

PARTICULARITIES OF THE COLOMBIAN LEGISLATION / RULES

Below, various situations will be discussed that frequently constitute concerns that arise in relation to the term and functionality of international coverages for insureds whose assets or interests are located in Colombia.



Is there or is there not coverage for goods in Colombia when there is a certification of coverage issued by the global insurer / reinsurer that supports the master / global policy, even when the local policy has not been issued?

Answer: Given the existing agreements between the local insurer and the global insurer / reinsurer, the latter being duly registered with the Financial Superintendence of Colombia (entity that monitors brokers and insurance companies), and having proof or certification from abroad on the granting of the coverage, the conditions are met for the coverage to have the necessary support and for the policyholder / insured to have the reliability regarding the existence of the protection, even when the local policy has not been issued. It is normal for the local insurer to take a period of time that ranges between 8 and 15 days approximately to issue the local policy under the fronting modality, after receiving the terms and conditions of the insurance from the global insurer / reinsurer.

This applies to general insurance such as *Property All Risk, Business Interruption, Cargo Marine, Automobile, etc.*, as well as to *patrimonial insurance such as General Liability, Surety Bonds and others.*

The foregoing responds to the prevailing Colombian and International commercial practice in insurance, which is repetitive within our territorial space with characteristics of generality, repetition, uniformity and mandatory nature, so that it constitutes a true rule of conduct, reaching the connotation of legal norm.

It should be clarified that some master policies issued by the global insurer / reinsurer have the Difference in conditions / Difference in limits - DIC /DIL clause that operates in cases in which the local fronting policy presents gaps in coverage in terms of insured conditions and/or limits, where the coverage of the master policy prevails.

If there is coverage from abroad, but there is no local insurer that supports fronting, the situation is different in that it would be necessary to analyze whether the policyholder / insured is complying with the legal requirements related to the purchase of insurance abroad, especially the displacement abroad for the corresponding negotiations.



What happens if a loss occurs in the period between the issuance of the foreign coverage certification and the issuance of the local policy?

Answer: As clarified in the previous point, the coverage operates recognizing the loss, and the situations of attention to claims by local insurers are known, which is clearly supported by the knowledge of the support provided by the foreign insurer / reinsurer.

If there is no local insurer to support fronting, the claims must be processed directly abroad, with the corresponding foreign exchange, fiscal and tax implications that must be established by the specialized advisor.



What happens if there is a delay in the payment of insurance premiums?

Answer: The term for the payment of premiums in accordance with Colombian regulations is **one month** from the date of delivery of the policy or, if applicable, of the certificates or endorsements that are issued based on it (Article 1066 of the Commercial Code).

On the other hand, Article 1068 of the Commercial Code establishes that the delay in the payment of the policy premium or of the certificates or endorsements that are issued based on it, will produce the **automatic termination of the contract** and will give the insurer the right to demand the payment of the accrued premium and the expenses caused by the issuance of the contract.

Based on this rule, even when the local insurer has not expressly canceled or revoked the insurance by means of an endorsement or certificate, it is argued that the insurance **is legally understood to be terminated, which may mean response problems in the event of a claim.**



What are the guidelines regarding Electronic Invoicing of insurance policies?

Answer: Recently, the Ministerio de Hacienda (Ministry of Finance) and the tax authority of Colombia have issued regulations related to the invoicing of policies, which basically establish that the insurance policy is no longer a document equivalent to an invoice and instead the insurers will issue an electronic invoice, based on which the payment of the premiums must be made.

This change, in addition to complying with current regulations, brings benefits such as the unification of the electronic sales invoice process in the insurance sector and being able to bear the costs and expenses before the tax authority only with the Electronic Sales Invoice, not with the insurance policy.