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FEATURED Q&A

Does Brazil Need Reforms to its Insurance Sector?



Legislation pending in Brazil's Congress would mean several changes for the country's insurance sector. // File Photo: Brazilian Chamber of Deputies.

Q New legislation pending in Brazil's Congress could lead to several changes in the country's insurance sector, the London-based International Law Office reported in late March. The measure could mean changes relating to insurance contracts, payment of premiums, co-insurers and reinsurance. Does Brazil need major changes in its insurance laws? If passed, what would be the consequences of the legislation on Brazil's insurance industry and on consumers? Who will be the main winners and losers if the bill becomes law?

A Fabio Ramos, partner at KLA-Koury Lopes Advogados: "Since 2004, when the Brazilian insurance law project was presented to the market, the national debate has been polarized between two groups: one defending that the current legal system doesn't need changes and saying existing rules ensure the proper interpretation of insurance; and the other arguing that those current rules are out-of-date and unaligned with the new legal order. Therefore, a new insurance law would benefit insureds and mitigate divergences with insurers. We believe the biggest problem is the fragmentation of the insurance rules, requiring an exaggerated systematic interpretation and a dialogue among sources to understand insurance products. In this sense, conceptually speaking, the Brazilian market can benefit from an insurance law that consolidates and presents in a clearer, transparent and linear way the general insurance rules, as long as those rules do not restrict insurers' creativity and impose an unequal burden upon them. If passed, insurers would need to review and sophisticate their processes, products and

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BANKING

Jamaica Wants Faster Access to Dormant Accounts

Jamaica's finance minister is considering a proposal that would shorten the amount of time that a bank account must be dormant before the government can access it.

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PENSIONS

Chile's Bachelet Unveils Pension Reform Measure

Chilean President Michelle Bachelet unveiled legislation that she said would boost the size of public pensions. The country's current pension system has faced growing criticism.

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BANKING

Banco Macro Eyes Purchase of Banco Patagonia

Argentina-based Banco Macro, led by CEO Jorge Horacio Brito, has signaled serious intent to buy Banco Patagonia. Banco Macro has proposed an equity sale of as much as \$750 million.

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Brito // File Photo: jorgehoraciobrito.com.

FINANCIAL SERVICES NEWS

Argentina's Banco Macro Eyes Purchase of Banco Patagonia

Argentina-based bank Banco Macro, which is led by CEO Jorge Horacio Brito, signaled serious intent to buy Banco Patagonia by proposing an equity sale of as much as \$750 million to finance the acquisition of the bank, Euro Money reported April 12. Macro's board plans to seek authorization to sell as many as 74 million ordinary B-series shares, with an over-allotment option of up to 15 percent, according to a recent regulatory filing. Though Macro was not explicit about using the proceeds of the sale to buy Patagonia, it is rumored that Macro is a leading contender to acquire Patagonia. The regulatory filing said the sale of shares was "advisable given the favorable outlook for growth of the banking business in the country and the bank in particular." The amount of equity Macro is raising would finance the acquisition of 84 percent of Patagonia for approximately \$1.9 billion, with 50 percent equity and 50 percent debt. The bank currently has \$265 million available for mergers and acquisitions. Banco do Brasil owns 59 percent of Patagonia. The other top shareholders are the Milne and Moreno families, with a combined 21 percent stake. The Brazilian bank is currently seeking to shed non-core assets in order to avoid conducting a dilutive equity transaction in its domestic market. Patagonia is the 11th-largest bank in the Argentine banking system, with \$4.7 billion in assets and 200 branches.

Mexican Brokerage Group Seeks Probe of Elektra's Price Surge

Members of Mexico's association of brokerages this month asked officials from the country's stock exchange to look into the recent surge in the stock price of banking and retail company Elektra, three members of the association

said, Reuters reported April 11. Elektra, which runs appliance stores that offer banking and money-transfer services, saw the value of its shares go up by more than 166 percent this year, trading at a five-year high of 701 pesos per share, compared to a 9 percent gain in Mexico's IPC stock index. The company's market capitalization has doubled to almost 164 billion pesos, or \$8.7 billion, according to Reuters data. Members of the analysis committee of the Mexican Association of Stock Institutions

Elektra runs appliance stores that offer banking and money-transfer services.

asked a representative from Mexico's stock exchange to look into Elektra's gains, though the committee does not have any formal power to request action from the Mexican exchange or its regulator. The Mexican stock exchange said it does not comment on individual stock moves. Elektra referred to a recent series of statements in which the company said it was not aware of the cause behind the price gains. Elektra is controlled by Mexican billionaire Ricardo Salinas, who had a run-in with the U.S. Securities and Exchange Commission in 2005. Salinas withdrew Elektra and two other companies from their New York listings after he became the target of an SEC fraud investigation.

