

PORTUGAL: An Introduction to Insurance

Authors: **Helena Vaz Pinto, Carlos Couto**

[View firm profile](#)

The insurance M&A activity during 2017 followed the consolidation trend of the previous years, with a number of sales procedures of insurance companies being completed or initiated during this period. Similar to the previous years, these sales procedures attracted mainly foreign investors (particularly China-based), thus the control of the insurance sector has become more and more outside of the Portuguese borders.

Some of the main insurance players which have undergone intense M&A activity in the previous years have carried out mainly internal reorganisations, streamlining their businesses.

In the past year, the Portuguese insurance industry continued the steady process of adapting to the provisions of the new Insurance and Reinsurance Legal Regime, which came into force on January 1st 2016, approved by Law 147/2015 of September 9th (which implemented the Solvency II Directive), and with the consequent need to adapt to the additional and more demanding quantitative and qualitative requirements imposed by the implementation of this new legal framework. These requirements have had a cross-cutting impact on all relevant areas of insurers' activity: financial requirements, governance, information, market conduct, intra-group relations and supervision.

Overall, the general perception is that the sector has been able to satisfactorily pass the second year tests, as by December 31st all locally incorporated insurance companies were in compliance with the applicable solvency capital requirements ("SCR") and minimum capital requirements ("MCR").

Throughout 2017, the Portuguese Insurance Supervisory Authority (*ASF – Autoridade de Supervisão de Seguros e Fundos de Pensões*) has approved an important package of regulation mainly concerning market conduct and governance matters, such as: (i) ASF's Regulation no. 2/2017-R, of March 24th, regarding the certification report on solvency and the financial situation and the information that shall be delivered to ASF for supervision purposes, including the requirements of the certification to be elaborated by the main actuary and the statutory auditor; and (ii) ASF's Regulation no. 3/2017-R, of March 18th, concerning the procedures for the registration with ASF of persons who effectively run and audit the company, as well as persons responsible for key functions and the main actuary. This regulation has extended the registration duties to a wider group of persons related to the companies and reviewed the type of information to be provided to ASF in this respect.

With regard to the production of direct insurance in 2017, the preliminary information made available by ASF highlights a total turnover of more than EUR11.5 billion, corresponding to an increase of 6.3% *vis-à-vis* the 2016 turnover. Furthermore, the 43 local insurance undertakings under the supervision of ASF were responsible for 92.4% of said production (approximately EUR10.7 billion), the remaining amount being attributable to the 30 Portuguese branches of other EU insurance companies. We also note that no significant changes have occurred as to the number of insurance undertakings operating in the Portuguese market.

The preliminary information made available by ASF also shows that the 6.3% increase in direct insurance production results from an increase in both the life and non-life insurance segments. The life segment saw an increase of 5.8%, which corresponds to a total turnover amount of EUR7.06 billion and indicates that there has been an inversion of the previous years' decreasing trend in this segment. Supporting the increase in the life segment, ASF highlighted the significant increase in retirement

savings plans, which presented a growth of around 30%. The production of the non-life insurance sector maintained its ascending trend, having increased by 7.1%, corresponding to a total turnover of EUR4.49 billion, particularly in the accident and health segment, which increased by 10.3%.

ASF's 2017 preliminary information further indicates that market shares remain highly concentrated, with only two insurers being responsible for a combined market share of around 54% of the life segment – namely Fidelidade/Fosun with 33.8% and Ageas Group with 20.1%. Also, in the non-life segment, three companies secure a combined 51% of the market share, with Fidelidade (Fosun) securing 26%, Seguradoras Unidas (Apollo) 15.2% and Allianz 9%.

As far as regulations for insurance contracts are concerned, it is worth mentioning that there has been a delay on the approval of national legislation regarding the EU Regulation on Packaged Retail and Insurance-based Investment Products (PRIIPs), which became directly applicable in the Portuguese legal system on 1st January 2018. This delay has created some instability in the sector and led to, in the beginning of 2018, the Portuguese Securities Market Commission's issuance of recommendations on good market practices to be followed by the insurance companies until the national legislation is approved and in force.

We also highlight the upcoming challenges faced by the insurance industry as a result of the Insurance Distribution Directive (IDD), to be implemented by 23rd February 2018. This has already demanded serious adaptation efforts on the part of the insurance industry, notably with respect to the professional development of the managers responsible for distribution and to persons directly involved in distribution, remuneration disclosure and requirements, the provision of information on insurance products to customers through the standardised insurance product information document, summarising the main features of the proposed contract, as well as the definition of thorough product oversight and governance. Taking into account these challenges, the EU Commission proposed, on 20th December 2017, to push back the application date of the IDD by seven months to 1st October 2018, although EU countries are still required to transpose IDD by the original date, 23rd February 2018. The exact terms in which the IDD will be transposed to the Portuguese legal system remains to be known and there is little public information in this respect.

Last year, we noted that product oversight and governance were potentially the fields where a significant turnaround was being addressed by the insurance industry, in light of EIOPA's 2016 preparatory guidelines on product oversight and governance arrangements by insurance undertakings and insurance distributors, which also entailed co-ordination with the stricter requirements laid down by the IDD and the PRIIPs Regulation. Although there were no significant developments in 2017 in this respect (notably EIOPA's final guidelines have not come into force), this more demanding approach to the manufacture of insurance products will require the insurance industry to have processes in place to approve every insurance product (specifying and identifying the target market for each product and ensuring that all relevant risks are assessed) and to review each product regularly, in order to ensure that it continues to meet consumer needs and that the established distribution strategy remains appropriate.

A final note to the fires that devastated north and central Portugal in the summer and autumn of the 2017, with an unprecedented number of fatal victims, which led to a coordinated response from the insurance sector, including the decision to create a special fund of EUR2.5 million aimed at supporting the families of the deceased.