Reinsurance Trade Barriers and Market Access Issues Worldwide

Global Reinsurance Forum (GRF) – January 2016

GLOBAL REINSURANCE FORUM

Table of Contents

Executive Summary

Global Reinsurance Forum (GRF) members account for more than 65% of global net reinsurance premiums. The GRF believes that positive and significant economic benefits will result from the free global flow of risk through open and competitive reinsurance markets.

The GRF has identified 26 major territories around the world which have either implemented, or are in the process of implementing, barriers to the transfer of risks through global reinsurance markets. This is an increasing worldwide trend, which undermines the efficiency of reinsurance markets. Such barriers reduce competition leading to reduced customer choice, higher reinsurance costs and less capacity over the long-term horizon. These reinsurance trade barriers and market access issues include but are not limited to:

- Restrictions on the ability of reinsurers to freely conduct business on a cross-border basis, thus limiting the capacity of global reinsurers to spread risk globally and to prevent domestic concentrations of risk. Varying levels of restriction are witnessed or developing in Argentina, Ecuador, Egypt, India, Indonesia, Malaysia, Nigeria, the Philippines, Poland, South Korea, China, Russia and South Africa and the African Union.

- Requirements for reinsurers operating on a cross-border basis to collateralise or localise assets, preventing the global reinsurance market from transferring and spreading risk on the basis of a competitive, level playing field across borders. Such requirements exist or are evolving in Brazil, Canada, Ecuador, France, Portugal, Singapore, South Africa, the United States and China.

- Barriers to the establishment of branches, subsidiaries and operations restricting the ability of reinsurers to deliver their full economic benefit by providing local underwriting expertise and direct services to transfer risk out of domestic markets on an open and competitive basis. Such barriers are present or developing to varying extents in Brazil, China, Egypt, India, Indonesia, Malaysia, Nigeria, Russia, South Africa, Thailand and the UK.

- The use of discriminatory and anti-competitive mechanisms such as compulsory cessions to domestic entities, and systems of ‘right of first refusal’, limiting the competitive capacity of global reinsurers to operate on a level playing field. Such practices concentrate risk domestically, whilst limiting customer choice, and can be witnessed to varying degrees in the African Union, Argentina, Brazil, China, Egypt, France, India, Indonesia, Malaysia, Nigeria, the Philippines, Sri Lanka and Thailand.

Though there have been some positive recent developments in Brazil, South Africa and the United States, the GRF would encourage jurisdictions to remove existing and remaining barriers to reinsurance. Such improvements will be in the interests of governments, policyholders, taxpayers and national economies.

Current Trade Barriers And Market Access Issues

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
African Union (54 member states)	It depends on individual jurisdictions' rules	It depends on individual jurisdictions' rules	It depends on individual jurisdictions' rules	Yes. African Union members are required to offer 5% of each risk to Africa Re. Other reinsurers have been established in accordance with regional trade agreements and all receive mandatory cessions, largely in respect of treaty contracts e.g. CICA Re 15%, ZEP-PTA Re 10%, WAICA Re 5%. Many territories have also established state owned reinsurers which benefit from mandatory cessions, e.g. Ghana Re 20%, Kenya Re 18%.
Argentina	Yes, but cross-border foreign reinsurers have to be registered with the regulator and are only able to provide coverage for the portion of a risk above USD 50mn or retrocessions from locally incorporated reinsurers. Some exceptions are allowed by the	No	No	Yes. Local reinsurers must retain at least 15% of reinsurance premiums ceded to them and may not transfer more than 40% of premium corresponding to each transaction to subsidiaries or companies belonging to the same financial conglomerate located abroad. If reinsurance business

