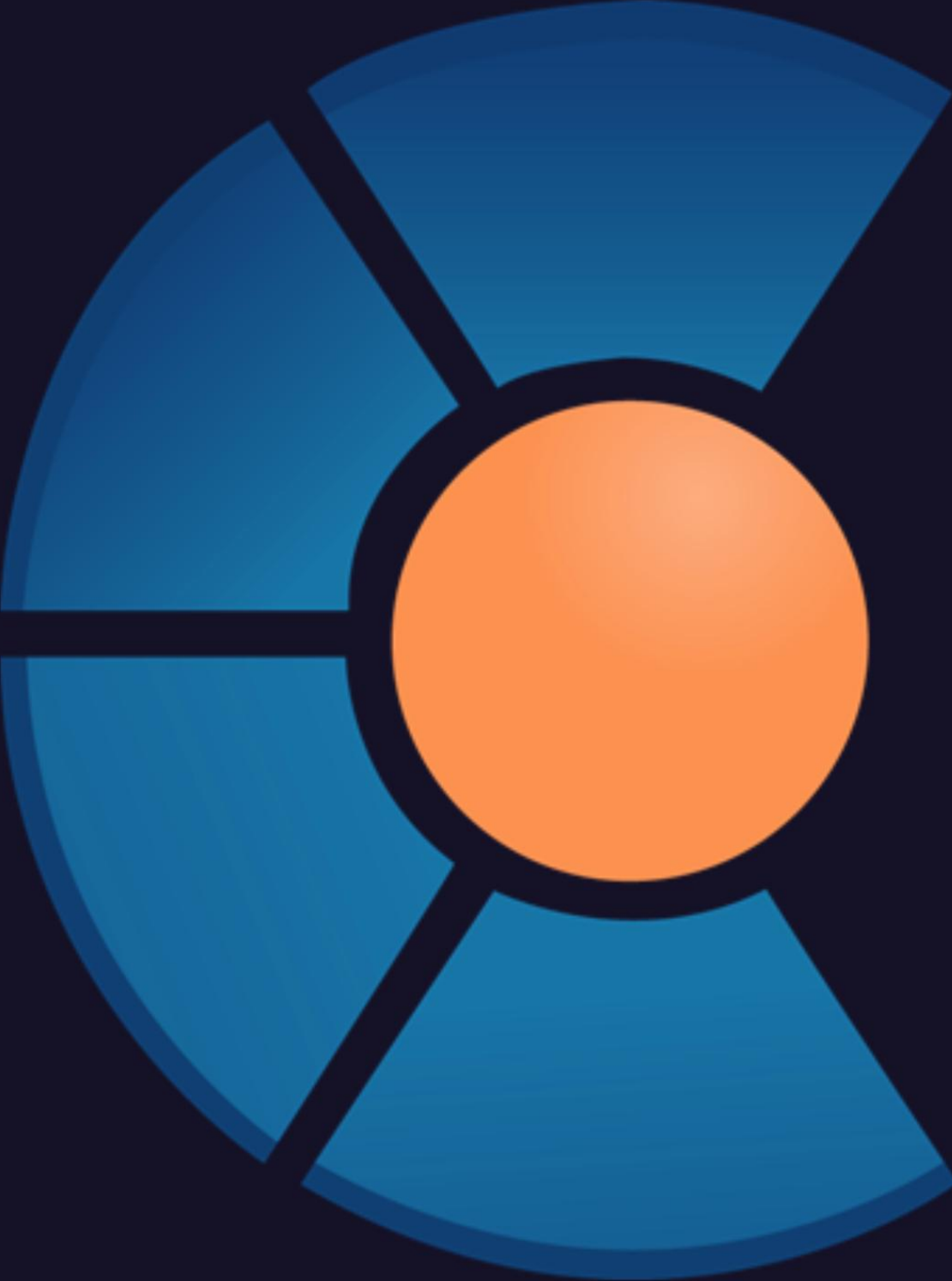


COMPARATIVE LAW RESEARCH

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Executive Summary

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Executive Summary – COPAPROSE 2024 Comparative Law Research Coordinated by Marvin Umaña Blanco, Legal and Regulatory Committee