Fitch Affirms Banco Agrario's Ratings With Stable Outlook

Fitch Ratings has affirmed its ratings for Banco Agrario de Colombia and also improved its ratings for the bank to stable from negative, Finance Colombia reported April 13. The ratings agency affirmed the Colombian state-run bank's viability rating at bb, a move that followed Fitch's decision to raise Colombia's sovereign rating to stable from negative. The agency also affirmed its long-term foreign

NEWS BRIEFS

Ex-Oceanografia CEO at Center of Loan Scandal Freed From Prison

Amado Yanez, the former CEO of Mexican oil services company Oceanografia, who was at the center of a loan scandal involving Citigroup's Banamex unit in Mexico, was released April 12 from prison, Reuters reported. A judge in Mexico City ordered Yanez's release after a bail payment of \$404,000. Citi was forced to write down about \$400 million of loans backed by fake invoices from Oceanografia when the scandal surfaced in 2014.

Jamaica Eyes Faster Access to Dormant Bank Accounts

Jamaican Finance Minister Audley Shaw is considering a proposal that would shorten the time frame that a bank account must be dormant before the government can access it, the Jamaica Observer reported April 15. Billions of Jamaican dollars are in dormant bank accounts in the country, and under the current Banking Act, an account must be dormant for 15 years before the government can take the account over and add it to its revenues. A new proposal Shaw wants to submit would reduce the time frame. Some of the funds from the dormant accounts would then be used to benefit small and medium-sized enterprises, Shaw said. [Editor's note: See related [Q&A](#) in the March 23-April 5 issue of the Financial Services Advisor.]

Bank of America Taps Alcalay as New Brazil CEO

Bank of America Merrill Lynch has named Eduardo Alcalay as its new CEO for Brazil, Reuters reported April 13, citing a bank statement. Alcalay is heading to Bank of America from GP Investimentos, where he is head of private equity. Alcalay will succeed Rodrigo Xavier, who is pursuing an "academic opportunity" at Stanford University, the bank said.

currency and long-term local currency issuer default ratings at BBB. Banco Agrario finances projects and offers services related to rural activities such as agriculture, livestock, fishing and forestry. "Banagrario's viability rating is highly influenced by the bank's business model and its low, although improving, asset quality," Fitch said in a statement. Fitch added that the bank has consistent profitability, high income diversification and a strong capital position, as well as a low cost-funding structure. "In Fitch's views, Banagrario's business model is consistent with its key role for the development of the government's agricultural policy," the ratings agency said. "The bank maintains a clear focus and a strong franchise in the small and medium-sized agricultural producer markets." Fitch added that Banco Agrario has a "moderate" share in Colombia's banking system, as it has 3.2 percent of total loans and 2.5 percent of total deposits. While those factors strengthen the bank in its specific segment, they also limit the scope of its business model. Colombia's agricultural sector carries relatively high risk, Fitch added.

OFID Signs Loan Deal With Scotiabank Costa Rica

The OPEC Fund for International Development, or OFID, has signed a \$15 million trade-finance loan deal with Scotiabank's Costa Rican unit, Reuters reported April 12. The loan to Scotiabank de Costa Rica was the first trade-finance loan provided by OPEC in the Central American country and will help the bank address demand for short-term financing across the country's economy. The sub-loans of the financing will support enterprises engaged in international trade activities with their needs for working capital, the wire service reported. "We are pleased to work hand-in-hand with Scotiabank, one of the largest private banks in the country," said Tareq Alnassar, OFID's head for private sector and trade operations. "Although OFID approved two public sector loans to Costa Rica in 1977 and 1981, this is the first trade finance agreement. So after more than three decades,

we are happy to re-establish our presence in the country with the firm aim of supporting its development." Several types of industrial and specialized agricultural products have broadened Costa Rica's export trade in recent years, including with high value-added goods and services, such as microchips.

