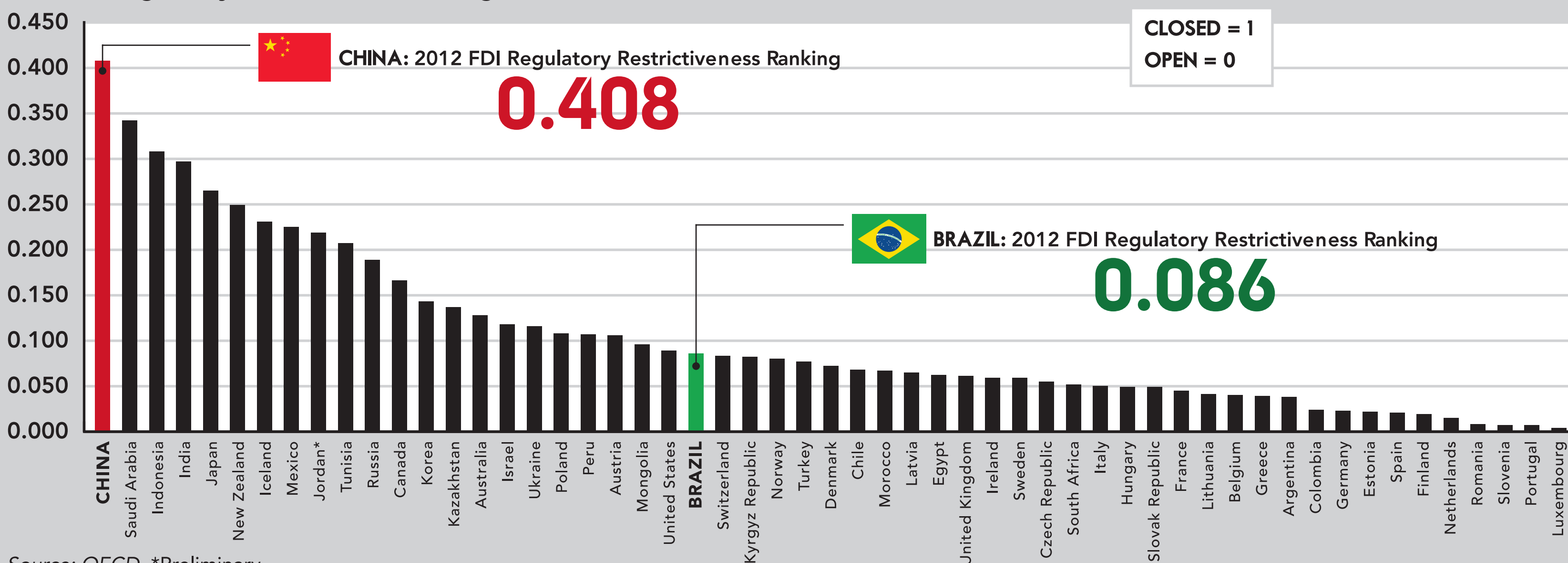
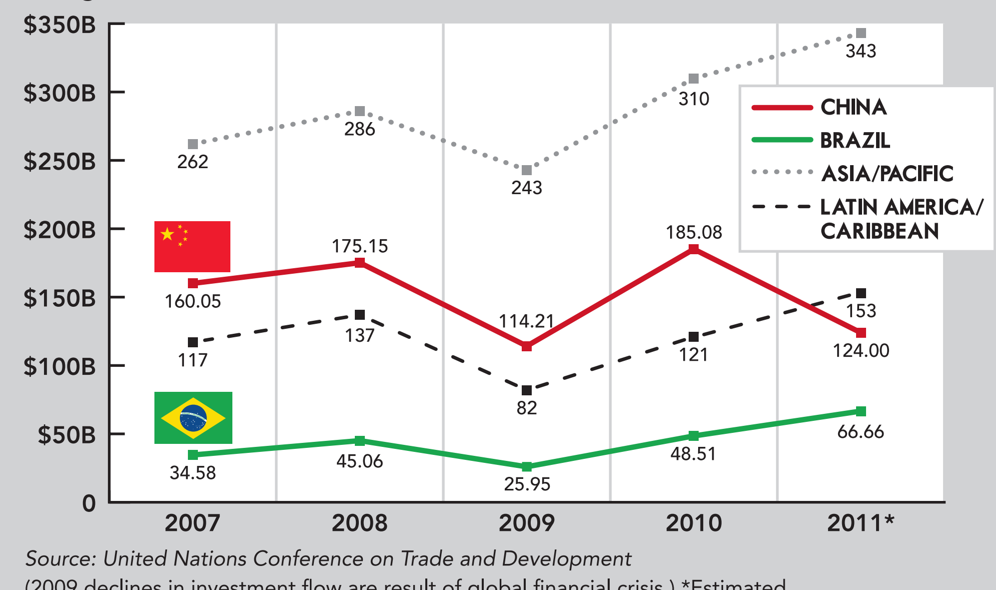


Source: OECD *Preliminary

follow the money



Source: United Nations Conference on Trade and Development
(2009 declines in investment flow are result of global financial crisis.) *Estimated

FINDING OPPORTUNITIES IN EMERGING MARKETS: CHINA & BRAZIL

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country snapshot

Sources: U.S. Central Intelligence Agency, U.S. State Department

China

POPULATION:
1.34 billion (2011)

GROSS DOMESTIC PRODUCT:
$11.3 trillion* (2011)

*Purchasing power parity

GDP GROWTH RATE:
10.3% (2010)

EXPORTS:
$1.51 trillion (2010)

IMPORTS:
$1.31 trillion (2010)

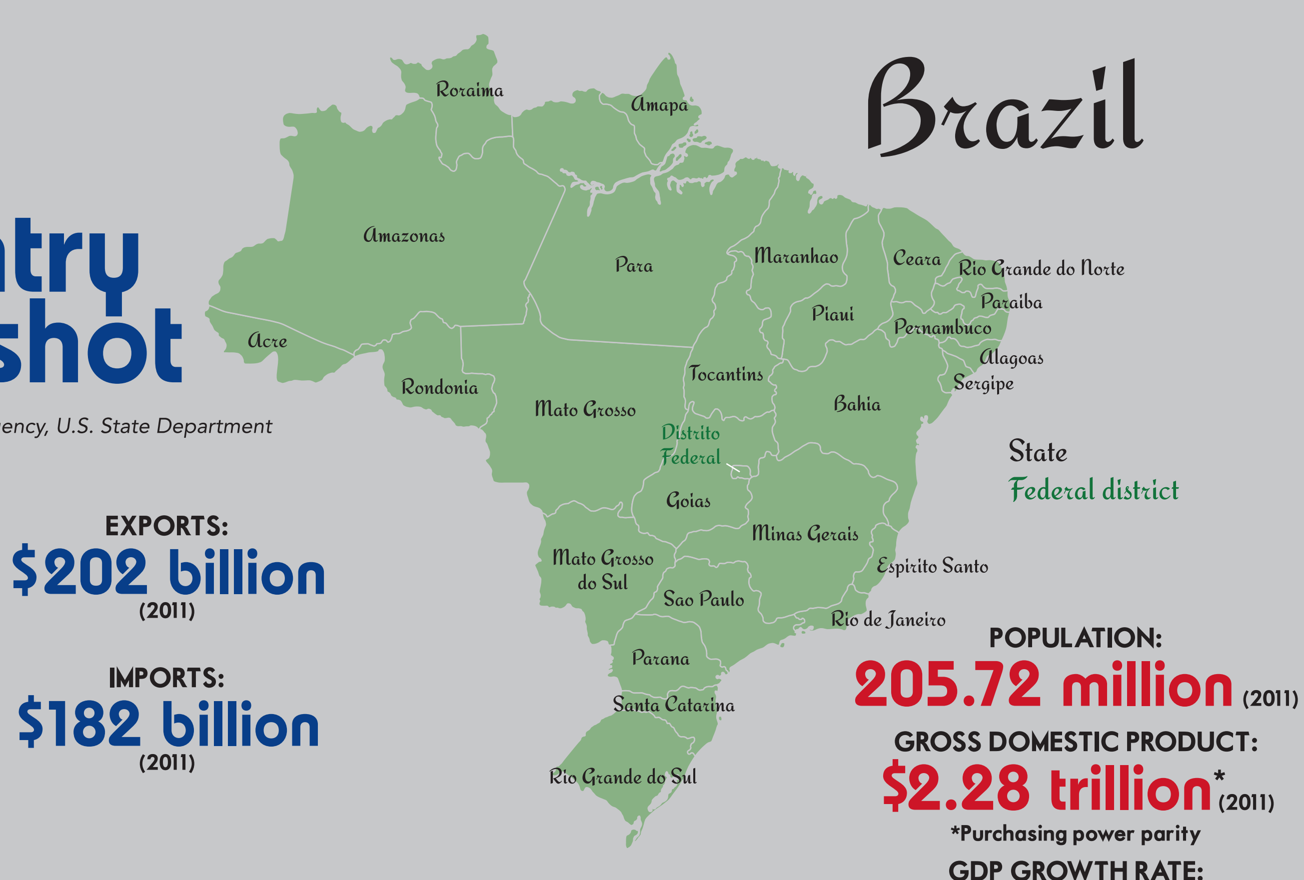
Special Economic Zones (SEZ):
1. Pudong District, Shanghai Municipality
2. Xiamen, Fujian Province
3. Shantou, Guangdong Province
4. Shenzhen, Guangdong Province
5. Zhuhai, Guangdong Province
6. Hainan Province

COMMUNIST PARTY-LED STATE

administrative divisions: 23 PROVINCES*, FIVE AUTONOMOUS REGIONS, FOUR MUNICIPALITIES

*People's Republic of China considers Taiwan to be its 23rd province.

