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Risky business – insurance in the Middle East

By Peter Hodgins

The insurance industry is adapting to meet the needs of businesses as they expand across the Middle East. This article briefly considers the challenges for regional businesses and highlights key considerations for insurance buyers.

Why?

Many Middle Eastern jurisdictions have mandatory insurance – primarily motor and health, but also professional indemnity for certain businesses. However, insurance buyers should consider the range of risks to which their businesses are insured and the amount of insurance purchased. It is common to see low levels of coverage which may be insufficient for the needs of the business. Also, deductibles are often set too low and as a consequence the premium rates are unnecessarily increased.

What?

It is important to understand the risks and liabilities to which a business is exposed as these may differ to other jurisdictions. For example, individuals who are involved in accidents may have an obligation to pay ‘blood money’ to the person who is injured irrespective of any liability in damages. Business should check whether the policy wordings are appropriately tailored to cover the exposures of business in the region.

Who?

Businesses will often seek to purchase insurance with insurers that they have used elsewhere in the world. However, regional regulations often prohibit insurance by insurers who are not locally licensed (so called ‘non-admitted insurance’). This may not be an issue where the multinational insurer has a local office. However, where they do not, insurance should be purchased from a local insurance company. Often ‘fronting’ is used – this involves a local insurer issuing the policy and then reinsuring it with the multinational insurer. This may satisfy the local restrictions on non-admitted insurance, but can create challenges for the unwary. The business will only have a contractual relationship with the local insurer. The local insurer may not have the financial strength of a multinational and may not be prepared / able to offer the level of coverage that the business requires. Which brings us on to the question of how to address these risks?

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How?

Regulatory restrictions have curbed the practice of non-admitted insurance. It is increasingly common for multinational insurers to offer ‘global programmes’ which provide coverage for corporate groups and utilise fronting arrangements as necessary. ‘Difference in conditions’ / ‘difference in limits clauses’ (referred to as DIC / DIL) are used in global programmes to fill the gaps in the local coverage. These clauses require the multinational insurer to make up the difference in coverage between a global policy and the locally fronted policy.

As DIC / DIL coverage can be construed as non-admitted insurance it is increasingly common for multinational insurers to offer financial interest coverage. This coverage – typically offered as an extension of a global policy – operates by taking a fundamentally different approach to the subject matter of the insurance. Rather than seeking to insure the local subsidiary in a multinational business, coverage is provided in respect of a holding company in the group. Protection is provided for the financial loss that the holding company is deemed to incur as a consequence of a loss to a subsidiary. This is not without its challenges. The holding company may only have limited interest in a subsidiary in which it does not have 100 percent ownership. Also, claims will be paid to the holding company and not to the subsidiary that has actually suffered a loss. It will therefore be for the holding company to repatriate the insurance proceeds to the subsidiary.

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