PENSIONS NEWS

Chilean President Unveils Pension Reform Legislation

Chilean President Michelle Bachelet on April 12 announced she was sending a bill for approval to Congress that would significantly increase the size of public pensions amid growing national criticism of the country's current pension system, Reuters reported. The bill would boost the amount of collectively held savings and would also include a new 5 percent payroll tax and an increase in retirement savings. All told, pensioners would see a 20 percent increase in savings, and workers currently paying into the system would see as much as a 50 percent in-

crease. "We must advance toward a truly mixed social security system, where all play their part, where solidarity comes from personal effort, where the state and employers play their corresponding role," Bachelet said. Chile's pension



Bachelet // File Photo: Chilean Government.

system began in the 1980s under the Augusto Pinochet dictatorship, and the so-called "Chilean model" that emerged has been adopted in other countries around the world. The system has faced growing opposition in Chile, however, with Chileans regularly taking to the streets over what they say are low payouts and over the fact that pensions are managed by for-profit funds. It is unclear whether Bachelet's bill will pass in Congress, as her coalition is divided and parliamentary elections are set to take place in November, long before Congress is expected to be finished debating the issue.

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personnel in order to comply with clearer rules and to insureds' needs and demands. Consumers will feel more secure and will better understand insurance products and their rights. At first, insureds will benefit the most, but in the long-term, insurers and the market will benefit as well, because, as the applicable rules become clearer and more accessible to society, insurers will need to sophisticate their processes, products and personnel. Although evolution brings fear and uncertainty, through evolution society improves its environment. Therefore, even if the new insurance law initially brings discomfort to the market, perhaps it is time to face the fear, embrace the new and try to evolve with the new times."

A **Andre Alarcon and Marcia Cicarelli, partners at Demarest Advogados:** "In our view, there is no need for a new law. The Civil Code already contains a chapter regulating the insurance contract. Considering a fast-changing environment in view of new technologies, it is best that insurance is regulated by principles, rather than by such a strict and detailed legislation. Detailed legislation goes against the practice of most developed markets and limits the Brazilian insurance market's ability to develop and to reach potential growth levels, which would contribute to the country's economy as a whole. Also, reinsurance should not be further regulated. Complementary Law No.

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POLITICAL NEWS

Paraguay's Cartes Backs off Attempt at Re-election

Paraguayan President Horacio Cartes on April 17 said he will not run for re-election, local newspaper ABC Color reported. Cartes made the statement in a letter to the archbishop of Asunción and said his decision was inspired by a call by Pope Francis for peace and dialogue in the South American country. "I hope this gesture of renunciation serves to deepen the dialogue aimed at the institutional strengthening of the republic," Cartes said in his letter to Monsignor Edmundo Valenzuela. Cartes' statement came more than two weeks after Paraguay's Senate secretly approved legislation to amend the Constitution in order to allow



Cartes // File Photo: Paraguayan Government.

him to seek another term. The action led protesters to set fire to the Congress building. The country's Constitution has banned presidential re-election since it came into force in 1992 following the fall of a brutal dictatorship in 1989, Reuters reported. The lower house of Congress has not yet acted on the constitutional amendment, but Senator Lilian Samaniego of the president's Colorado Party said Cartes' allies would continue to seek the lower chamber's approval, the wire service reported. A popular referendum would be required, however, in order for the amendment to be implemented. However, the party's leader, Pedro Alliana, said the Chamber of Deputies was unlikely to vote in favor of the amendment. "If [Cartes] is not a candidate, I can assure you that the chances of the amendment passing in the lower house are

ADVISOR Q&A

Does Jamaica Need Stronger Consumer Protection Laws?

Q Jamaica's government is planning to create a new financial services consumer protection agency. Finance Minister Audley Shaw said the government is particularly concerned about high fees on dormant bank accounts. How should the agency operate in order to both protect consumers and help financial services providers thrive? Does the country need new regulations in order to protect consumers in the financial sector? What should the government do to ensure new regulations are not burdensome for financial services companies or have unintended consequences?