Brazil



EXPORTS:
$202 billion (2011)

IMPORTS:
$182 billion (2011)

POPULATION:
205.72 million (2011)

GROSS DOMESTIC PRODUCT:
$2.28 trillion* (2011)

*Purchasing power parity

GDP GROWTH RATE:
3.5% (2011) estimate

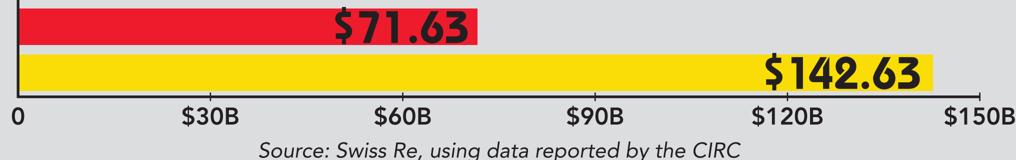
MULTIPARTY FEDERATIVE REPUBLIC

administrative divisions: 26 STATES AND A FEDERAL DISTRICT

insurance facts

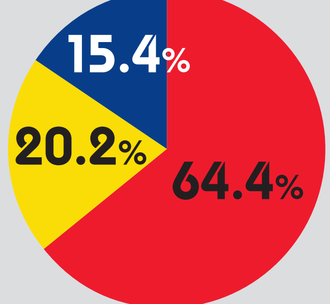
insurance regulatory agency: CHINA INSURANCE REGULATORY COMMISSION (CIRC)

direct written premiums



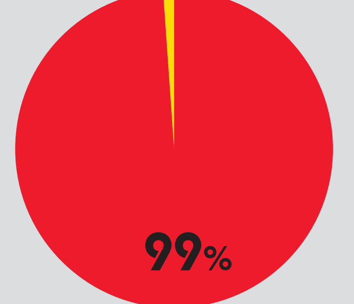
Source: Swiss Re, using data reported by the CIRC

distribution of insurance



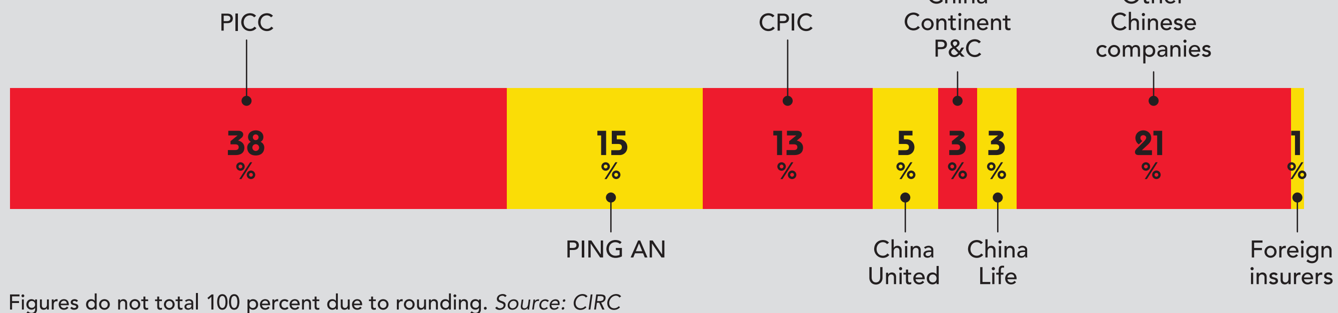
Source: Business Insurance, using CIRC data

non-life market share



Source: Business Insurance, using CIRC data

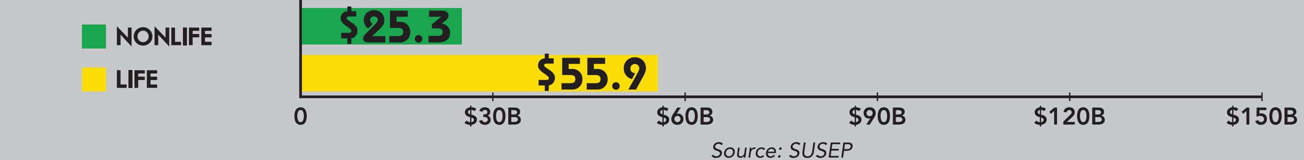
key non-life insurance market players



Figures do not total 100 percent due to rounding. Source: CIRC

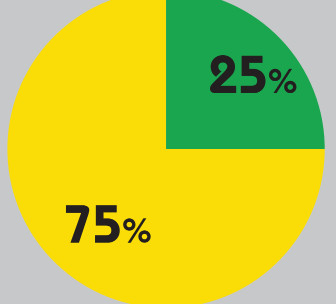
insurance regulatory agency: SUPERINTENDÊNCIA DE SEGUROS PRIVADOS (SUSEP)

direct written premiums



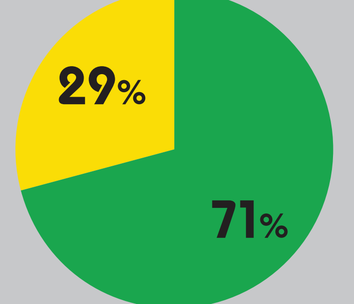
Source: SUSEP

distribution of insurance



Source: Business Insurance, using Banco Central do Brasil data

non-life market share



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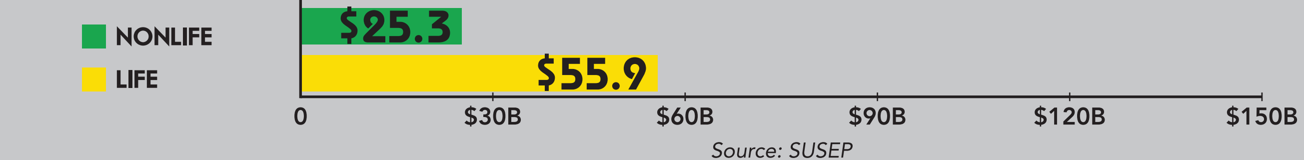

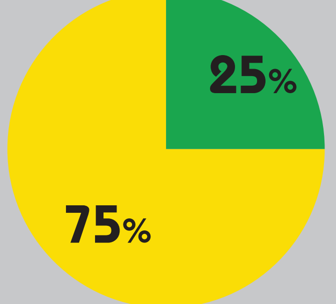

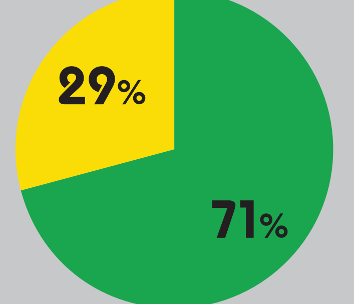

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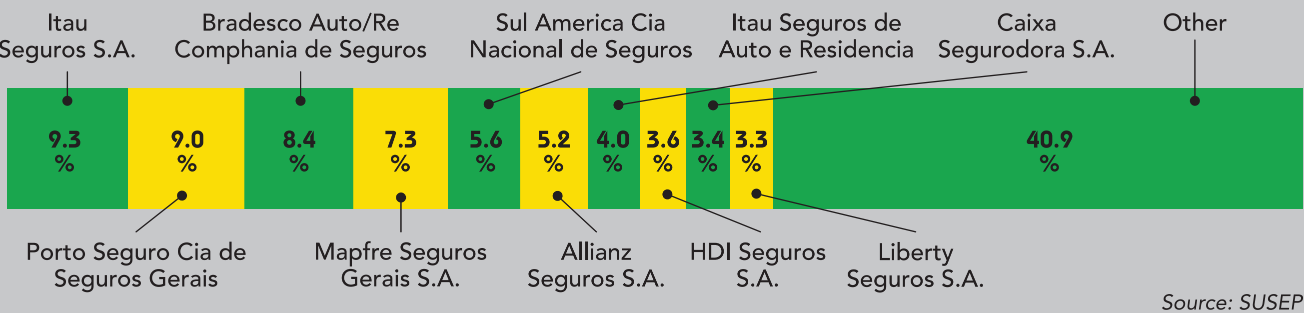

