# Fronting for global insurance programs


## Addressing the challenges of market panel fronting for energy and mining programs requires a nuanced understanding of legal and regulatory requirements across multiple territories.

The complex nature of the risks and high insured values associated with clients in the energy and mining sector within Canada can create capacity challenges within the insurance market. Multiple traditional and non-traditional insurers can be required to provide coverage for particular risks and/or occupancies. Where global exposures exist, Canadian insureds will typically require a fronting company to issue licensed paper on behalf of the market-wide panel of reinsurers, ceding risk back for their respective shares as required.

Within a complex regulatory framework, addressing the many requirements that underpin the structuring and execution of a multinational fronting program is a job for specialist insurers. Often, such programs will involve added complexity such as multiple layers of reinsurance or aggregated reinsurance structures, and the Canadian fronting insurer is required to have in-depth knowledge of the potential challenges faced in different jurisdictions in relation to such structures.

### Territorial requirements

While many markets will have experience participating on the risk transfer panel for a fronted program, not all have been in the position of fronting for other insurers, issuing paper in multiple territories where they must interpretate and navigate local regulatory requirements.

This could be for several reasons, including local licensing requirements, capital commitments, relationships with local partner insurers and/or the need to ensure regulatory compliance. Programs can contain a portfolio of assets across multiple territories or represent single project/territory placements.

To ensure regulatory compliance, there are several considerations impacting premium exportability and local market offerings which vary by jurisdiction, for example:

- **Market conditions in some countries** may prevent the movement of premium in a timely manner which will impact the premium payment conditions on reinsurance agreements. Argentina is a prime example, with economic conditions impacting the ability to cede currency out of the country.
- **Certain jurisdictions outline mandatory** local retention and cession requirements prior to ceding risk and premium out of country. In Brazil and Malaysia, for example, there are requirements to offer a portion of the risk to the local market before it can be ceded. If local regulations demand a percentage of risk is retained in the domestic market, that means a smaller percentage of risk and premium will ultimately be ceded to the reinsurance panel.

It is crucial that members of the (re)insurance panel take these regulatory compliance elements into consideration when engaging in discussion with fronting markets and placing brokers. Fronting insurers will reflect exportability challenges and requirements for local market offerings in their premium payment commitments.

In addition to exportability considerations, regulators for certain countries publish mandatory tariff or minimum rate requirements which may not match the pricing expectations of the underwriting office(s). This demonstrates the importance of working with a specialist insurer who can assist in navigating these requirements upfront, and with allocating premium across the program in compliance with local regulation, allowing for effective budgeting on the part of the insured.

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## Legal nuances

Within any fronting arrangement, each market is required to enter into specific reinsurance terms and conditions to define the obligations of the arrangement. Navigating different jurisdiction's rules and converting standardized coverage intentions is a complex process, and fronting insurers will need to engage with multiple stakeholders and ensure that legal agreements are fit for purpose.

For example, a common question is around choice of jurisdiction. Given the complexity of fronting arrangements, it is important to have an adequate body of case law in case of arbitration or legal dispute. This benefits both the fronting insurer and panel.

Another example is to be clear upfront around excess limits liabilities and extra contractual obligations in order to avoid potential dispute at a later date.

There could be a scenario where the fronting insurer is mandated to pay a claim in excess of the program limits. Under such a scenario, the panel follows the fortunes of the fronting insurer.

The fronting services are not in place to offset the risk of regulatory intervention or the operational risk of participation in certain regions, but to enable access to the local market. As this local market may have bespoke policy conditions and requirements, working with a specialist Canadian insurer who can assist panel markets in navigating these terms and conditions is essential.

## Claims control

Claims control and cooperation is another key consideration within any fronting arrangement. Communication and information sharing in the event of a claim is a core component of any fronting arrangement, but this must be balanced with enabling the fronting insurers to act quickly in mitigating the loss to an insured and the reinsurance panel.

The fronting insurer issuing the licensed paper must have the ability to effectively handle the claim locally, and to ensure contract certainty, it is crucial that claims handling is clearly addressed from the outset.

## Program management

Due to the complexity of these programs, the insurance placement does not necessarily take place where the assets are located. A centralized program management team must be able to appropriately structure and implement the fronted placement in partnership with the placing broker, while also meeting underlying territorial challenges.

One of the key considerations for brokers and insureds is to ensure that what is agreed at the producing office level is effectively communicated to local offices. Likewise, local market conditions must be clearly understood and communicated by the producing office.

Given the wide array of challenges a fronting insurer faces to effectively navigate these complexities, early engagement with brokers and clients is crucial for service delivery, reducing re-work, identifying communication channels and managing expectations.

Multinational programs are complex, and successful implementation relies upon close communication and collaboration among the fronting insurer, insured, broker (both retail and wholesale) and, ultimately, the panel reinsurer(s).

It is crucial to work with an experienced Canadian fronting insurer who has a centralized program management approach, combined with the local expertise, licensing, and the network to help put in place a compliant, contract-certain controlled master program.

## QUOTE STAGE

- Clarity on local (admitted) policy requirements, Freedom of Service and non-admitted coverage, and number of policies required in each territory
- Confirmation of any certificate requirements
- Agreement on wording to be used for each risk
- Program limits for relevant risks in scope
- Name and address of company providing the capacity and maximum fronted requirements
- Provisional structure (if not quota share for all risks)
- Agreement on practical payment terms, given underlying territory restrictions
- Reinsurance facultative conditions and any specific territorial addendums required

## BOUND STAGE

- Insured name and address for each local policy
- Insured contact information in each country for policy acceptance and payment
- Local broker contact information, if applicable
- Local policy payment as standard, central payment feasible on request where permitted
- Local policy limits (slip)- particularly highlighting if there is any change at the quote stage
- Confirm if premium is to be grossed up or netted down for local insurer tax
- Rate of exchange between any local and master currency to be confirmed. Instruction must be fixed in local currency at point of issuance
- Confirm direct brokerage to be collected locally or centrally (where feasible)
- Confirm whether payment to be made directly to the markets or broker
- Clarity on final structure of fronted panel
- Reinsured company's full name to be stated on documentation
- Prior to binding, vet premium allocation for each policy to ensure the premium allocated to each policy accurately reflects the risk covered on each policy
- Confirm estimated reinsurance premium payable after deductions (local office costs, insurer taxes and others)

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