

Insurtech Regulatory Developments in Latin America

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Insurtech companies continue to expand their reach into the Latin America market, particularly in Brazil, Mexico, and Peru. Insurtech, defined as the combination of insurance and technology, develops and leverages new digital tools to optimize the insurance business. Latin America affords an attractive environment for insurtech companies to develop innovative business models including new distribution channels and systems to compare insurance products and provide services to insurance companies. The fact that the insurance industry in Latin America is highly regulated, combined with the absence of regulatory frameworks specific to insurtech, explains, in part, why insurtech has experienced slow growth to date, representing roughly only 6% of all start-up fintech companies in Latin America. Recognizing insurtech's potential benefits, insurance regulators in Latin America have begun to explore how to facilitate modernization of the insurance sector through the use of new digital technologies without compromising consumer protection.

Brazil, the leading insurtech market in Latin America, recently offered a regulatory sandbox to a limited number of insurance companies supervised by the Brazil Insurance Superintendent (SUSEP). The sandbox is designed to enable testing of new products and services and to encourage development of new ways to provide traditional insurance services. SUSEP adopted Circular No. 592 on August 26, 2019, authorizing "on demand" insurance policies, thus permitting issuance of policies with flexible terms affording coverages on a monthly, daily, or even hourly basis. These "on demand" insurance policies are sold by digital means, thus allowing insureds to turn coverages on and off. This has opened the door to basic insurance for mobile devices, bikes, motorcycles, and other personal valuables such as smartphones and tablets. These regulatory changes reflect SUSEP's intent to adapt to the increasing use of smart phones by consumers and to usher in the digital insurance era, which, in turn, hopefully leads to more affordable products.

Although not specific to insurtech, Mexico adopted a law to regulate financial technology companies (Fintech Law) on March 9, 2018. The Fintech Law was designed essentially to promote financial technology models such as crowdfunding or electronic payments, or virtual assets such as bitcoins. While it predates adoption of the USMCA, the Fintech Law suggests that Mexico was anticipating USMCA requirements with respect to the handling and sharing of customer data, prohibiting

discrimination against foreign fintech companies. The Fintech Law would also enable Mexican fintech companies to provide services in other countries. The USMCA is designed to enhance and facilitate the offering of insurance services by licensed suppliers, which, in turn, likely would promote the insurtech industry by making it easier for companies to obtain approval for new insurance lines (except personal and compulsory insurance).

The Fintech Law demonstrates that legislators in Mexico may be flexible in devising future regulations to address insurtech in a similar way. Until then, insurtech companies are subject to the existing legal regime, the Law of Insurance Companies and Bonds (Mexican Insurance Law), and Regulations and Circulars issued by the National Commission of Insurance and Bonds (CNSF). Article 214 of the Mexican Insurance Law, for example, specifically permits insurance operations and brokering activities to be provided by electronic means.

Although Peru has not adopted an insurtech law, the Banking and Insurance Superintendent (SBS) has promulgated regulations that address the sale of insurance products by digital means. The Marketing of Insurance Products Regulations, adopted by Resolution SBS No. 1121-2017 (“Marketing Regulations”), allows insurance companies to promote, offer, and sell products by phone, internet, or other distance (i.e., rather than “in person”) systems, including digital marketing through social media. The Marketing Regulations also enable operation of digital insurance policy price comparison systems. Likewise, the Supervision and Control of Insurance Intermediaries Regulations, adopted by Resolution SBS 809-2019, allows insurance brokers to use distance communication systems (i.e., phone, internet, applications) to offer and sell insurance products on prior notice to the SBS. Insurance companies and insurance intermediaries using these digital tools must guarantee that the information provided to prospective policyholders complies with the security, confidentiality, and transparency principles provided in the General Law for the Financial and Insurance Systems and the Organic Law for the Superintendent of Banking and Insurance for the sale of insurance products.

The SBS is working on a proposal to amend the Marketing Regulations to allow the marketing of insurance products through “marketers” or “bancassurance” by traditional or digital means. Marketers are individuals or companies contracted by insurance companies to facilitate the sale of insurance products. By virtue of the marketing agreement between the marketers and the insurance companies, marketers become representatives of the insurance companies in connection with the sale of insurance products.

While insurtech would facilitate growth in the insurance market in numerous countries in Latin America with increasing insurance penetration, such as Colombia, Argentina, Ecuador, Panama, Costa Rica, and Chile, these countries have not yet adopted laws or regulations addressing insurtech. Thus, in these markets, start-up insurtech and technology companies are subject to existing legislation governing insurance companies and insurance intermediaries in connection with their operations. The absence of specific regulations, however, has not prevented companies from

venturing into innovative insurance schemes including new distribution channels, price comparison tools, and aggregation methods in these countries. Clearly, legislation is not far behind.

To foster insurtech development, the International Association of Insurance Supervisors (IAIS) has established working groups as platforms for the exchange of information and sharing of experience in this area, but it has not yet issued recommendations regarding insurtech regulation. IAIS guidelines would undoubtedly encourage regulators to expedite appropriate regulations governing insurtech. This, in turn, would promote and protect this new industry, which is encountering very receptive markets in Latin America.

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Authored By



Thomas F. Morante

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