Source: SUSEP

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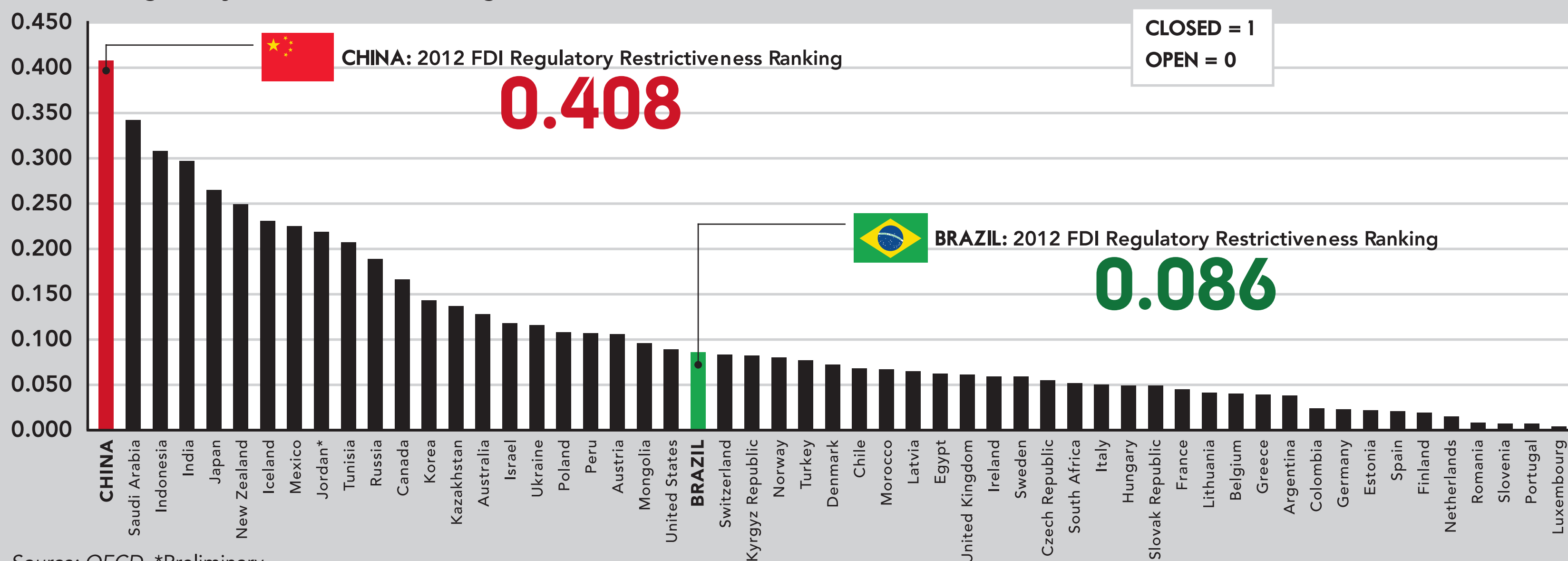
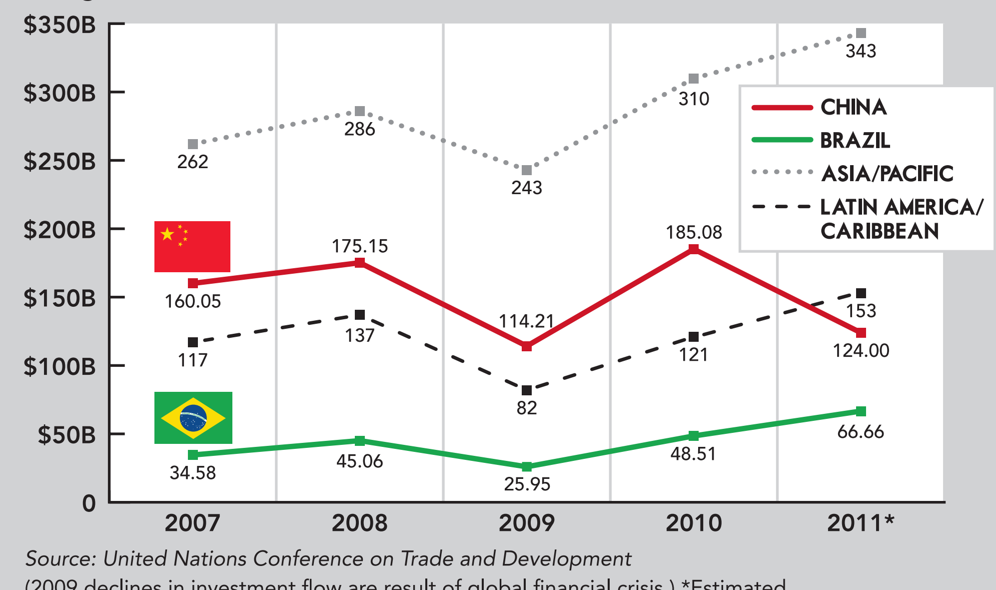


Source: OECD *Preliminary

follow the money

Foreign direct investment, net inflows in U.S. billions



Source: United Nations Conference on Trade and Development
(2009 declines in investment flow are result of global financial crisis.) *Estimated

FINDING OPPORTUNITIES IN EMERGING MARKETS:

CHINA & BRAZIL

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China

POPULATION:
1.34 billion (2011)

GROSS DOMESTIC PRODUCT:
$11.3 trillion* (2011)

*Purchasing power parity

GDP GROWTH RATE:
10.3% (2010)

country snapshot

Sources: U.S. Central Intelligence Agency, U.S. State Department

EXPORTS:
$1.51 trillion (2010)

IMPORTS:
$1.31 trillion (2010)

Special Economic Zones (SEZ):

1. Pudong District, Shanghai Municipality
2. Xiamen, Fujian Province
3. Shantou, Guangdong Province
4. Shenzhen, Guangdong Province
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*People's Republic of China considers Taiwan to be its 23rd province.

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*Purchasing power parity

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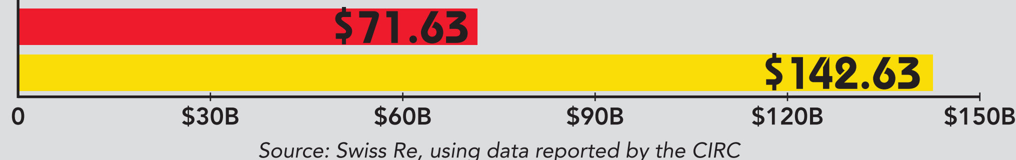
direct written premiums

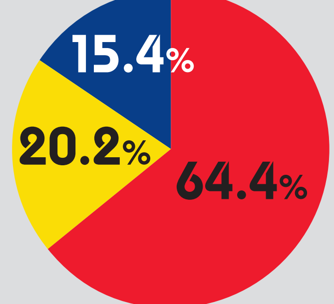
(2010) in U.S. billions



Source: Swiss Re, using data reported by the CIRC

distribution of insurance

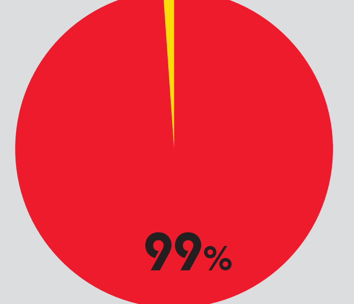
(2010)



Source: Business Insurance, using CIRC data

non-life market share

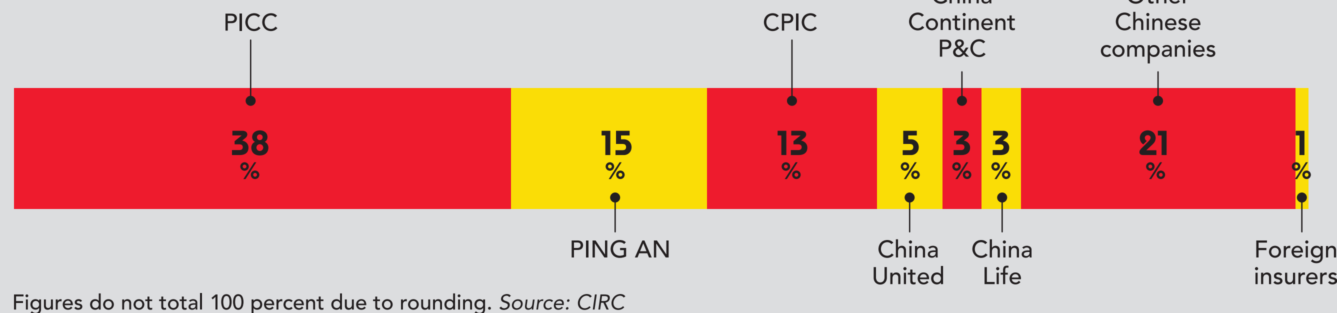
(2010)



Source: Business Insurance, using CIRC data

key non-life insurance market players

(Share of 2010 nonlife premiums)

