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**NEGRI & TEIJEIRO**  
ABOGADOS

AVDA. CORRIENTES 316, 4º PISO - C1043AAQ BUENOS AIRES  
Tel.: (54 -11) 5556-8000 / 4328-8008/1273/6746 / Fax: (54 -11) 4328-5628  
[www.negri.com.ar](http://www.negri.com.ar) - [nt@negri.com.ar](mailto:nt@negri.com.ar)

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## Reinsuring Argentine Risk: The Plot Thickens

*Last February the Argentine National Superintendency of Insurance adopted a resolution that revamped the regulations applicable to reinsurance activities. This revamping has a significant bearing on activities of foreign reinsurers.*

On February 11, 2011, the Argentine National Superintendency of Insurance (the “**Superintendency**”) issued resolution 35,615/2011 (the “**Resolution**”),<sup>1</sup> whereby it approved a new regulatory framework for reinsurance activities in Argentina. One of the most significant changes introduced by this new regulatory framework is that, in order to do business with Argentine insurance companies, foreign reinsurers will be required to establish a presence in the country, either through a locally registered branch or a subsidiary organized in Argentina.

### ***What Has Changed?***

Before the issuance of the Regulation and under regulatory provisions that had been adopted in 1996,<sup>2</sup> foreign reinsurers were allowed to operate in the Argentine market essentially by: (a) registering with the Superintendency and complying with regular filing requirements, (b) appointing a local representative, and (c) establishing a domicile in the city of Buenos Aires for service of process. Under that simple regulatory scheme approximately 100 foreign reinsurers operated in the country during the last 15 years. While the Resolution has kept that simplified scheme, it is only available for specific cases where, on prior application by an Argentine insurer, the Superintendency considers that reinsurance for the relevant risk is not available in the Argentine market.

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<sup>1</sup> Published in the National Official Gazette (*Boletín Oficial*) on February 21, 2011.

<sup>2</sup> Resolution 24,805/1995, as amended, adopted on September 13, 1996, and published in the National Official Gazette on September 23, 1996.

Thus, unless such exceptional authorization is obtained, foreign reinsurers will need to register a branch or incorporate a subsidiary in Argentina if they want to enter into reinsurance agreements with Argentine insurance companies. Furthermore, such branch or subsidiary will be required to have a capital for an amount equivalent to at least US\$ 5 million (approximately).

### ***Why The Change?***

According to its recitals, the Resolution was adopted to assure “*the necessary solvency of insurers and reinsurers operating within Argentine territory,*” and the “*fairness and technical reasonableness of the respective contractual terms.*” No other official statement has been released to explain the reasons that led the authorities to bring about this important change.

### ***When Will The Change Come Into Effect?***

Foreign reinsurers currently registered under the prior regulatory framework must comply with the Resolution’s requirements before September 1, 2011. This means that those reinsurers willing to continue playing under the new rules will have to move quickly, given that registering a branch or organizing a subsidiary can take several months in Argentina, due to bureaucratic delays in public registries.

It is still unclear how international reinsurers will react to these new rules, which seem to be a bold move by the authorities. With a market characterized by feeble local players, Argentina is completely dependant on access to foreign reinsurance.

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For further information on this topic or any other question on Argentine insurance legal matters, please contact **Luis A. Arana Tagle** by telephone (+54 11) 5556 8000 or by fax (+54 11) 4328 5628 or by email at [luis\\_arana@negri.com.ar](mailto:luis_arana@negri.com.ar)

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