

Run-off in Latin America



The run-off market in Latin America is not highly developed but it does present opportunities, explains **Martin Smith** of Chiltington International

It is very difficult to make a general statement about the Latin American market, when talking about run-off. First we need to understand that Latin America (from Mexico to Argentina) comprises more than 21 countries, each with different laws and cultures.

During the many years I have spent working for Chiltington, I have had the opportunity to be involved in many different deals and to face reactions from different players. It is also true that it makes a difference which side of the 'table' you are sitting on, that of the insurer or that of the reinsurer.

I will try, therefore, to restrict myself mainly to the market I know best, the Argentinean one. In Argentina you have two clear options of what can be done when the shareholder of a company decides to put it into run-off. The first option is for the company to honour its debts and to protect its insureds, and therefore to continue to inject capital as needed. As Chiltington in Argentina we have been privileged to be awarded in the past the administration of two run-offs of this type, where at a certain stage, minimum capital requirements were no longer being fulfilled and the shareholder injected the necessary amount to comply with the local regulations, and to avoid

being put into compulsory liquidation by the authorities.

The second option is to let your company be put into liquidation and in this way you will only honour debts with the assets that are left in the company at that moment, which generally and historically have been insufficient. I must mention here

that there are, according to local law, two possible types of liquidation:

a) Voluntary liquidation: where the shareholder takes the decision to place the company into this situation. Control here rests mainly in the hands of liquidators and a judge, with very little control by the shareholder.



b) Forced (ie. compulsory) liquidation: where the company is placed into liquidation by the responsible authorities (in this case the Superintendency of Insurance) when the company does not reach the minimum requirements required by law. Control of the company is taken over 100 per cent by the liquidators, and the final decision on every matter must be approved by a judge.

At this stage, normally very little is left, as the control of authorities is not as quick as it should be, in my opinion.

Furthermore, in Argentina, and I think that here I can permit myself to be more general by saying in Latin America, there is no specific law or regulation for insurance or reinsurance companies that are being placed into run-off. As there is a lack of legislation, there is a lot of room to sit down with the authorities, and try to agree with them an 'exit plan'. This lack of legislation makes it possible that certain regulations in force

for active companies can be 'flexible' and takes into consideration the special situation of the company.

As has been mentioned above, there is, in my opinion, not a great deal of knowledge in the administration of run-offs in Latin America. On the other hand, as, in general terms, companies are either placed into liquidation or rarely into run-off, there are not a lot of opportunities for players to buy run-offs and to make of this a major market activity/sector as in other parts of the world.

In this region of the world, we do not even have run-off associations, and I think it is even fair to say that the expression 'run-off' is still 'taboo' here.

The word 'run-off' has been, or is, normally linked to 'cut off' or commutation (in the region these terms are generally used as synonymous). In this aspect, it is fair to say that the industry has very much developed in the last five years, as is illustrat-

ed by the fact that we, as Chiltons, have taken part in more than 300 commutations in the last eight years, acting for insurers or reinsurers, depending upon the case.

Initially cedants companies/clients were very reluctant to participate, mainly due to lack of knowledge. Nowadays, I am comfortable in saying that commutations have become much more normal practice in the region, as long as the parties are comfortable with each other – and of course with the figures too!

As a conclusion, the run-off market is not yet developed in Latin America, and opportunities are not as frequent as in other markets (ie. UK, US, Continental Europe), but there is also space to operate and create opportunities by other means, as by acquisition of portfolios. Hopefully, the run-off market will develop, and liquidations will decrease, which all in all will mean that there is a bigger compromise by the shareholders in this business. ☼