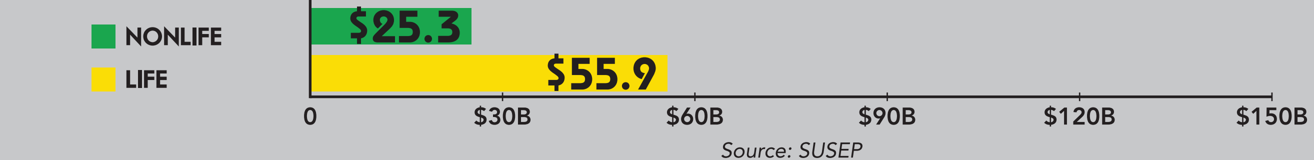


Figures do not total 100 percent due to rounding. Source: CIRC

insurance regulatory agency: SUPERINTENDÊNCIA DE SEGUROS PRIVADOS (SUSEP)

direct written premiums

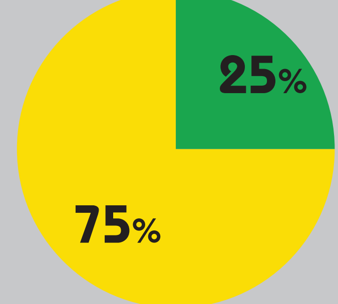
(2011) in U.S. billions



Source: SUSEP

distribution of insurance

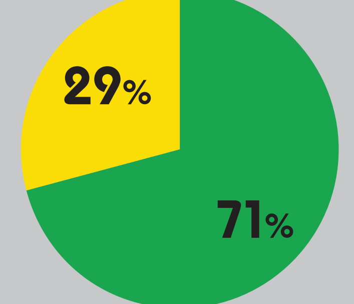
(2011)



Source: Business Insurance, using Banco Central do Brasil data

non-life market share

(2011)



Source: SUSEP

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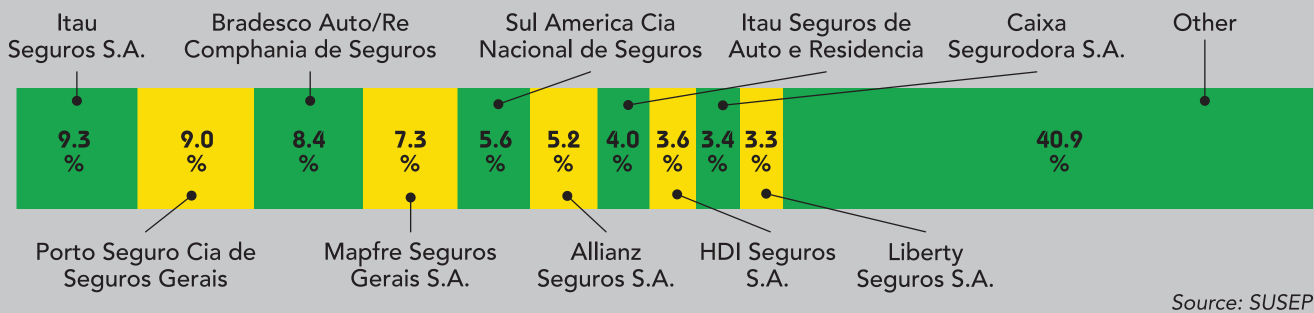
(Share of 2011 nonlife premiums)



Source: SUSEP

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Presented by: Business Insurance

Insurer benefits from booming Brazilian economy

By BILL KENEALY

Few countries would seem to provide a more conducive environment for the unique operating model of Factory Mutual Insurance Co. than Brazil.

The Johnston, R.I.-based mutual insurer, which does business as FM Global, utilizes extensive onsite engineering reviews in its underwriting to help customers mitigate their risks.

Brazil's expanding economy is spurred by growth in heavy industries such as paper, steel, and aircraft and auto manufacturing.

"Over the past few years, we've seen a growth in our business of over 15% annually," said Marc Ragazzi, FM Global vp and Latin America operations manager.

Mr. Ragazzi said in addition to helping foreign companies establish operations in Brazil, FM Global has focused in recent years on helping large Brazilian companies that are becoming global players establish factories in Brazil and other countries.

"As these companies go global they want to excel in all areas of operations, especially risk management," he said. "That's where our operating model of building a good, quality operation that is sustainable and has constant earnings without losses resonates with them."

> 'We're spending a lot of time and effort in Brazil in leveraging our technology when it comes to evaluating risk.'
>
> Marc Ragazzi, Factory Mutual Insurance Co.

Mr. Ragazzi said the insurer has operated in Brazil for 29 years and has long relied on partnerships with Brazil-based insurers. Its engineering and risk management expertise complements the deep market knowledge of its Brazil-based partners, he said.

"As a property insurer that covers large industrial risks, one of our differentiators has been to provide large amounts of capacity," Mr. Ragazzi said. "Within the regulations of insurance and reinsurance in Brazil, one of the most efficient ways to provide that is through working alongside local insurers and reinsurers."

Brazil opened its reinsurance market to foreign reinsurers in 2008 and FM Global received approval from Brazilian insurance regulator Superintendencia de Seguros Privados to operate as an admitted reinsurer in 2009. "Our strategy...was to maintain those partnerships and operating model and build on it," he said.

Another strategic imperative for FM Global is imparting its longstanding expertise in loss mitigation. In the United States, FM Global worked to develop standards with National Fire Protection Assn. and runs the 1,600-acre FM Global Research Campus in West Glocester, R.I., which uses advanced equipment for scientific research and product fire testing.

CASE STUDY

"We're spending a lot of time and effort in Brazil in leveraging our technology when it comes to evaluating risk. We have a codes and standards department that is working with fire departments, standards organizations and universities in Brazil to support the development of building codes and standards," Mr. Ragazzi said.

FM Global also helps companies with site selection for new facilities to mitigate flood risk.

"There isn't much (risk) of earthquake or hurricane in Brazil," but "you do have a lot of flood exposure, so we do a lot work looking at properties," he said.

Yet Brazil's rapid growth has put FM Global in competition with other firms for a finite number of suitably trained engineers.

"There are some challenges that are coming with the success of the country," Mr. Ragazzi said. "One is that when our multinational clients come to Brazil to build or buy a facility here, we have to support that through building highly protected plants. To do that, you need a lot of engineering talent."

So the insurer that operates from São Paulo is focusing on recruitment and developing existing employees to round out client service teams, he said.

Another challenge for FM Global is finding the right people in the right places.

"The whole country is booming," Mr. Ragazzi said.

While growing to accommodate this rising demand, insurer is is careful to maintain a consistent approach in all manner of operations from risk assessment to claims.

"Our strategy is to build on our existing book of business." Mr. Ragazzi said. "There are some growing pains in this market, but it's an exciting place to be."

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Perspectives

Protectionist legislation, like that found in Brazil and Argentina, is self-destructive, says Bradley Kading, president of the Assn. of Bermuda Insurers & Reinsurers. He examines the flaws of a protectionist environment and how it impedes successful risk-sharing.

Brazil should revamp rules that impede reinsurers from effectively spreading risk

Mr. Kading

By Bradley Kading

The reinsurance industry's ability to fund record-setting natural disaster losses in 2011 without a net loss of capital is testament to an effective risk management strategy.

Of the $105 billion in global catastrophe losses, it is estimated that 45% of this loss amount was ceded to reinsurers. With regard to the largest events—the mega-events of Australian flooding and windstorms, New Zealand earthquakes, Japanese earthquakes and Thai flooding—the share that was reinsured rose to 54%. The share of the 2011 mega-event cat losses that were reinsured ranged from 40% to 73%. The 2010 Chilean earthquake had a reinsured share of 95%.

Essential ingredients of this success story were global diversification of risk, avoidance of concentrations and tight enterprise risk management to ensure that no one loss event could prove to be crippling. Pooling unconnected risks from varying jurisdictions and from a spectrum of perils allows reinsurance to be priced lower than it otherwise would be priced if capital had to be held to support only a specific risk, or a specific jurisdiction's risk exposures.

This is why ring-fencing capital through locally mandated jurisdictional reinsurers or through government funds leads to higher reinsurance costs and less capacity when viewed over the long-term.

Consumers benefit from open markets, not protected markets that restrict competition. Protectionist legislation such as that in place in multiple jurisdictions (or proposed in the U.S. via the discriminatory affiliated reinsurance tax), most recently in Brazil and Argentina, upsets this effective strategy and leads to ring-fencing of capital, which fragments capital and the resulting supply of reinsurance. It concentrates risk in a single market. It's a self-destructive strategy, yet one that is appealing in times of economic nationalization when a mentality of circling the wagons to protect oneself dominates.

In spite of this reality, our sources in Brazil tell us that the Brazilian regulations will not be changed any time soon. Some have advised that eventually they may be changed based on the outcome of the expected public offering of the state-owned Instituto de Resseguros do Brasil S.A., which had a monopoly on reinsurance until 2008. There is consensus that the regulations exist to protect the IRB from losing market share prior to the sale; and the policies of boosting national champions are firmly in place all across the board in Brazil, whether its auto manufacturing, oil production or insurance. The Brazilians know they have a "hot" economy and an opportunity to grow and build wealth, while maximizing that opportunity for Brazilian firms.

It's a self-destructive strategy, yet one that is appealing in times of economic nationalization when a mentality of circling the wagons to protect oneself dominates.

Even though it is inevitable, there are few reports of capacity constraints in the current market. This is because Brazil is awash in insurance and reinsurance capital because of favorable macroeconomic conditions, such as high local interest rates, plus opportunity for insurers and reinsurers to grow along with the booming economy. Buyers of insurance and insurers have found workarounds, making the regulatory restrictions bearable.