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Gratitude

COPAPROSE would like to thank all the participants who provided their contributions to the completion of this work. All future feedback, criticism and suggestions are always welcome. Write to us at info@copaprose.org

COMPARATIVE LAW RESEARCH: ANALYSIS OF RESULTS

EXECUTIVE SUMMARY

A.- INTRODUCTION

The Pan-American Confederation of Insurance Producers (COPAPROSE) is an international, non-profit organization based in the Republic of Panama, which brings together associations of insurance producers related to the distribution and advice of insurance and/or surety bonds, belonging to the countries of the American Continent, including Spain and Portugal. It currently has 26 associations from 18 countries. Among its main objectives is to exercise the common representation and defense of the interests of its member associations, in the professional field, before international organizations, public administrations, institutions, entities and/or individuals without any limitations.

For the effective distribution and advice of insurance among the population, the figure of the **INSURANCE ADVISOR** stands out for his contribution and impact on the economy, by virtue of the fact that he is a person or company that contributes his knowledge and activity in advising the insured both for the contracting of insurance and in the tasks of compensation and receipt of indemnities for the damage suffered.

Consequently, it is a vital figure that provides proximity to the insured and the victims. No other insurance distributor can provide the value that an **INSURANCE ADVISOR** offers due to his close knowledge of the client's needs. But, what is more, he carries out an outstanding social work such as promoting savings and foresight, making an important contribution to the wealth of a country by relieving public finances and cooperating with state agencies for the well-being of society.

COPAPROSE supports the defense and respect of the current legislation of the countries and the irrefutable need for supervision models that guarantee the rights of consumers. However, it is concerned about the implementation of new obligations imposed on **INSURANCE ADVISORS**, which may distort their purpose, by devoting more time to compliance with regulations than to placing and advising insurance consumers, as well as contributing to its penetration.

As part of the **WORK PLAN** established by the COPAPROSE Board of Directors for the period 2023-2025, it was established as a **PRIORITY** to collect information

related to the supervision models and legislation applicable to **INSURANCE ADVISORS** of the member countries of our Confederation.

For practical purposes and given the variety of names given to insurance mediators in different countries (intermediaries, brokers, producers, agents, insurance producer advisors, etc.) the expression **INSURANCE ADVISORS** is basically used in this study.

With this data, each affiliated association will be able to conduct more objective actions with the regulators of each country and, at a regional level, the results of the study will be promoted, with the aim of seeking the standardization of the models that govern our profession.

The study covers three areas, namely:



A summary presentation was already presented at the annual meeting of the **World Federation of Insurance Intermediaries (WFII)** held in Mexico City on March 10, 11 and 12, 2024 and at the **XXXI IBERO-AMERICAN INSURANCE CONGRESS** held in Costa Rica on April 23, 24 and 25. Both events generated a lot of interest and were considered valuable material for consultation and action by each country.

B.- STUDY FORMAT

COPAPROSE maintains a LEGAL AND REGULATORY COMMITTEE composed of the following persons:

1. Marvin Umaña - CIS Costa Rica (Coordinator)
2. Demetrio Ureña - CONALPROSE Panama
3. Roberto Castellanos - AMASFAC Mexico
4. Claudia Gonzalez - ACOAS Colombia
5. Fernando Blanco Giraldo - ADECOSE Spain
6. Patricia Figueroa - CONALPROSE Panama

This committee had the special institutional support of the President of COPAPROSE, Elisabeth Vogt de Weber, and the Executive Director, Erika Herrera.

