TURKEY

OUTSIDE INFLUENCE

Pelin Baysal and Ilgaz Önder of Turkish law firm Gun+Partners examine the Turkish reinsurance market

Turkey has been among the fastest growing insurance markets of its size in Europe. Along with the rapid growth in its insurance sector, there have been major changes to its legislation in the last few years. New laws have improved the regulatory framework and brought the industry more in to line with international practice. Although its top three insurers are Turkey-based, the market has a high level of foreign investment from Gulf countries, Malaysia and Europe.

The current legislation, including the 2007 Insurance Code and the regulation on the Constitution and Working Principles of Insurance and Reinsurance Companies, requires those resident in Turkey to insure their interest only with insurance companies located in Turkey. In order to provide full service in Turkey, reinsurance companies should be incorporated in Turkey in a joint stock company or cooperative, and most meet certain capital requirements.

The Turkish insurance industry's reinsurance needs are mainly met by the international market.

In the presence of this regulation, and due to the absence of any specific provision addressing the reinsurance market, insurance firms reinsure the undertaken risk under a pool of foreign reinsurance companies on a cross-border basis by which the underwriting takes place outside of Turkey.

Statistics reveals that 76% of the reinsurance market is dominated by foreign reinsurance companies, whereas the remaining coverage is provided by one active reinsurance company established in Turkey.

Unsaturated market

With this unsaturated Turkish market and attempts by the government to align the relevant legislation with that of Europe, Lloyd's has been very enthusiastic about expanding its presence in Turkey and provides local insurance and reinsurance services to Turkey-based clients.

Accordingly, it was planned that Lloyd's would establish a locally based operation at the Istanbul Finance Centre. For this purpose, however,

Lloyd's says legislation in Turkey should be more hospitable to international practice

Lloyd's feels the need for Turkish legislation to be more compliant and hospitable for international practice and has negotiated with the government in order to create a more benevolent market. These lobbying activities materialized as an attempt at amending the Insurance Law which ultimately failed.

The amendment proposal, which was submitted to parliament in March of 2015, aimed to provide a system where insurance companies that are not incorporated in Turkey would also be able to provide services in the country by being a member of a syndicate led by a managing insurance company incorporated in Turkey, much like the Lloyd's model.

According to the proposed amendment, the "managing company" is defined as joint-stock company authorized by the Treasury to establish and manage a syndicate which provides all kinds of insurance and reinsurance services in Turkey including executing reinsurance agreements on behalf of reinsurance companies established in or out of Turkey.

While the syndicate conducts its activities in Turkey, the managing company bears the administrative, legal and criminal liability towards the state on behalf of the members of the syndicate.

In spite of this reasoning, the amendment failed to pass. The law amending the Insurance Law was enacted in March 2015 without incorporating any of the above mentioned market structure.

Accordingly it is stated that such a development would inevitably cause a monopoly in the market, especially as this proposal is requested by a specific company, Lloyd's.

A structure in which the Treasury is also involved as a partner would be more proper for the sake of companies that prefer to be established in Turkey being subject to the supervision of the state.

When examining the minutes of the discussion session in the parliament, it is not hard to sense that the main concern behind this opposition is the fact that the market has already been dominated by foreign investment – around 76% – and therefore new structures should be developed to increase the share of local insurance and reinsurance companies in the Turkish Insurance Market.

Following the shelved legislative proposal, the insurance companies in Turkey continue to increase premium rates and focus on risk selection in order to improve their profitability. Yet, fierce competition among the insurance companies still causes low premium generation.

Hence, insurance companies are expected to focus on a balanced portfolio allocation in such a competitive market and seek reinsurance from abroad in order to distribute high volume of undertaken risks.

The Turkish reinsurance market, on the other hand, follows a different trend: reinsurance companies are less selective for their portfolios and reduce the premiums because of a shortfall in demand and below average level of risk occurrence.

Yet, due to the positive atmosphere in the reinsurance sector, it is expected that foreign reinsurance companies will enhance their practice in Turkey by new investments, mergers and acquisitions. ■

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