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
	regulator on a case-by-case basis. Foreign reinsurers must set up an Argentine branch with capital equalling the greater of 30m Argentine Pesos (approx. USD 3.75 million) or 16% of premium retained or 40% of gross written premium, in order to enjoy unrestricted access as a “local reinsurer”.			constitutes up to 10% of a local insurer’s annual premiums, it can only place their retrocessions with local reinsurers.
Brazil	Yes, but there is requirement to be registered as either an ‘admitted’ or an ‘occasional’ reinsurer.	Yes, foreign admitted reinsurers must hold a minimum "BBB-" S&P risk rating and net assets of USD 100mn ("BBB" S&P risk rating and USD 150mn for occasional reinsurers) and a foreign currency bank account in Brazil tied to the regulator, with a minimum deposit of USD 5mn (USD 1mn for life reinsurers), plus an	Yes, foreign reinsurers must set up and capitalise an insurance company in Brazil, with a required minimum 50% risk retention. A 2% withholding tax applies to overseas premium remittances. The reinsurer must not be domiciled in a tax haven jurisdiction, as defined in relevant regulations. The president must give approval for a foreign insurer to set up a	Yes, requirement to place at least 40% with ‘local’ reinsurers and there is a 20% premium limit on intra-group reinsurance placed abroad. Resolutions published in July 2015, however, gradually amend the limits on cessions to foreign affiliates up to 75% whilst decreasing the requirement for local placement to 15% over the next five years. A related company or a company

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
		additional deposit of between 10% and 30% according to the reinsurer's risk rating (only applies to admitted reinsurers with S&P rating below A-).	branch. A financial operations tax of 0.38% applies to foreign exchange transactions.	belonging to the same financial conglomerate is defined as a set of directly or indirectly related legal persons, with either a shareholding of 10% or more in capital in the Brazilian company or active operational control.
Canada	Yes	Yes, collateral requirement of 115% of gross reinsurance liability for ceding insurer to get credit for reinsurance from unauthorised reinsurers.	No	No
China	Yes	No	No. Life and non-life insurer subsidiaries are permitted. Branches of non-life foreign insurers are also permitted. Licences are issued on a 'province by province' basis. However, in order to be considered for a branch, joint venture or subsidiary licence, foreign insurers must have been in business for over 30 years; have a representative	No, but with the exception of aviation, aerospace, nuclear, oil and credit reinsurance contracts, the amount of proportional business ceded to any one reinsurer in respect of any one risk should not exceed 80% of the sum insured or liability limit of the direct insurance policy. The amount of each facultative cession to an affiliated company of the

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
			office in mainland China for at least two years; total assets of at least USD 5bn; and meet other conditions which CIRC deems prudently necessary.	cedent should not exceed 20% of the sum insured or limit of liability of the direct insurance policy.
Ecuador	Yes, but subject to restrictions	Yes. Recent regulations mandate that insurers must retain 95% of risks in certain classes: life, health, and personal accident, motor.	No	No
Egypt	Yes, but all reinsurance must be placed with reinsurers approved by the regulator. These are largely companies with rating of at least BBB+ and/or a minimum capital of USD 50mn.	No	Yes. Foreign branches are not allowed. No limit on the foreign ownership of Egyptian insurers, but no individual company or person can own more than 10% of an Egyptian insurer without government approval.	Yes. As a member country of the Organisation of African Unity, local insurance companies are required to cede a minimum of 5% of each reinsurance treaty to Africa Re.
France	Yes	Yes. Ceding insurers cannot take credit on their balance sheets for reinsurance purchased from non-EEA reinsurers from non-equivalent	No	Although it does not receive compulsory cessions, the state-owned reinsurer (CCR) is the exclusive beneficiary of a State guarantee. This allows CCR to offer Nat Cat reinsurance at highly

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
		regimes unless such reinsurers guarantee their obligations by means of a cash deposit, the pledge of certain securities or a bank guarantee.		competitive conditions leading to a dominating role in the French Nat Cat reinsurance market. Besides, as a result of state backing CCR has the same rating from leading rating agencies as the French Republic, giving it an edge in other markets too.
India	Yes, but complex registration and onerous local reporting requirements apply.	No	Following enactment of the Insurance Act, the limit on direct and indirect foreign ownership and operation changed from 26% to 49%. The IRDAI has issued regulations governing the establishment and operations of branches of foreign reinsurers, though some uncertainty around the final contents of the regime remains. This follows a recent proposal by IRDAI to grant first right of refusal of business to the domestic reinsurer over branches of foreign	Yes, 5% of each non-life policy must be ceded to the "Indian reinsurer", the General Insurance Corporation. No more than 10% of an Indian insurer's reinsurance premium per risk ceded outside India can be placed with any single reinsurer that has a rating of BBB, 15% with a foreign reinsurer with a rating higher than BBB and up to AA, and 20% with one that has a rating higher than AA and up to AAA. If an insurer wants to cede a larger proportion of the risk with a foreign reinsurer, it requires the regulator's specific approval.