A Beatrice Rangel, director of AMLA Consulting in Miami Beach: "All financial services are not created equal. Government regulators should understand this if they want to facilitate credit access to small- and medium-sized enterprises that form the backbone of a middle-class society,

which is the great spring for aggregate demand which, in turn, represents economic lifeblood. Thus, any regulation that makes access to credit more difficult or expensive for SMEs is a bad regulation. Jamaican authorities should repeat this mantra when rewriting financial regulations. However, investment banking and other financial services need to be regulated so that spreads are kept under control and speculative flows are kept at bay while facilitating investments in wealth-creating projects. Competition is the best regulatory tool, as it keeps fees low in order to attract deposits. Another tool is automatization. E-banking and mobile-based transactions reduce costs while rewarding bankers who truly diversify risk and make productive investments."

EDITOR'S NOTE: More commentary on this topic appears in the March 23-April 5 issue of the Financial Services Advisor.

minimal, practically impossible," said Alliana. [Editor's note: See related Q&A in the April 13 issue of the Advisor.]

Fugitive Ex-Mexican Governor Arrested in Guatemala

Javier Duarte, the fugitive former governor of Mexico's Veracruz state, was arrested April 15 in Guatemala following a six-month manhunt. Duarte, who was in office from 2010 until last October, was arrested at a hotel in the resort town of Panajachel on Lake Atitlán, The New York Times reported. Mexico has sent Guatemala a request for Duarte's extradition, Agence

France-Presse reported. "Now there is a 60-day period in which bilateral extradition issues are looked at. Then the judge will determine if the necessary conditions are met and that he should be extradited," Mexico's top prosecutor, Omar García, said in a briefing at the Mexican Embassy in Guatemala City. Duarte is accused of embezzling hundreds of millions of dollars during his time in office. Much of the money he is accused of pocketing was tied to social programs. In December, state police in Veracruz raided a property belonging to the former governor and found millions of dollars worth of stolen goods, UPI reported. The following month, Mexico's health ministry said it was probing allegations that children battling cancer in the state were given water instead of chemotherapy during his time in office. Duarte is

NEWS BRIEFS

Temer's Approval Ratings Fall to Single Digits

Brazilian President Michel Temer's approval ratings have fallen into the single digits as he, along with several of his cabinet ministers and other politicians, face corruption allegations. In a survey by polling firm Ibope, published April 17 by local newspaper O Estado de S. Paulo, just 9 percent of respondents rated Temer as "good" or "very good." A prior survey by Ibope in March showed Temer with a 20 percent approval rating, Bloomberg News reported.

Ecuadorian Election Officials to Recount 12 Percent of Vote

Ecuador's National Electoral Council, or CNE, on April 13 said it will recount nearly 1.3 million ballots, or 12 percent of the vote, that correspond to "disputed tallies" from the April 2 run-off in the presidential election, Agence France-Presse reported. Left-wing candidate and former Vice President Lenin Moreno won in the run-off with 51.15 percent of the vote, or approximately 226,000 votes ahead of his right-wing opponent, Guillermo Lasso. Lasso has alleged that fraud took place in the election. He has refused to accept the results and is calling for a total recount.

Dominican Republic, Cuba Sign Trade Deal

The governments of the Dominican Republic and Cuba on April 7 signed an agreement to boost economic and trade cooperation, The Jamaica Observer reported. The agreement was signed by Dominican Foreign Minister Miguel Vargas and Cuban Deputy Foreign Minister Ileana Núñez. Vargas during the signing said the two countries had a bilateral trade of \$91 million in 2015, and that there was a nearly 70 percent jump in Dominican exports to Cuba between 2010 and 2015.

also accused of links to organized crime, and prosecutors assigned him some of the blame after a large mass grave was found in Veracruz. Duarte denies wrongdoing. A member of the ruling Institutional Revolutionary Party, Duarte resigned last year and went into hiding. Another former Mexican governor, Tomás Yarrington, who was governor of Tamaulipas state from 1999 to 2005, was arrested last week in Italy on drug-trafficking and money-laundering allegations and was a fugitive for nearly five years.

U.N. Votes to End Haiti Peacekeeping Mission

In a unanimous decision April 13, the U.N. Security Council voted to end the United Nations' peacekeeping mission in Haiti in October, the Associated Press reported. The Security Council's action extended the mandate of the mission, known as MINUSTAH, for a final six months. By then, the United Nations' 2,370 military personnel are to leave Haiti. The action also created a follow-on mission, initially comprising 1,275 police who will be tasked with continuing to train Haiti's national police. That mission was created for an initial six months.