There are existing exemptions to the regulations in certain classes of business: oil and gas, credit trade, guarantee (surety), nuclear, agribusiness credit, etc. Local stakeholders note this will be "the Brazilian way." If problems exist, new exemptions will be added to the regulations. Petroleo Brasileiro S.A., also known as Petrobras, fought and won an exemption from the 10% limit on placement of risk with cross-border—or in Brazilian parlance, "eventual"—reinsurers. Oil and gas placements can be made up to 25% of the premium. Market participants point out that if problems develop in certain classes of business, additional exemptions likely will be added rather than the current framework being scrapped.

But there are signs of stress with the current framework. The government in early April created two government funds totaling 11 billion reais ($5.72 billion) to provide guarantees for the trade credit market and surety bonds on infrastructure projects. One can argue that the fact that the government created this fund—it had the option of creating a publicly owned insurer to serve the market—is evidence of market restrictions in these classes of business.

Words of caution

In some ways, Brazilian business insurance buyers sound like U.S. buyers—they want the best price, which trumps other factors. And they point out that loss ratios historically have been favorable. But words of caution from underwriters of Brazilian reinsurance business include:

1. Buyers are not familiar with large-scale losses, nor with hard markets. Their experience is from a protected market period when the IRB was a monopoly.
2. Buyers don't have an appreciation that adverse loss development may be a future problem.
3. Flood risk in Brazil is a hidden danger. Loss of life has been great, but large economic losses have been small to date; several urban areas are prone to flooding and mudslides, and industrial development is occurring, rapidly changing flood plains and increasing exposed property values. And the past record doesn't predict the future flood risk.
4. Buyers don't yet appreciate the loss potential of a large fire/explosion conflagration in a dense urban/industrial setting, and the terrorism risk is enormous with the high-profile World Cup and Olympics coming soon to Rio de Janeiro.
5. The enormous expansion in the oil and gas exploration business creates tremendous exposures. Catastrophic losses have occurred in Brazil; and with the Deepwater Horizon Gulf of Mexico memories still fresh, expectations are that future oil spill liabilities will be worse.

The growing insured values point to these questions: How do you finance the potential for a $20 billion oil well disaster? A $5 billion series of floods? Or a large multiple billion terrorism risk loss? The evidence from 2011 shows that the reinsurance industry allowed domestic insurers in local markets to avoid solvency-threatening events because of abundant capacity, unrestricted access to reinsurance markets and effective use of multiple counterparties, and resulted in a large injection of foreign capital to help speed the local economy's recovery. This effective functioning of reinsurance markets was all possible because a global diversification of mega-cat risks allowed those losses to fall on large flagship bases of capital.

Brazil's regulations impede this effective risk spreading. They should be changed.

Bradley Kading is president of the Assn. of Bermuda Insurers & Reinsurers. He can be reached at bradley.kading@abir.bm.

China: Growth draws attention

CONTINUED FROM PAGE 3

fastest growing sources of economic consumption around the world—that's really the driving force," said Tienmann Chau, chief operating officer of Ximco Corp., a Shanghai-based brokerage. "China could potentially be the first true source of global demand coming out of Asia ever."

"As the economy rapidly develops, so too do the opportunities for brokers, as local companies become more sophisticated in their risk management needs and international companies enter the market," said Roger Wilkinson, Hong Kong-based chairman and CEO of Willis Asia Pacific, Middle East and Africa. He said that, in addition, many state-owned companies that had not bought insurance in the past have begun looking at their risk management processes, "which means there is great potential for the purchase of more insurance."

"For insurers, property business in China has a lot of potential, as it is linked to the growth of the economy and the increasing sophistication of Chinese business when it comes to risk management," he said, adding that the "opportunities around marine, construction, energy and aerospace also abound."

OPPORTUNITIES ABOUND

Facts about China's economy that make it an attractive place to do business

- China has the largest population in the world, estimated at 1.34 billion a year ago.
- China had a gross domestic product of $11.3 trillion and a growth rate of 9.5% in 2011.
- China was the third-largest market for U.S. exports, worth $10.88 billion, and the second-largest exporter of goods to the United States, with a value of $399.96 billion.

Source: CIA and U.S. Department of Commerce

"Investment, consumption and net export in China still see steady and rapid growth," said Mr. Wilkins. "Meanwhile, driven by vigorous investment and consumption, domestic demand continues to expand. Sectors including new energy, infrastructure, auto, auto spare parts, e-commerce, logistics and TV and films are growing at a fast pace."

Stephen Fuller, vp of international external affairs for Warren, N.J.-based Chubb Corp., said China's "strategic emerging industries" create opportunities for insurance. These industries include biotechnology/life sciences, high-end equipment manufacturing, energy conservation and environmental protection, clean-energy vehicles, and next-generation information technologies.

"For these cutting-edge industrial sectors, cutting-edge insurance is needed," he said.

Looking ahead, Marsh's Mr. Wilkins said the Chinese government "will attach great importance" to such areas as energy conservation, environmental protection, agriculture and technology innovation.

"This will provide great opportunities to the insurance industry," he said. "Various products will be developed to meet these needs."

Ximco's Mr. Chau also noted that China reformed its civil laws in 2010. "Legal reform may be the driver for emerging risk exposures that could create opportunities," he said.

Karen Hu, China CEO for Zurich Financial Services Ltd. in Shanghai, called the Chinese insurance market "one of the most dynamic markets in the world," presenting immense growth opportunity for foreign and domestic insurance companies as the insurance industry grows at more than 25% annually.

She added, though, that "because insurance is such a strategic industry, the Chinese government on the one hand has opened the insurance industry to foreign investment and assistance. On the other hand, it has carefully regulated the speed and scope of foreign involvement in order to protect China's still-nascent domestic insurance industry and to match insurance industry growth with society's demand for insurance services."

Emerging risks raise concerns for U.S. companies in China

Developing exposures range from political risk to executive liabilities

By MARK A. HOFMANN

U.S. risk managers responsible for China operations have to keep an eye on emerging issues, ranging from political risk to directors and officers liability, that could affect the way they do business, say observers.

Loss control can also be an issue, they say, as standards accepted in China might not meet U.S. requirements.

Aon Risk Solutions has rated China as presenting a medium level of political risk, said Roger Schwartz, senior vp in the Aon P.L.C. unit's political risk practice in New York.

China earns that rating because of political and regulatory issues, said Mr. Schwartz. There are some potential political violence issues in some of the nation's regions, as well as political interference. There is potential for some supply chain disruption as well, he said, and issues such as corruption and being forced to relocate operations also raise concerns.

While private-sector political risk underwriters are open for business, the federal Overseas Private Investment Corp., which provides political risk coverage for U.S. businesses with projects in developing economies, is banned by U.S. law from underwriting political risk in China.

Tied to political risk issues is the rule of law. The functioning of courts in the commercial context hasn't been as strong in China as they might be in more evolved legal systems, said David Battman, managing director-international business development for Gallagher International in London. Part of the problem is a "lack of practice," he said, adding that in his judgment the situation is improving.

EMERGING RISKS IN CHINA

Risk managers have to be mindful of many issues when doing business in China, such as:

- Potential political violence
- Political interference
- Supply chain disruption
- Corruption
- Being forced to relocate operations
- Social unrest
- U.S. product liability issues

Still, there are political risks, he said. As peasants flock to cities, the risk of social unrest increases. Mr. Battman said he doesn't think that's a significant risk, but he also noted that "most of us didn't think regime change was likely in the Middle East last year."

Not all risks relate to politics or regulation, said Elizabeth Demaret, multinational client service director at Marsh Inc. in New York. For example, for a company supplying a major U.S. retailer, one of the biggest issues is insurance for the United States because of U.S. product liability issues. She said loss control varies from industry to industry, but the appetite for loss control is there and is more risk management driven than insurer-requirement driven.

"You're typically going to bring in your loss control expertise," she said. For example, U.S. global companies might find that sprinkler heads used in Chinese factories aren't up to U.S. standards.

China also is a "highly concentrated property market where U.S. companies have billions of assets invested in an area that could be subject to natural catastrophes," said Claude F. Gallello, managing director-international practice at Willis Group Holdings P.L.C. in New York. As a result, there's interest in intense risk engineering, he said.

Mr. Gallello also pointed out that goods coming to the United States need Underwriters Laboratories approval. While that's generally not a big issue, it can raise business interruption issues under some circumstances, he said.

In addition, Ms. Demaret said, "I look at emerging issues—D&O is certainly one a lot of people are looking at." Also, she said, "We have to look at some of the environmental issues."

Willis' Mr. Gallello said that "China is not a very litigious market." But some issues are evolving, including D&O liability. Chinese insurers have been promoting coverage because there have been D&O losses directed mostly at Chinese executives, he said, adding that there's no reason that liability cannot expand.

Regulations abound in China's evolving insurance market

By STUART COLLINS

Insurance supervision in China is evolving quickly and in line with international standards, but foreign insurers and brokers still face restrictions and a certain lack of regulatory transparency.

