

Insurance Newsletter: Release of the Principles of Reinsurance Contract Law

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written by Nader, Hayaux & Goebel | enero 9, 2020

We inform our clients and friends that on November 28, 2019, the Principles of Reinsurance Contract Law (the “**Principles**”) were published by the Project Group (joint venture set between several Universities and professors, primary insurance companies’ representatives, reinsurance companies and reinsurance brokers and special advisors) in cooperation with the International Institute for the Unification of Private Law (“**UNIDROIT**”).

The Principles set specific reinsurance rules applicable to contract law, aiming to help such areas where reinsurance practitioners felt the urgency of improving legal certainty. Principle’s basis were made upon incorporating: (i) uniform rules on general contract law, (ii) uniform system and (iii) a set of standardized terms, which are set up to minimize the interpretation problems of reinsurance contracts.

The Principles only deal with reinsurance specific rules of contract law, considering that issues regarding general contract law are already included in the Principles of International Commercial Contract of 2016 (“**PICC**”).

The Principles have been drafted as “soft-law”, which means they will work as an optional guide of reinsurance contract law when it is chosen by the parties, and for these principles to have binding effect, the contracting parties should voluntarily choose to do so. However, there is also the possibility that the Principles may be applied by courts or arbitral tribunals, as the case may be, even in cases where the parties have not chosen to apply them.

The Principles are structured as follows: **(i)** Chapter 1 contains general provisions governing structural issues and the connection between the Principles and the PICC; **(ii)** Chapter 2 deals with the duties of the contracting parties, which are set upon

good faith of the individuals; **(iii)** Chapter 3 supplement Chapter 2, insofar as it provides remedies in case one of the parties does not comply with its obligations under the reinsurance contract; **(iv)** Chapter 4 addresses the issue of loss allocation; and **(v)** Chapter 5 regulates loss aggregation.

The Principles represent a major step in the standardization of international reinsurance contracts.

For further information with respect to the matters set forth above and Insurance Law, please reach out to your regular contacts at Nader, Hayaux & Goebel or any of Yves Hayaux-du-Tilly L. +52 (55) 4170 3003 yhayaux@nhg.com.mx and Luciano Pérez G. +52 (55) 4170 3027 lperez@nhg.com.mx.