



To: Chairman Eun Sung-soo
Financial Services Commission (FSC)

Cc: Chang Sung Gil, Director General for International Trade
Ministry of Trade Industry and Energy (MOTIE)

Date: 5 May 2020

Subject: GFIA views on data localisation for reinsurers

Dear Chairman Eun,

Globally, the (re)insurance industry plays an important role in every country to provide risk protection, risk mitigation, and long-term investment which generate stability and growth for individuals, businesses, society and the economy. A critical component of the risk-spreading value proposition of insurance is the geographic diversification of risks internationally through cross-border reinsurance. Diversification prevents economic or natural disruptions in any single market from harming families, businesses and governments as well as assets held by these entities. It is in this regard that we have identified a forced localisation issue in Korea specific to reinsurance and data, which we would draw to your attention.

The benefits of cross-border reinsurance are not limited to geographic diversification of risk, cross-border reinsurance allows local insurers to support the uninsured and underinsured in smaller markets and it promotes product and underwriting innovation when insurers would like to share the risk. GFIA views Korea as a global regulatory leader and for these reasons would ask that you review what we believe to be a regulatory interpretation which creates possible fragmentation risk as highlighted in the Financial Stability Board's priorities for the 2020 G20.

Cross-border reinsurance supports economic growth, particularly in the aftermath of catastrophes, by providing the capital that is necessary for recovery. In fact, studies show that areas affected by natural disasters recover much more quickly when insurance benefits are injected into the system. Yet Korea continues to have a fundamental barrier to access to global (re)insurance in the form of forced data localisation requirements that prohibit the use of regional or global data processing infrastructure. As such, global reinsurers in Korea are required to keep all data in Korea and are not able to use global underwriting, backup and regulatory compliance systems which can be inconsistent with global governance and group supervision requirements

GFIA is of the view that forced data localisation undermines the ability of insurers to transfer risk across borders through the use of both affiliate and professional reinsurance. Global reinsurers like globally active primary insurers rely on complex technology systems to maintain compliance with both home and host country laws. The requirement to localise data is a direct conflict with the essential risk spreading nature of (re)insurance.

GFIA would therefore request you consider that, where domestic Korean regulations or their interpretation conflict with Korea's obligations under the EU-Korea Free Trade Agreement, the US-Korea Free Trade Agreement



(KORUS) and other binding agreements, Korean regulations should be changed or reinterpreted so as to comply with Korea's commitments. GFIA takes the view that the argument that domestic regulations does not allow compliance with KORUS is contrary to fundamental principles of international law. The Financial Services Commission (FSC) has raised its own regulations as a reason that it cannot comply with Korea's commitment under KORUS to allow the free flow of cross-border data transfers.

GFIA has forty-one members representing sixty-four countries and, due to positive regulatory changes that have removed reinsurance barriers in other global markets, Korea has been elevated to a top tier global priority for coordinated and sustained industry advocacy until affirmatively resolved. GFIA would therefore seek direct dialogue with FSC, in addition to its multilateral effort of (re)insurance exporter regulators and trade officials, to engage at Government-to-Government level to address the continuing restrictions on cross-border data transfers and offshore data storage by global (re)insurers licensed to conduct business through branches in Korea.

GFIA takes the view it is possible to resolve the issue through a current Korean legal authority to allow global (re)insurers licensed in Korea to use their global technology platforms without regard to physical location as long as they meet the same level of protection applicable domestically in Korea. This is commonly achieved in other jurisdictions by explicitly allowing for cross-border data transfer and offshore data storage where:

1. The receiving country has data privacy laws in place of an equal or higher standard than those of the originating country (Korea) or;
2. The recipient is contractually obliged to apply data privacy standards equal to or higher than those of the originating country.

GFIA respectfully requests that the FSC reviews this matter, consistent with Korea's stated aim of being a global financial centre. Reinsurance needs to be global to serve its fundamental risk spreading function. GFIA would welcome any questions or dialogue on how to resolve these concerns.

Kind regards,

Brad Smith

Chair of the GFIA Trade working group (BradSmith@acli.com)

About GFIA

Through its 40 member associations and 1 observer association, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 64 countries. These companies account for around 89% of total insurance premiums worldwide. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.