China's insurance regulator, the China Insurance Regulatory Commission, has moved rapidly to adapt to international norms, although its rules are more prescriptive than regulations in the United States and Europe, said Michael Cripps, Shanghai-based partner and head of Clyde & Co. L.L.P.'s corporate insurance practice in Asia.

While moving toward a risk-based capital regime for insurers, the regulator is 10 to 15 years behind the U.S. and Europe, said Robert Wiest, president of Swiss Re China in Beijing.

"The Chinese insurance framework is not as advanced as those in developed markets, but it is moving in the same direction and the pace of change is high," he said.

The challenge for insurers and reinsurers in China is the speed at which the regulatory framework is developing, said Mr. Wiest.

"There are some 400 regulatory circulations every year, some two or three requests for information from the regulator each day," he said.

"The regulator wants to understand the impact of regulatory change on the health of insurers given the financial market turmoil, but this means a lot of communication and reporting back," said Mr. Wiest. "It is positive that the regulator is very interactive, but the costs of doing business in China are high."

China's insurance rules are known as PRC Insurance Law.

China's insurance regulator, the China Insurance Regulatory Commission, has moved rapidly to adapt to international norms.

"Overall, our experience of being in China and working with the CIRC has been positive. China is a very structured market, and obtaining a license is a clearly laid out process," he said.

"The problems, however, lie under the surface and in the execution. There are a lot of unwritten rules, and you have to go through the exercise (of applying for a license) to understand the rules in practice," said Mr. Wiest.

"Insurance regulations are publicly available and easily accessible, but they are broad and flexible in their application, and the interpretation of the rules is sometimes not consistent," he said.

China introduced rules for insurers in the 1990s and rules for brokers in 2000, so the regulator is still very active in monitoring how insurers operate, as well as regulating product and price, said Alex Yip, general manager of Guangzhou, China-based JLT Lixin Insurance Brokers Co. Ltd., which is 51% owned by London-based Jardine Lloyd Thompson Group P.L.C. and 49% by Guangdong Revenco Enterprises Co. Ltd.

For example, the regulator approves policy wording, rating structures and sets minimum price levels for some lines of business, Mr. Yip said.

China continues to attract more foreign insurers due to its potential business volume and comparatively stable economic and political environment, said Clare Wu, Shanghai-based deputy general manager of Aon-COFCO, part of Aon Corp.

However, the country strictly controls licensing of foreign insurers, although the threshold for foreign insurers has been gradually relaxed under agreements with the World Trade Organization, she said.

"Foreign players still face certain regulatory restrictions when operating in China, such as territorial limits, for instance," said Ms. Wu.

Compared with other sectors, obtaining a license to sell insurance in China is relatively simple, said Mr. Yip. "It is simple to set up a domestic Chinese broker, but foreign brokers have to fulfill certain WTO requirements, and only the largest international broker would qualify."

Applications can take six months to a year to process, said Mr. Yip. Insurers and brokers then must establish an office in China, hire staff and undergo regulatory inspections, which can up to another year, he said.

Risk managers and their insurers should not assume their global programs or worldwide policy wordings will cover their risks and assets in China, said Clyde & Co.'s Mr. Cripps.

> **80%**
> China's rules restrict the amount of reinsurance placed with one reinsurer to 80%. However, whether the 80% cap also applies to excess layers remains a gray area that needs to be clarified.

"To underwrite risks in China, the primary insurer must be admitted in China," he said.

Nonadmitted insurance is prohibited for risk exposures in a China territory, said Ms. Wu. "Pure Chinese risks should only be picked up by local contracts that are established with local registered insurance players," she said.

China's rules restrict the amount of reinsurance placed with one reinsurer to 80%. However, whether the 80% cap also applies to excess layers remains a gray area that needs to be clarified, Ms. Wu said.

Insurers that cede business to overseas reinsurers should seek CIRC approval in writing yearly. Reinsurance provided to an insured's offshore captive is limited to 20%, she said.

The Chinese reinsurance market is relatively open and has fewer restrictions on foreign participants than the primary market, said Mr. Cripps.

"The regulator is keen to promote the reinsurance market in China and considers it an integral part of the insurance market," said Mr. Wiest. Foreign reinsurers have been invited to enter China and most top reinsurance companies have obtained licenses in recent years, he said.

China's insurance law defines two types of reinsurer—admitted and offshore—although the rules favor admitted reinsurers, said Mr. Wiest. Only 90% of reinsurance ceded to an offshore reinsurer supports regulatory capital requirements, he said.

Unlike foreign insurance companies, reinsurers need apply for only one license to underwrite across all Chinese provinces, said Mr. Wiest. However, rules require reinsurers that open an additional presence, such as a regional sales office or branch, to be fully capitalized, he said.

The regulator also is pushing to develop a professional broker market, said Mr. Cripps. "The regulator would like to see fewer agents of insurers, with brokers writing significantly more business," he said.

The operating environment in China is business-friendly for brokers, said Roger Wilkinson, Hong Kong-based chairman and CEO of Willis Asia Pacific, part of Willis Group Holdings P.L.C.

"The only downside for foreign brokers operating in China is that we don't have access to the full market, as we're legally not allowed to be involved in small and lower mid-market business, which is the reserve of local brokers," he said.

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Political stability but little transparency in China

By STUART COLLINS

Political risk in China is relatively low compared with other emerging markets, but legal and regulatory transparency is a key risk for foreign companies in the region.

"The political risk situation in China is interesting because while there is stability with the one-party system, there is also very little transparency in rules and other aspects of doing business, which make it challenging for a foreign investor," said Corina Monaghan, New York-based vp of the political risk practice at Aon Risk Solutions, part of Aon Corp.

Transparency is a huge issue in China and is perhaps the biggest single issue for foreign companies, said Andrew Gilholm, Shanghai-based political and security risk analyst for global risk consultancy Control Risks Group Holdings Ltd. For example, corporate filings and accounts can't be treated in the same way as those in the U.S. or Europe, and there are many conflicts of interest within or between companies, buyers, suppliers, etc.

Regulatory transparency is particularly an issue for strategic or politically sensitive sectors like high tech and commodities. Regulations can change quickly, and there can be inconsistency in their application, said Mr. Gilholm.

By emerging market standards, China is a fairly stable and predictable business environment, said Mr. Gilholm. "Many companies are increasingly savvy to operating in China and rarely experience severe problems, unless they get into dispute with a Chinese partner or are involved in a politically sensitive sector," he said.

China is not a political risk hot spot, with little political violence, business interruption, strikes or riots, said Mr. Gilholm.

However, there has been a rise in political violence in China as the country feels the pain of a recession in the global economy and because of an income disparity between urban and rural communities, said Ms. Monaghan. But actual physical damage to foreign assets appears to be minimal so far, as civil unrest has not targeted foreign businesses, she said.

There has been rising social unrest in China, but it typically remains localized and related to land, labor or environmental disputes, said Mr. Gilholm.

"Widespread civil unrest in China is not likely in the short to medium term, because there are no signs of divisions in the ruling Communist party or the downturn in the economy becoming really destabilizing, two key ingredients for political upheaval," he said.

China also is relatively low risk for security and crime, said Mr. Gilholm. But while crime rates are relatively low, intellectual property risk remains problematic.

"Chinese authorities periodically clamp down, but piracy and counterfeiting always come back, and industrial espionage is still an issue. (Intellectual property) is still one of the top risks of concern to foreign companies in China," he said.

There still are many cases of corruption, bribery and gift giving that would not be compliant with international bribery and corruption laws. However, corruption in China is not unusual by the standards of other emerging markets, he said.

Contract frustration is a key issue for companies in China, said Mr. Gilholm. "Enforcing a contract in China can be difficult. Even enforcing a favorable court ruling can be problematic when dealing with certain sectors or with state-owned parties. Companies tend to think twice before entering into a dispute or legal action over a contract if it has a long-term interest" in China.

There are huge discrepancies in legal treatment between courts depending on geographical location, said Mr. Gilholm. For example, courts in Beijing and Shanghai generally operate to higher standards than less-developed cities, and provincial capitals are usually better than, say, courts at a township level.

Investors in China are keen to buy insurance against the risks of political violence and expropriation, said Ms. Monaghan. More recently, there has been interest in buying inconvertibility/exchange transfer insurance, in particular with reports that some companies have had difficulties repatriating dividends or proceeds related to divesting their business in China, due to government interference, she said.

However, political risk insurance capacity in China has been hard to find, said Ms. Monaghan.

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Perspectives

Perry Granof is an insurance services consultant and managing director of Granof International L.L.C. He also is of counsel with the Williams Kastner Law Firm in Seattle, and has traveled to China, where he spoke with lawyers, underwriters and brokers about insurance issues. Following is an overview of Chinese nonlife insurance derived from his discussions in China, as well as insights into the market, niche insurance products such as directors and officers liability insurance, and the Chinese economy in general and how it affects the industry.

Complex market serves up opportunities

By Perry Granof

The principal regulator for Chinese insurers is the China Insurance Regulatory Commission. The CIRC also operates at a provincial level, where it seeks to enforce regulations, which have a regional impact throughout the Chinese provinces. All rules and regulations for domestic and foreign insurers are identical, but in their implementation, foreign insurers are perceived to be subject to more scrutiny and thus tend to be more careful in complying with local regulators' dictates. Before insurers can offer new insurance products in China, they must be pre-approved by CIRC. The regulator also evaluates insurers' applications to open new branches.