A draft questionnaire was first prepared and submitted to the Board of Directors and then circulated to the affiliated associations in 17 countries. 20 responses were received from 16 countries and the results were tabulated for analysis.

C.- MOST RELEVANT CONCLUSIONS

COPAPROSE is an organization that firmly believes in the importance of establishing **supervisory and regulatory measures** that guarantee the **transparency** of the applicable model in each country and the best **advisory service and comprehensive attention** to the needs of **clients** and that provides true added value to the sector it regulates, but we also consider that there must be coherence and proportionality [1] in these measures and hence the importance of seeking an application in accordance with the work of the **INSURANCE ADVISOR**.

I. Anti-Money Laundering and Countering the Financing of Terrorism:

COPAPROSE advocates that all **INSURANCE ADVISORS** should be concerned about preventing money laundering and terrorist financing (ML/FT) and recommends that they deepen and consolidate their technical-professional training on the AML/CFT risks to which they are exposed, derived from the activities carried out and the products and services offered.

Let us remember that the global regulatory body is the FATF and at the LATAM level it is the GAFILAT, which also establishes coordination with the IAIS and ASSAL. While it is true that all of its provisions are not **necessarily binding** on countries, its evaluations of the subject can generate **unfavorable ratings** and establish restrictions for the support of international organizations.

- a) **94%** of countries have specific regulations for the insurance sector in terms of ML/CFT control.

[1] Proportionality: the initiative to be applied must be the one that imposes the lowest possible costs on the recipients. Smart Regulation and Economic Growth Report. January 2024. Smart Regulation Forum. https://regulacioninteligente.org/wp-content/uploads/2024/04/INFORME-Regulacio%CC%81n-y-crecimiento-econo%CC%81mico_OK.pdf

- b) There is a marked **heterogeneity** in the application of AML/CFT regulations in the region, which represents **COMPETITIVE DISADVANTAGES** for over-regulated countries.
- c) In the area of AML/CFT, the principles of **PROPORTIONALITY, COHERENCE, CONVERGENCE**^[2] are not being applied AND **REASONABLENESS**, promoted by the IAIS, which substantially increases the cost of the insurance model.

In **69%** of countries, **INSURANCE ADVISORS** are required to maintain a **complete Compliance Officer scheme** that includes collecting forms, client data, risk factors and the like. This is a worrying factor, considering the nature of the advisory functions we perform. It would be positive if, in countries where this measure is required, the effects and results obtained by its implementation were periodically evaluated. The case of Chile, Colombia, Ecuador and Venezuela, which do not maintain these obligations, stands out. It is worth highlighting that this is the trend worldwide.

In **69%** of countries, **INSURANCE ADVISORS are not required** to maintain a regular and a substitute compliance officer, a very delicate issue since insurance companies and banking entities must also maintain such a scheme. This harms the competitiveness of **INSURANCE ADVISORS**, since it imposes unnecessary burdens that cost time and money, especially for small and medium-sized intermediaries.

In **81%** of countries, the AML/CFT model regulation **applies to all insurance lines**, and in Spain (and consequently in Europe), Argentina and Uruguay it is only required for life insurance with capitalization, which is totally logical. At the WFII Congress held in Mexico, a quick survey was carried out on the subject of insurance lines and the result is the following.

- **SOUTH AFRICA:** YES, investment products based on insurance and life, although there are some obligations in the non-life market.
- **INDIA:** Insurance Agents NO, but Insurance Brokers YES in all branches
- **HONG KONG:** YES, only in long-term insurance. Example: pension plan with retirement benefits for employees or life insurance.
- **UNITED KINGDOM:** YES, only life and investment insurance.

[2] Convergence: refers to the process by which different types of data and communication systems are integrated and used jointly between different sectors (insurers, banks or other financial entities) to improve the efficiency and effectiveness of the transmission and use of information.