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
			reinsurers.	Indian life insurers must reinsure a percentage of the sum assured on each policy with domestic reinsurers. This may involve the transfer of up to 30% of risks to the General Insurance Corporation. Compulsory cessions are included as provisions in the Act, but these provisions have not been enforced. Furthermore, IRDAI is considering introducing a proposed system of 'right of refusal' which offers preferential access to reinsurance business to domestic reinsurers over branches of foreign reinsurers.
Indonesia	Yes, Current regulations allow for cross border reinsurance as long as it meets certain criteria such as minimum rating for the reinsurer and some portion of the risk remains on-shore. However, from	No	Yes, branches of foreign insurers are not permitted. Only an incorporated company in Indonesia can apply for a licence to carry on business as an insurer. Foreign shareholders of any entity	Yes. Treaty reinsurance: minimum 25% cession, or USD 16 million cession for proportional, USD 14 million cession for non-proportional and USD 6 million cession for life, whichever is greater, before

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
	December 2014 (according to the contents of a circular from the regulator), it is prohibited to place treaty reinsurance for motor, personal accident, health, guarantee (suretyship), credit insurance, life insurance and cargo insurance with foreign reinsurers.		carrying on insurance activities are limited to 80 per cent at establishment. There are no further regulations that prohibit foreign shareholders from injecting more monies into the company – diluting the local shareholder share.	reinsurance is placed on a cross-border basis with foreign, non-admitted reinsurers. The treaty leader must be an Indonesian reinsurer. Facultative: minimum cession of USD 50 million for property, engineering and energy risks, USD 30 million for "miscellaneous insurance" (not defined), and USD 20 million for MAT. Non-life reinsurance must be offered to two locally licensed reinsurers and life insurance must be offered to one locally licensed reinsurer before it may be placed with a foreign reinsurer.
Malaysia	Yes. There is a tiered system of reinsurance. Bank Negara requires all local direct insurers to cede business first to local reinsurers (first tier) and then	No	Yes, there is a 70% limit on foreign equity ownership.	Yes. From January 2014 to December 2015, 'voluntary' (mandatory) cession (VC) to Malaysia Re are as follows: (a) The VC level for motor and

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
	to Labuan- based reinsurers (second tier). Only after these two options have been exhausted may business be offered to 'offshore' or third tier reinsurers.			personal accident classes will remain at 2.5%. The level of VC for other classes of business will be reduced to 2.5%; (b) The levels of VC will not be subject to any cession limits; and (c) The levels of cession under Auto Treaties and Auto Facultative will be maintained at 15% with 20% retrocession. It is expected that the VC arrangement will be removed from 2016, in-line with the de-tariffing of fire and motor premiums.
Nigeria	No. However, permission to reinsure abroad can be sought from regulator. Specific guidelines state that no (re)insurance risk in the Nigerian oil and gas sector may be placed overseas without	No	Yes, although it is understood that the often quoted requirement that foreign holdings in local insurance companies are limited to 40% is not enforced.	Yes. 5% of treaty programmes to Africa Re. Additional 5% of treaty programmes, excl. life and aviation, of member companies of the West African Insurance Companies Association must be placed with WAICA Re.