Mr. Granof

According to Ali Chaudhry, managing director-Asia for Jardine Lloyd Thompson Group P.L.C., Chinese property/casualty insurers can be broken down between domestic, and nondomestic companies. The "big three" major Chinese insurers are People's Insurance Co. of China Ltd., Ping An Insurance Group Co., and China Pacific Insurance Co., with a combined 65% market share. Other large Chinese insurers include China Union Holdings Ltd., predominately an auto insurer, China Life P&C Co. and Huatai Insurance Co. of China Ltd., which has a strategic partnership with ACE Ltd., a leading global property/casualty company.

The top three non-Chinese insurance carriers are Chartis Inc., Liberty Mutual Group Inc. and Tokio Marine Holdings Inc. However, as of 2011, their combined market share was reported to be 0.4%, part of the nondomestic carriers' 1.34% overall market share. Mitsui Sumitomo Insurance Co. Ltd. (Japanese) and Samsung Fire & Marine Insurance Co. Ltd. (South Korean) are also among the largest non-Chinese insurers. Their respective market shares primarily service their considerable Japanese and Korean investments in China.

The small nondomestic insurance presence is mainly due to the fact that 70% of the country's insurance premiums are derived from selling auto liability coverage, which is estimated to be $50 billion annually. PICC is China's largest car insurer, with about one-third of the market.

Up until now, Liberty and Allianz S.E. were part of a small group of non-Chinese companies licensed to underwrite auto insurance, and they were restricted to writing voluntary as opposed to mandatory coverage. However, China is opening up this market to nondomestic carriers, which will certainly expand their share.

For niche products such as directors and officers liability insurance, underwriting premiums constitute a relatively small market share. According to Patrick Zeng, Zurich Insurance Co. Ltd.'s national underwriting manager for financial lines, D&O still is considered to be highly technical coverage. There are few experienced Chinese D&O underwriters. Due to the large proportion of U.S. securities class actions filed against Chinese companies, loss ratios for D&O coverage is high, and Chinese insurance companies are hesitant to write such coverage. To the extent that domestic insurers are looking for a share of the D&O market, they have primarily sought to write excess coverage. Where an insurance tower for a particular policyholder is small, local markets can and will provide limited capacity. Should larger limits be necessary, offshore support from the United States, the United Kingdom or other European markets is required.

Aside from Western-venued shareholder proceedings—and U.S. securities class actions in particular—there are limited Chinese domestic exposures. There are defense-cost exposures for individual criminal proceedings before final judgment. In addition, Article 152 of the 2006 Chinese Company Law provides a statutory basis to assert derivative claims. However, according to Arthur (Xiao) Dong, a senior partner in the law firm of Lantai Partners, derivative litigation is still new in China, and plaintiffs have difficulty accessing company records and data, hampering shareholders' efforts to establish evidence of wrongdoing.

Damages awarded in Chinese derivative cases, have varied from 1 million yuan ($158,100) to 5 million yuan ($790,500). More than 50% of the cases brought are dismissed, often due to the plaintiff's inability to establish causation between the defendant's behavior and the damages suffered by the company. Messrs. Dong and Zeng said liability is more easily established where Chinese regulators or law enforcement agencies penalize a company for financial misrepresentation, tax dodging or other forms of misconduct. In these instances, damages awarded typically parallel the amount of penalty assessed and have varied from 10,000 yuan ($1,581) to 300,000 yuan ($47,430). Mr. Dong cautioned that this data only refers to cases involving nonpublicly listed companies. The penalties for publicly listed companies likely would be much larger.

Despite China's economic boom, the country is experiencing inflation and other economic turmoil, such as a lack of liquidity. Under current economic conditions, banks have limited lending money to private businesses, in contrast to state-owned companies, which can effectively guarantee repayment of loans. This is creating a disparity between state-owned companies and private enterprises. As a result, privately held companies have become cash poor and, according to Mr. Zeng, are having a hard time coming up with the cash necessary to pay their insurance premiums.

Perhaps because of China's inflation and liquidity problems, the United States still holds a special cachet for Chinese companies as an investment-banking center. For example, there is status in being U.S.-listed on either the NASDAQ or the NYSE exchanges. However, according to Changchun Yuan, a founding partner with Beijing-based Broad & Bright Law Firm and licensed in both the U.S. and China, tougher U.S. laws, stricter scrutiny and increased class actions may deter Chinese companies interested in investing in the U.S.

Conversely, China's perceived role as the world's manufacturing behemoth may be changing. Chinese asset management companies are looking to acquire manufacturing operations in the U.S. because, at the current exchange rate and the cost of transportation, it is price-competitive to manufacture products in America where one can enjoy the benefit of advertising that the product was "Made in the USA."

This could potentially change Chinese businesses' perceived need for such insurance products as D&O and related financial lines, including employment practice liability insurance. The demand for EPL coverage likely will increase, with newly placed Chinese managers in U.S. manufacturing facilities who may not have the required age, gender and racial sensitivity when dealing with a U.S. workforce. It also potentially will affect the product liability insurance market, as Chinese manufacturers will be less able to rely on their geographical distance, language limitations and state jurisdictional protections to avoid paying damages for such product liabilities as tainted milk, defective drywall and unsafe baby cribs, which have arisen in the past. It's uncertain whether such products will be underwritten domestically or abroad.

Nevertheless, foreign investors continue to maintain a keen interest in China's domestic insurance industry. This month, the CIRC approved Insurance Australia Group Ltd.'s proposal to purchase a 20% interest in Bohai Property Insurance Co., for 687.5 million yuan ($108.7 million), making IGA Bohai's largest shareholder. In addition, Chartis, Allianz and other insurers are looking to enter the lucrative Chinese auto insurance market and other niches. The Chinese insurance industry certainly appears to be a dynamic and complex environment subject to dramatic changes.

Perry Granof is managing director of Glencoe, Ill.-based Granof International L.L.C., where he provides insurance consulting services. He can be reached at pgranof@granofinternational.com.

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Broker seeks growth in competitive market

Changes in rules allow foreign firms to vie with locals

By BILL KENEALY

Much like China's economy, the footprint of London-based Willis Group Holdings P.L.C. in the Chinese insurance market has expanded rapidly in recent years.

CASE STUDY

In 2004, Willis entered the market through the acquisition of a 50% equity stake in Chinese insurance broker Shanghai Pudong Insurance Brokers Co. Ltd. A year later, Willis increased its stake in the venture to 51% and renamed the venture Willis Insurance Brokers Co. Ltd. in 2007. Willis increased its equity stake to 90% in 2010 and has now has an insurance broking network and workforce of international brokers that employs 350 associates throughout the country.

"China is one of Willis' greatest success stories," said Roger Wilkinson, chairman and CEO, Willis Asia Pacific, Middle East and Africa. "With consistent double-digit annual growth, China became our largest business in Asia in 2010."

Yet with this success comes challenges, Mr. Wilkinson said.

"The biggest challenge by far is recruiting and retaining the best people," he said.

"There is a real war for talent here; not only are we competing with other brokers and insurers who are rapidly growing in number, but as the insurance broking industry in China is only 10 years old, it is not as easy to find the right people like it is in the U.S. or the U.K., for example, where the industry is more developed," Mr. Wilkinson said.

The battle for talent is just one front in a fiercely competitive insurance landscape in China. Competition among insurance companies is very intense, he said, so market pricing is extremely competitive.

"Insurance prices here are generally far cheaper than those in the more developed insurance markets of the world," Mr. Wilkinson said.

With an estimated 400 brokers operating in China, the competitive dynamic is similar for brokers.

"All the multinational brokers are here, along with some very strong pan-China brokers, regional brokers and powerful in-house brokers in large corporations," he said. "In order to differentiate ourselves, we focus on delivering the group's global resources locally, especially in the large corporate space."

China is less a singular insurance market than an amalgamation of local markets. Mr. Wilkinson said that while some areas like Shanghai are more westernized in their approach to insurance and the use of intermediaries, business practices vary widely in other regions.

"Cultural and regional differences still play a big part in the Chinese business environment," he said. "In recognition of this fact, we have local offices in 21 of the 31 provinces and ensure that these branches are staffed by people from the region."

While business practices may differ by region, the insurance market in China is regulated by a national entity—the China Insurance Regulatory Commission. While all policies have to be approved by the regulator, Mr. Wilkinson said the company has found the operating environment in China is generally fair and conducive to business.

"The only real downside for foreign brokers in China is that we don't have access to the full market, as we're not allowed to be handle small and lower mid-market business, which is the reserve of local brokers," he said.

However, there are indications of further liberalization of market. In February, China announced that it would open up its mandatory third-party liability auto insurance system to foreign insurance companies.

"Motor insurance represents around 70% of the total property/casualty premium payable in China, so the opening up of this market to foreign insurers represents a huge opportunity for them. This development should drive the competition and demand for nonmotor business too, which will increase the need for brokers' services in China," Mr. Wilkinson said.