On the other hand, to the question of whether they have used insurance for actions related to ML/FT in the last 10 years, the results are interesting, highlighting that only in two countries (Honduras and Spain) are they aware of related cases and it was due to a broker's relationship with some businesses, although it was not clear whether insurance was used for these purposes. In Spain, on the other hand, the sentence issued on February 23, 2024 by the Provincial Court of Pontevedra has convicted for money laundering in relation to life insurance. At a global level, it is recognized that, within the general financial sector, insurance is the activity with the lowest degree of exposure to this type of illegal acts.

- d) The application of excessive regulations and duplication of functions **produce an enormous operational cost** that **infringes the rights of consumers** to have access to insurance for the economic and social development of countries. According to the results, in **75%** of countries there is duplication of controls between insurers, advisors and financial entities.

This condition also limits the entry of **new market participants** (especially under the SME model) and promotes the concentration of the insurance market in the hands of large companies, whose target market focuses on corporate clients, leaving aside the small and most needy ones.

- e) These excessive measures violate the principles of **INCLUSIVITY** and **CLOSING THE PROTECTION GAP** [3] promoted by organizations such as the United Nations (UN) and global trends.
- f) There is no **COHERENCE** between the activity of the **INSURANCE ADVISOR** and the excessive regulatory package required of him and it has no relation to other models of the economic and financial system. For example: Financial, legal, real estate and similar advisors.
- g) Regulatory bodies must be aware that the work and responsibility of the **INSURANCE BROKER** is by nature to **ADVISE** and their responsibilities do not include **ACCEPTANCE OF RISKS** or the handling of **CLIENTS' MONEY**.

[3] Human Rights Principles of the Environmental, Social and Governance (ESG) Approach.

II. Corporate Governance:

Corporate governance is the set of rules, principles and procedures that regulate the structure, integration and operation of the **governing bodies** of a company [4]. “Specifically, it establishes the relationships between the **board of directors, the shareholders** and the rest of the interested parties, and stipulates the rules that govern the decision-making process regarding the company for the generation of value [5].”

As an international standard of good practices, COPAPROSE defends the importance of **INSURANCE ADVISORS**, according to their **nature and size**, applying appropriate governance that guarantees healthy and prudent management of their activity, ensuring that they support fair treatment of clients (Regulation versus Co-administration).

- a) Regarding the application in the countries of a particular regulation or any other regulation (Law, General Provisions, Circulars, etc.) it was found that in 8 countries (**50%**), with the respective stipulation of requirements, the **CORPORATE GOVERNANCE** model is required for **INSURANCE ADVISORS**, which leads us to ask: why is it not applied in other countries? Could it be that there is greater awareness of the work of the advisor and the costs that this entails?
- b) The point made in section I regarding the **heterogeneity** and **lack of coherence** of the measures applicable in the countries analysed is reiterated. It is very easy to deduce that **INSURANCE ADVISORS** are being subject to similar requirements as those required (for obvious reasons) for **INSURANCE, REINSURANCE, BANKING AND FINANCIAL** companies, without considering that our function is totally different.
- c) Is there awareness of the effects on the market and the consumer of the cost of this **excessive burden of control** that affects their purchasing power?
- d) These Corporate Governance models also constitute **BARRIERS TO ENTRY** for other market participants and tend to concentrate the market in the hands of

[4] Definition of Corporate Governance: Pan-Hispanic Dictionary of Legal Spanish. <https://dpej.rae.es/lema/gobierno-corporativo>

[5] What is corporate governance?: <https://www2.deloitte.com/es/es/pages/governance-risk-and-compliance/articles/que-es-el-gobierno-corporativo.html>

the strongest companies, depriving the consumer of better service opportunities. This trend includes the banking of insurance (which is different from banking-insurance) and the incorporation of financial and commercial companies in the sale of insurance, which -generally- provide deficient services.