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
	written approval of the regulator. Local capacity, which is the aggregate capacity (incl. treaty RI) of all locally, registered (re)insurers must be fully exhausted.			
Philippines	Yes, but foreign reinsurers need to appoint an agent who is a Philippine resident or company, to represent the reinsurer in cases of legal action. It is illegal for Philippine insurers to cede to non-admitted reinsurers without a 'resident agent', unless there is a foreign broker in the placement chain (who must have a 'resident agent' of their own).	No	No	Yes. There is a mandatory cession of 10% of all reinsurance to the Philippine National Reinsurance Company (PhilNaRe, the state owned reinsurer). For marine hull, aviation, money, securities, payroll and robbery risks on a facultative reinsurance placement, cedants/ reinsureds must have unsuccessfully attempted to place the risk with two (2) local direct companies , one (1) foreign authorised company and one (1) domestic professional reinsurer before the regulator will grant them permission to approach an unauthorised foreign company.

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
				For all other facultative placements, at least five (5) local direct underwriting companies, three (3) foreign authorised companies and one (1) domestic professional reinsurer must have been approached.
Poland	It is not permitted in respect of cross- border reinsurance provided by reinsurers from non-EEA non- equivalent countries.	No	No	No
Portugal	Yes	Yes. Ceding insurers cannot take credit on their balance sheets for reinsurance purchased from non-EEA reinsurers from non-equivalent regimes unless such reinsurers guarantee their obligations by way of collateral.	No	No
Russia	Yes	No	Yes. Branches of foreign reinsurers are not permitted.	No

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
Singapore	Yes	Under Singapore's *Insurance (Authorised Reinsurers) Regulations 2003*, authorised reinsurers are required to hold a minimum deposit of SGD2 million, 30% of gross premiums or 30% of gross liabilities in respect of cross-border reinsurance, whichever is greater.	No	No
South Africa	Yes	Yes. Subject to limited exceptions, reinsurers must register and establish a local subsidiary to be considered "approved". Non-approved reinsurers may still transact business but must deposit reserves with cedants or set up a local guarantee. Without collateral local cedants may not take non-	Yes. Reinsurers may not be licensed on a branch basis. Subsidiaries must be established or cross border placements must be collateralised (i.e. they are non- approved).	No

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
		approved reinsurance into account for solvency purposes.		
South Korea	Yes, but South Korean insurance companies are prohibited from engaging in face-to-face meetings, including all marketing activities, with unlicensed foreign reinsurers in South Korea. Foreign reinsurers may only contact South Korean cedants by means of mail, telephone, fax, video conference or the internet	No	No	No
Sri Lanka	Yes	No	No	Yes. There is a mandatory 30% cession of non-life reinsurance to state owned insurance and reinsurance company, the National Insurance Trust Fund (NITF) – aviation and energy risks are exempt from this rule. A 10% cession was first introduced in 2008 and was increased in 2013.

Jurisdiction	Is reinsurance permitted on a cross-border basis?	Are there discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Are there discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Are there compulsory cessions, right of first refusal rules, or other trade barriers affecting foreign reinsurers?
Thailand	Yes	No	Yes. Foreign insurers may only operate as a foreign branch office or as a joint venture partner in a Thai insurance company with foreign ownership limited to 49% approval from Ministry of Finance required for foreign equity ownership of insurance and reinsurance companies above 49%.	Yes. From 2005, market agreements were in place requiring Thai insurance companies to make a 5% cession on most classes of business to Thai Re. However, it is our understanding that since the Thai floods of 2011 these market agreements have no longer been observed.
UK	Yes	No	Yes, some non-EU reinsurers have been encouraged to convert their branches into subsidiaries to ensure adequate local capital for the benefit of UK (re) insureds.	No
USA	Yes	Yes, unlicensed and non-US reinsurers must post 100% collateral for the ceding insurer to get credit for reinsurance on its balance sheet. As of December 2015, however, 32 US states have introduced reduced collateral legislation.	No	No