Insuring China's growing property business holds great potential, as do policies serving the marine, construction, energy and aerospace markets, Mr. Wilkinson said. Formerly state-owned companies who haven't bought insurance in the past but are now looking at their risk management process also harbor great potential in his estimation. Insurance services catering to China's most seemingly infinite resource—its people—also represent an opportunity. In the absence of a government-funded benefits system, private companies in China are increasingly using employee benefits as a retention tool, Mr. Wilkinson said.

"The expanding population and middle class represent huge opportunities in the area of employee benefits as more people become employed," he said.

'The only real downside for foreign brokers in China is that we don't have access to the full market, as we're not allowed to be handle small and lower mid-market business, which is the reserve of local brokers.'

Roger Wilkinson, Willis Asia Pacific, Middle East and Africa

inBrief

Commercial pricing increases: MarketScout

The commercial property/casualty insurance market continues to firm, with rates increasing by an average of 4% in May compared with the same month last year. Commercial property insurance and workers compensation saw the biggest increases, at 5% each.

P/C insurers' reserve releases nearing end?

The era of property/casualty insurers boosting earnings by releasing reserves may be near an end, Barclays Capital Inc. said. It estimated that median reserve adequacy as a percent of analyzed reserves stood at 4% at the end of 2011, down from 7% at the end of 2010.

Global reinsurers financially sound: S&P

Global reinsurers remain financially sound despite last year's huge catastrophe losses, according to Standard & Poor's Ratings Service. Reinsurers' enterprise risk management capabilities "lead the insurance industry and have enabled them to keep underwriting and investment exposure within risk tolerances for the most part."

Narcotics prescriptions rising in workers comp

The cost of narcotic painkillers in workers compensation claims has grown in the past several years as more injured workers have received prescriptions for such medications, NCCI Holdings Inc. said. Narcotics accounted for $35 of the average workers comp medical claim paid in 2009, the latest data available. That is up 14% from 2008.

Rise in surety claims expected through 2013

While the surety sector performed well during the financial crisis, higher claims activity can be expected through 2013, says Moody's Investors Service Inc. "The sector performed strongly through the financial crisis, in part sustained by federal stimulus-related construction projects," says the sector profile. "Claims activity, however, typically lags economic deterioration by 1 to 3 years."

Deadline extended for Best Places to Work

The deadline for registering for *Business Insurance*'s 2012 Best Places to Work in Insurance program has been extended to the end of the day June 12.

The program provides an opportunity to identify and recognize high-quality workplaces in the commercial insurance industry in a variety of categories. The program honors those companies that create workplaces that do superior jobs of encouraging employees to thrive in a workplace they can love.

Each company that makes the Best Places to Work in Insurance list has to demonstrate that it meets or exceeds a minimum standard of excellence in a variety of employment-related metrics, measured against other employers in the industry as well as other companies nationwide. This information is drawn from a two-part survey conducted of all participating companies, with an emphasis on employee participation.

In this year's Best Places to Work in Insurance program, *Business Insurance* will recognize commercial insurance industry employers in several categories: retail agents/brokers; wholesale brokers/managing general agents; reinsurance brokers; property/casualty insurers; group life/health insurers; claims administrators; benefits brokers and consultants; and reinsurers.

The program is open to companies with as few as 25 employees to those with more than 1,000. Companies are segmented by size for ranking purposes.

To register, please go to *www.bestplacestoworkins.com.*

Since 2009, *Business Insurance* has conducted the annual Best Places to Work in Insurance program in partnership with Best Companies Group.

Flood Contingency Planning

How to mitigate flood loss

Being prepared for floods can help reduce damage and down time so business operations can be quickly restored. This **FREE** webcast from Lexington Insurance details the precautions to take before, during and after a flood event, including: • Key terms and concepts, • Tips for facility audits and planning, • Elements of a Flood Emergency Plan, and • How to report a claim.

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www.BusinessInsurance.com/section/Specialty-Risks

LEXCASTS

End Page

CONTRIBUTING: Sheena Harrison, Bill Kenealy, Joanne Wojcik, Rodd Zolkos

Homeowners hit by hail of fraudsters

While "storm chasers" historically have followed severe thunderstorms with the hopes of spotting tornadoes, some are hunting down gullible homeowners, trying to capitalize on invisible storm damage.

Two men were charged with faking hail damage on homes throughout Lehigh County, Pa., in order to collect from homeowners' property insurers.

More than 100 affected homeowners said they were duped by the men who called on them after storms, offering to do the repair work, which would be paid by their insurance companies. The men also told the homeowners they would cover their deductible if they placed a sign advertising their business in their front yards.

The Lehigh County Auto Theft and Insurance Fraud Task Force said it had received numerous complaints from homeowners, insurance companies and other contractors since April 2009 about the shady solicitations.

To catch the perpetrators, investigators conducted surveillance at homes in Lower Macungie and Salisbury townships, where the men were seen using a screwdriver handle wrapped in duct tape and their bare knuckles to replicate hail damage.

Further investigation determined that one of the men had perpetrated a similar scam in New Jersey.

Last week, Dominik Sandowski pleaded guilty to conspiracy to commit insurance fraud, and Lehigh County Judge Douglas G. Reichley sentenced him to four years' probation. In addition, he was ordered to pay a $2,000 fine and $14,500 in restitution.

Meanwhile, Marcin Porzkowski failed to show up for a preliminary hearing after his arrest and remains at large, according to authorities.

AP PHOTO

Erin Moran, left, and Marion Ross, who played Joanie and Mrs. Cunningham on the TV show 'Happy Days' are involved in a lawsuit seeking a share of merchandising money.

Actors say network is sitting on their money

A Los Angeles judge brought a group of actors a step closer to "Happy Days" on Tuesday by refusing to throw out their suit seeking a share of TV show merchandising money they say they never received.

The four cast members from the television show "Happy Days," along with the widow of a fifth cast member, sued CBS last year claiming they had not been paid money they were owed for worldwide sales of "Happy Days" merchandise.

Los Angeles Superior Court Judge Elizabeth Allen White denied CBS's motion for summary judgment of the suit filed by Marion Ross, Don Most, Anson Williams and Erin Moran along with the widow of Tom Bosley, who died in 2010. If the suit isn't settled, it's scheduled to go to trial July 17.

According to reports, the key issue remaining in the case is whether the actors are entitled to a share of sales of "Happy Days" DVDs. Since the suit was filed, CBS has sent the actors approximately $10,000 each in merchandising payments, reports said.

CBS owns the show, which aired from 1974 to 1984. CBS claims it has paid the actors all the merchandising money they were owed and that it has accounted properly for all "Happy Days" merchandise revenue.

MAYBE FREE SPEECH ISN'T SO FREE ONLINE

Idaho's Spokesman-Review newspaper has been taken to court by one of the state's top Republican leaders, who is seeking the name of an anonymous Internet commenter that she says libeled her via the publication's website.

Tina Jacobson, chairman of the Kootenai County Republican Party Central Committee, sued "John Doe and/or Jane Doe" in Idaho's First Judicial District court in April. According to a copy of the complaint posted on the Spokeman-Review's website, the anonymous defendants represent a Spokesman-Review commenter dubbed "almostinnocentbystander."

The commenter, who posted on the newspaper's "Huckleberries Online" blog in February, accused Ms. Jacobson of stealing $10,000 in Republican committee funds. Ms. Jacobson's complaint said the accusations are false.

Spokesman-Review blogger and columnist Dave Oliveria removed comments from "almostinnocentbystander" that referenced the accusations against Ms. Jacobson, and the commenter was banned from posting on the paper's website, according to a post from the paper in February. Ms. Jacobson's complaint said those actions showed the comments were "derogatory and...unsubstantiated."

The newspaper has not been named as a defendant in the lawsuit, but has been subpoenaed to reveal the commenter's identity, as well as two others who responded to the post from "almostinnocentbystander."

Lawyers for the newspaper argued in a hearing last week that commenters should be able to post anonymously online as part of their First Amendment rights, according to an Associated Press report.

Ms. Jacobson is seeking at least $10,000 in damages from "almostinnocentbystander."

STARBUCKS IRELAND MAKES GRANDE ERROR

An errant tweet has landed Starbucks in hot water on the Emerald Isle. Looking to capitalize on the hype surrounding the diamond jubilee of Queen Elizabeth II, the Seattle-based coffee purveyors exhorted followers on its @StarbucksIE twitter account to convey "what makes you proud to be British" in order to secure a half-price frappuccino in the company's "Happy Hour" promotion.

Unfortunately for Starbucks, "IE" stands for Ireland, which gained its independence from Britain in 1921.

The company quickly issued an apologetic tweet. "We erroneously posted to our Irish Twitter page meaning to post to the U.K. only. Customers in Ireland: We're sorry."

The apology was apparently insufficient to inoculate the company from a healthy dose of Irish wit in riposte. "I'm not upset at @StarbucksIE calling us British," one follower wrote. "I'm more upset at using the phrase 'Happy Hour' without alcohol being involved."

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