REINSURANCE MARKET REGULATIONS IN LEBANON

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The Lebanese local insurance market is characterized by its heavy reliance on foreign reinsurance providers based in Europe and in other major regional and international offshore insurance hubs, such as Dubai, Bahrain and Bermuda.

Lebanese insurance regulations do not impose strict licensing requirements on local insurers when ceding their risks to 'non - admitted' reinsurers. Similarly, foreign reinsurers can access the Lebanese insurance market, either directly or through locally licensed reinsurance brokers, provided that a number of basic conditions are observed.

However, the Lebanese Insurance Control Commission ("ICC") has the authority to review all reinsurance arrangements entered by local insurers and to assess the risk exposure of their ceded reinsurance business. In the light of such review, the technical reserve adequacy and the solvency ratios of local insurers are thoroughly examined.

It should be noted that the conduct of Insurance and Reinsurance activities in Lebanon by foreign and local companies, is currently governed by Decree No. 9812 dated 04/05/1968 and its amendments (the "Insurance Law").

Pursuant to Article 2 of the Insurance Law, foreign entities who are engaged in reinsurance operations only and who have a minimum B Rating may carry out their activities in Lebanon through a local representative.

Prior to appointing its local representative, the foreign reinsurer should obtain a license granted pursuant to a ministerial order issued by the Minister of Economy and Commerce after consulting with the Insurance Control Commission ("ICC") in accordance with the provisions of Articles 3 and 4 (excluding Paragraphs D and E of Clause 2 of Article 3 and Paragraph A of Clause 1 of Article 4) of the Insurance Law.

But in practice, many foreign reinsurers enter into reinsurance arrangements with local Lebanese insurance entities, without meeting the requirements of Article 2, 3 and 4 of the Lebanese Insurance Law. This practice has been so far tolerated by the Lebanese Ministry of Economy and Commerce and by the ICC who are not strictly enforcing the licensing pre - requisites on foreign reinsurers carrying out their reinsurance activities with Lebanese based insurers.

In accordance with the provisions of Articles 3 & 4 of the Insurance Law, a foreign reinsurance company ("the Company") who wishes to engage in reinsurance activities with Lebanese based counterparts, should abide by the following guidelines and requirements:

1. The object of the Company should be restricted to the operations enumerated under Article 1 of the Insurance Law.
2. The General Manager or the assistant general manager of the Company should have good reputation and holder of a university degree with at least ten years of experience in insurance business.
3. The Capital of the Company should be fully paid, and should amount to LBP 6,750,000,000 (USD 4.5Million) or its equivalent in any foreign currency.
4. The Company should submit to the Ministry of Economy and Trade three copies of the following documents:

   - Duly certified copies of the Articles of Association and the by – laws of the Company
   - Statement of operations branches, which the Company is willing to practice with a statement of the technical basis relating thereto, should the type of these operations so require.
   - A certificate proving that the capital of the Company at its he ad office is not less than three – folds the minimum limit required from any Lebanese insurance company (LBP 2,250,000,000 or USD 1.5 Million) and that it is paid in full.
   - An economical feasibility study describing the prospects of the Company's business over the three years following the license with statement of the adopted technical basis.
   - A certificate confirming that the Company's country of origin gives Lebanese Insurance companies the right to operate within its territory.
   - A document confirming that the Company enjoys in its country of origin the legal capacity to carry out the reinsurance activities that it wishes to conduct in Lebanon, and that it conducts the same activities in its country of origin.
   - A certificate proving that the Company has a place of residence in Lebanon.
   - The documents related to the designation of one legal representative residing in Lebanon and its empowerment with the authorities enumerated under Article 8 of the Law and that the general manager of its branch in Lebanon has the requisite experience and qualifications.
   - Curriculum vitae of the general manager of its branch in Lebanon and the accredited actuary.
   - A copy of the balance sheet of the Company for the three years preceding the license application.

All documents drafted in a foreign language should be supported by an Arabic translation certified by the Ministry of Economy and Commerce.

Article 8 of the Insurance Law determines the powers, which should be vested in the Company's legal representative.

Moreover, the Insurance Law clearly provides that the legal representative of the Company should be provided with a duly legalized power of attorney granting him the authority to:

1. Keep the relevant accounts related to the operations, which are concluded and carried out by the Company in Lebanon, in accordance with Insurance accounting standards.
2. Perform the direct administration of the Company in Lebanon,, signing insurance contracts and their amendments, the receipts and all documents concerning the operations which are signed or executed in Lebanon, and in general, to carry out all the Company's business in Lebanon as if it is administered by the Company itself excluding the application for a license or its amendment or withdrawal.
3. Represent the Company before Lebanese courts, public and official authorities in the capacity of plaintiff or defendant, or whatever capacity, as well as receiving all the notifications and communications addressed to the Company.
4. Delegate of all or part of its powers to third parties.

However, the Minister of Economy and Commerce, after consulting with the ICC, may refuse to accept the accreditation of the local representative nominated by the Company or may withdraw its acceptance of the designation of such representative. The ICC's decision in this respect shall be final and shall not be subject to appeal.

Despite the absence of strict reinsurance regulations in Lebanon, the role of the insurance supervisor remains essential in monitoring the quality of the reinsurance risks assumed by local insurers in order to maintain a stable growth of the insurance sector.

In this context, it would be useful to analyze the effect of cross - border reinsurance activities on the sustainable growth and efficient performance of the local insurance industry in Lebanon.

It is undeniable in this regard that the transfer of local insurers'' risks to international reinsurers greatly improves the insurers'' capacity in writing new business and helps them in stabilizing and strengthening their profits and solvency ratios.

Moreover, participating in strong and reliable reinsurance programs allow local companies to benefit from the technical know - how of large reinsurance companies, which has a positive impact on the insurance services rendered to policyholders in the local market.

An adequate and effective reinsurance program enables local insurance companies to maintain stable underwriting results through a prudent spread of risks. On the other hand, the financial strength of international reinsurers can assist local insurers in increasing and diversifying their business portfolio.

It is widely acknowledged that the benefits of reinsurance are balanced with the need to properly address the reinsurance risk and the ability of the reinsurer to abide by its obligations on a timely basis. Unenforceable reinsurance contracts can greatly affect the solvency and credibility of an insurer.

Therefore, it is imperative for the reinsurance contracts to be enforceable and to be worded with utmost clarity to avoid disputes over their interpretation; on the other hand, a ceding insurer should be able to adequately assess the strength of its reinsurer, as well as the adequacy of the capital provision and/or the vested assets associated with its assumed counterparty risk.

Finally, maintaining strong prudential safeguards to protect the financial position of local insurers as well as the interests of policyholders should be the main objective in any sound regulatory and supervisory approach towards reinsurance.