Prospective trade barriers and market access issues

Jurisdiction	Are the proposals restricting or liberalising the ability to conduct cross-border reinsurance?	Will reinsurance be permitted on a cross-border basis?	Will there be discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Will there be discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Will there be compulsory cessions or right of first refusal rules?
China	Restricting – based upon C-ROSS proposals	Yes, although Chinese insurers face credit risk charges on all cessions, based upon solvency ratios and collateralised assets of the reinsurer. The charges applied in respect of foreign reinsurers are greater than those applied to domestic reinsurers.	Yes. In order to avoid a credit risk charge of 58.8% for all cessions, foreign reinsurers will need to collateralise their reinsurance assets. Doing so will lower the credit risk charge they face to 8.7%, assuming they meet the additional solvency requirement.	Yes. Under China's 1st-generation solvency regime, foreign reinsurers' branches in China are permitted to use their parent companies' solvency ratio to satisfy CIRC solvency supervision. However under C-ROSS regime foreign reinsurers' branches in China will be required to establish their own solvency ratios in accordance with the applicable C-ROSS Codes.	No

Jurisdiction	Are the proposals restricting or liberalising the ability to conduct cross-border reinsurance?	Will reinsurance be permitted on a cross-border basis?	Will there be discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Will there be discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Will there be compulsory cessions or right of first refusal rules?
Indonesia	Restricting	Yes, but on a restrictive basis, the exact details of which have not yet been finalised.	No	Yes. Foreign shareholding limits may be reduced from the current 80%.	Draft reinsurance regulation: minimum 25% cession, or USD 16 million cession for proportional, USD 14 million cession for non-proportional and USD 6 million cession for life, whichever is greater, before reinsurance is placed on a cross-border basis with foreign, non-admitted reinsurers. The treaty leader must be an Indonesian reinsurer. Facultative: minimum cession of USD 50 million for property, engineering and energy risks, USD 30 million for “miscellaneous insurance” (not defined), and USD 20 million for MAT. Non-life reinsurance must be offered to two locally licensed reinsurers and life insurance must

Jurisdiction	Are the proposals restricting or liberalising the ability to conduct cross-border reinsurance?	Will reinsurance be permitted on a cross-border basis?	Will there be discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Will there be discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Will there be compulsory cessions or right of first refusal rules?
					be offered to one locally licensed reinsurer before it may be placed with a foreign reinsurer.

GLOBAL REINSURANCE FORUM

Jurisdiction	Are the proposals restricting or liberalising the ability to conduct cross-border reinsurance?	Will reinsurance be permitted on a cross-border basis?	Will there be discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Will there be discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Will there be compulsory cessions or right of first refusal rules?
Russia	Liberalising – based upon WTO accession	Yes	No	No, because Russia has committed to allowing foreign reinsurance companies to open branches in 2021, subject to having eight years of experience in providing life insurance services and five years' experience in all other remaining sectors, having more than five years of running direct subsidiaries in foreign markets and having aggregate assets of at least USD 5 billion.	No, but media reports of April 2015 suggest consideration of the creation of a state reinsurance, possibly with accompanying moves towards mandatory cessions to this entity. No formal confirmation of this has been circulated.
South Africa	Restricting – based upon proposed reforms in recent Financial Services Board (FSB) discussion paper.	Yes. It is pleasing that South Africa has withdrawn its proposal to give a three-notch downgrade for cross-border reinsurers. However, it is	Yes. It is currently believed that existing restrictions will remain in place.	Yes. Proposed reforms permit branches though locally incorporated reinsurers will benefit from a credit rating uplift. However, it is understood that a proposed three-notch credit	No

Jurisdiction	Are the proposals restricting or liberalising the ability to conduct cross-border reinsurance?	Will reinsurance be permitted on a cross-border basis?	Will there be discriminatory requirements on cross-border foreign reinsurers for collateralisation or localisation of assets?	Will there be discriminatory barriers affecting the establishment of branches or subsidiaries (if permitted)?	Will there be compulsory cessions or right of first refusal rules?
		understood that locally incorporated reinsurers will benefit from a three-notch credit rating upgrade as compared to foreign reinsurers. The FSB argue that this is intended to offset any downgrade for domestic reinsures as a result of South Africa's sovereign credit rating.		rating downgrade which was due to be applied to the branch and cross-border activities of foreign reinsurers is to be withdrawn.	