ECONOMIC NEWS

Chilean Stock Market Sees Best Quarter Since 1999

The Chilean stock market saw its best quarterly performance since 1999 in the first three months of this year, Reuters reported April 17. The stock market's IPSA index has increased 17 percent year to date, though growth slowed slightly in April. Analysts said the government's conservative, business-friendly policies are the key reasons for the strong growth. Chile also benefited from expectations of political change, analysts said. "The trigger [for the rise]

is an improvement in long-term expectations, as a result of eventual political change likely after November's elections," said Matias Repetto, manager of trading firm BTG Pactual Chile. The country's former president, conservative billionaire businessman Sebastián Piñera, is said to be the front runner ahead of this November's vote.

Mercosur, European Union Eye Trade Pact This Year: Macri

South American trade bloc Mercosur and the European Union are planning to sign a trade agreement this year, Argentine President Mauricio Macri, who is currently holding the rotating presidency of Mercosur, said in an interview published April 15, Reuters reported. Macri's comments confirm Brazilian Foreign Minister

“We firmly intend to sign an agreement in the second half of this year.”

— Mauricio Macri

Aloysio Nunes' comments last month that the four member countries of Mercosur would sign a framework political deal with the European Union. "We firmly intend to sign an agreement in the second half of this year," Macri said, without giving details of the agreement. "We also want to move toward the Pacific Alliance comprised of Chile, Colombia and Mexico. It won't happen immediately and will take a couple of years," he added, saying he believed South American countries agreed on the need for closer cooperation. Macri also said during the interview that he plans to use his meeting with U.S. President Donald Trump later this month to work on improving ties between the two countries. "Argentina barely has relations with the USA anymore. There is a great deal we could improve and hardly anything we could make worse," Macri said.

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126/07 already deals with reinsurance. If passed, the new law would require insurers to adapt their products and operational procedures. The law brings some positive changes for consumers, but it does not differentiate consumer insurance products from complex insurance products. Therefore, the changes might bring uncertainty for some lines of insurance. The law contains positive and negative provisions. Insurance players and consumers will gain with the articles that bring clarity for some points of the insurance operation, but unclear and unnecessary provisions may increase the exposure of insurers and reinsurers, bringing legal uncertainty and a more complex business scenario."

A **Marcelo Mansur Haddad, partner, and Jaqueline Suryan, associate, in the insurance, reinsurance and pensions practice of Mattos Filho Advogados:**

"Brazil's proposed insurance legislation (bill no. 3555/2004) aims to create a stand-alone insurance law to entirely replace the insurance provisions of the Brazilian Civil Code of 2002 governing insurance contracts. Insurance and reinsurance operations would not be affected by the proposed legislation (and would continue to be governed by existing rules). However, the bill is not uncontroversial. Fundamental assumptions of the new legislation are that all insurance relationships are consumer relationships and all insurance contracts are adhesion contracts. This results in several provisions granting unbalanced protection for all types of insureds, whether unsophisticated individuals or big corporations that have sophisticated risk departments. In addition, the bill mandates new claims adjustment provisions imposing deadlines, procedures and rules that, while not

specifically benefiting claims adjustments of mass insurance products, will likely convert claims adjustments of large risks into fairly litigious procedures. The bill contains some innovative reinsurance provisions, leading to some controversy over whether (or not) the insurance law should address that, or simply provide that it does not apply to

“**The bill contains some innovative reinsurance provisions, which has led to some controversy...**”

— **Marcelo Mansur Haddad & Jaqueline Suryan**

reinsurance (we believe the latter to be the better approach). One of the most disputed reinsurance provisions imposes mandatory extra-contractual obligations on reinsurers. Notwithstanding the above, the bill does bring some improvements. It better regulates coinsurance, it eliminates the need for a written insurance proposal to be issued by the prospective insurer (or its broker) and also provides more clarity for statutes of limitation on reinsurance matters. The bill is subject to a fast-track proceedings at the Brazilian National Congress. On April 12, the Chamber of Deputies approved it and sent it to the Senate. If the legislation is amended in the Senate, such changes will need to be assessed by the Chamber of Deputies. Once finally approved, it would need to be signed by the president, who has some limited veto powers."

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