

Regulatory & Tax Compliance Information



**Avoid penalties and reputational pitfalls,
with access to the latest information on the
ever-changing world of insurance regulation.**

Axco delivers a deep and unsurpassed analysis of the regulatory frameworks of 250+ territories, as well as the latest legal & tax requirements, including market rumours, projections and current trends.

Below is an extract of the Insurance Market Report, detailing the non-admitted insurance regulatory position information for Peru.



Non-Admitted Insurance Regulatory Position in Peru

Supervision of the insurance market falls under the jurisdiction of the Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones, (SBS), which is regulated under the fourth section of the general insurance law.

Insurers subject to the general insurance law must be authorised by the SBS to carry on insurance activity in Peru. At the same time, the insurance law specifically permits the placement of insurance abroad by Peruvian residents both personal and commercial. This means that insurers can issue policies from abroad - with an exception for compulsory classes, as stipulated in the Insurance Contract Law - if approached by a buyer.

The general insurance law and subsequent legislation also provide limited exceptions for cross-border business to be written within Peru by companies domiciled elsewhere.

INSURERS

Compulsory insurances must be contracted with insurance companies incorporated in Peru and duly authorised by the SBS. The law provides a limited exception to this rule. Insurers authorised in countries with which Peru has an international treaty may write insurances on a cross-border basis of risks relating to:

- maritime transportation, commercial aviation and launching of space transportation (including satellites), covering any or all of the following elements: the goods being transported, the vehicle transporting them and any liability which may arise from them.
- goods in international transit.

The regulator requires insurers and brokers subject to this exception to be entered into the relevant SBS register and sets out the prerequisites for such registration.

Exchange Controls

Currency exchange control is not an issue for non-admitted placements because these are legal under the law.

Tax

Premiums paid overseas are unlikely to be tax-deductible for the buyer.

Insurer Responsibilities

Insurers involved in non-admitted placements are not required to inform buyers that they are not subject to local supervision.

Multinationals

There does not appear to be any legislation relating specifically to multinational insurance programmes or multinational insurers and such insurances a

DIC/DIL

The legislation does not address the use of global difference in conditions/difference in limits covers or excess layers above a primary local policy.

Premium Taxes

If the premium is paid directly abroad the premium taxes tabulated in the Taxation section of Axo's reports may not be strictly due or traceable, but they are usually still paid, to avoid any problems in receiving payments of claims from abroad. The supervisory levy would not be applicable to non-admitted insurers.

An income tax is levied on foreign insurers based on assumed net income of 7% of premiums (Article 48a of the Income Tax Law). Under Article 56j the applicable rate is 30%, resulting in a charge of 2.1% of premiums net of commissions and other charges. This applies to all classes of insurance. nd insurers are subject to the same rules as all other insurances and insurers.

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BUYERS

Compulsory insurances must be contracted with insurance companies incorporated in Peru. There is nothing in the legislation to prevent insurance buyers from placing their business with non-admitted insurers abroad with the exception of compulsory insurances, which must be contracted with insurance companies incorporated in Peru and duly authorised by the SBS. In fact, the insurance law specifically permits the placement of insurance abroad by Peruvian residents both personal and commercial.

Offshore insurers would be able to pay losses into Peru, but the tax consequences of such payments are not known. Buyers will usually ensure all conceivable premium taxes have been paid on offshore transactions, so that any claims payments received do not have to be treated as either an increase in capital or loan from abroad.

Buyers do not need to seek approval for specific cases so there are no procedural requirements established by the market supervisor.

INTERMEDIARIES

Under Peru's insurance law the SBS authorises, regulates and maintains a register of local intermediaries and other insurance auxiliaries. Foreign companies to which the Disposition of the law apply must also be registered with the SBS to provide cross-border services in Peru. In 2019, the law restated the prohibition on locally authorised brokers contracting insurances with companies not authorised to operate in Peru.

The general insurance law gives the SBS the power to impose fines or in extreme cases to suspend or revoke an offender's authorisation. Those who violate the prohibitions of operating without authorisation will be penalised in accordance with the relevant articles of the Penal Code.

FINES AND PENALTIES

Penalties for non-compliance are strictly enforced.

The level of fines applied at the discretion of the supervisor can range from a minimum of 10 annual tax units (unidad impositiva tributaria - UITs) to 200 UITs imposed on an insurer and five UITs to 100 UITs imposed on a company director. The value of the UIT in 2020 was PEN 4,300 (USD 1,250). The suspension of a director or other individual can be from three days to 15 days or a period at the discretion of the supervisor.



MARKET PRACTICE

As far as could be ascertained there are no difficulties in the non-admitted area regarding non-life insurances, though some sources in recent years have suggested that local broker placements of risks abroad to obtain better terms was becoming more prevalent.

Fronting is used for referred accounts, some liability classes and others such as energy and aviation.

FRONTING

Registration and/or rating requirements for reinsurers apply. There is an exception to the general rule of autonomy of insurance and reinsurance contracts, allowing in the case of fronting (defined as 100% cessions) that with the insured's agreement, payment of indemnities may be made conditional on the insurer having first received funds from the reinsurer, with relevant clauses to be inserted in both insurance and reinsurance contracts setting out the rights and obligations of the parties in the event of losses. It is understood that insureds are sometimes reluctant to agree the use of such clauses, fearing a reduction in their rights against their insurer.

Fronting commission would typically be from say 3% to a maximum of 7%, though companies may accept commission or fees equivalent to 1% or even less on large accounts. In 2020 some sources reported a particularly aggressive attitude towards fronted business from one or two market players, offering fees at "hallucinatory" low levels.

Axco's Insurance Market Reports

Axco's Insurance Market reports offer an in-depth analysis of 170+ countries, focusing on major non-life classes of business, including regulatory compliance information, typical market practice and policy information by line of business. Essential legislative, regulatory and tax compliance information details names and dates of all relevant legislation and provisions. Reports are compiled and updated by our insurance specialists to ensure you have access to the best information.

About Axco

Delivering an unsurpassed analysis of global regulatory frameworks, as well as the latest legal & tax requirements, including market rumours and current trends, Axco sets the standard for insurance regulatory information. With over 55 years' experience in researching and publishing industry intelligence on insurance and employee benefits, we gather powerful local data through our network of relationships and deliver insightful insurance information that is impartial, personal and always intelligent.

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