- e) The delicate situation of the **ECO-SOCIAL** phenomena that are currently being experienced and that will increase in the future (climate change, immigration, political crises, lack of financial capacity of the insurance and reinsurance markets, etc.), requires supervision and regulation models that are **very agile and low cost**, in order to guarantee **THE INCLUSIVITY** of insurance in all sectors of society.

III. Digital Commerce and its Regulation:

COPAPROSE believes that the advancement of technology brings countless benefits to society and to the evolution of the economy and that its implementation in the insurance sector is favorable, this being, even, an unavoidable issue in the virtual world, making products available to consumers, expanding the offer and, consequently, innovating in the aspect of large-scale distribution. Technology is an indispensable means that should be considered as an instrument and not as the end of the **INSURANCE ADVISOR's** work.

In light of this, and taking into account the accelerated development of digital media and new methods of doing business, it was considered necessary to find out how different countries are doing in relation to insurance and the results are as follows.

- a) Regarding the existence of **specific regulations on digital commerce and consumer rights**, only 5 countries (Bolivia, Chile, Spain, Mexico and El Salvador) responded affirmatively, which is very delicate because in 11 countries there is none, which leaves the **insurance consumer at a total disadvantage**.
- b) The question was also asked whether **there is regulation for paying taxes in digital commerce** and the response showed a worrying 81% of countries in which they **are not applied**. Only in Chile, El Salvador and Spain are they charged. This issue and apart from the fiscal problem for each government, puts legitimately established advisors at a **COMPLETE DISADVANTAGE**, since their costs are much higher than those who engage in the illegal insurance trade.

- c) In **81%** of the countries surveyed, **there are means of protecting personal data** used in digital transactions, which is generally favourable, but if the means of digital insurance trading are not officially registered, the consumer has no means to defend his rights.
- d) Other very worrying responses are:
- In **56%** of countries there are no means to ensure the delivery of documents and assistance in the event of claims.
 - Only 7 countries (**44%**) require an operating license to operate digital channels for the sale of insurance.
 - Only 3 countries require the requirement to have a Civil Liability Policy for **ERRORS AND OMISSIONS**.
 - Cross-border sales of insurance** via digital means are permitted in 7 countries.

The data obtained are compelling and there is an **URGENCY** to establish a regulatory model for the operation of digital insurance sales, especially for those companies not regulated according to the provisions of each country, which would guarantee the rights of consumers and equal conditions for all participants, promoting a **transparent and equitable competition model**.

We urge regulatory bodies to establish principles, values and regulations that guarantee that consumers are adequately instructed in making decisions, knowing what they are actually purchasing and whether the coverage contracted is in line with their real needs. All of the above, always integrated with advisory services and humanized attention that respond to the consumer's aspirations and their condition as a person.

D.- MAIN ENTITIES THAT GOVERN INSURANCE ACTIVITY AT A GLOBAL LEVEL AND THE ORGANIZATIONS THAT REPRESENT INSURANCE ADVISORS

I. Global Regulatory Bodies



IAIS

International Association of Insurance Supervisors

Established in 1994, the IAIS represents insurance supervisory authorities from approximately 200 jurisdictions accounting for 97%

of the world's insurance premiums. Its headquarters are in Basel, Switzerland.

Web: <https://www.iaisweb.org>



FATF

FINANCIAL ACTION TASK FORCE INTERNATIONAL

It is an intergovernmental institution created in 1989. The purpose of the FATF is to develop policies that help combat money laundering and terrorist financing. Its headquarters are located in Paris, France.

Web: <https://www.fatf-gafi.org/en/home.html>



ASSAL

ASSOCIATION OF INSURANCE SUPERVISORS OF LATIN AMERICA

It was founded in 1979. It is made up of 21 countries, 19 Latin American countries as full members and 2 adhering members, Spain and Portugal. It establishes the basic insurance principles that insurance entities must adopt. Its headquarters are located in Santiago, Chile.

Web: <https://assalweb.org/>



GAFILAT

LATIN AMERICAN FINANCIAL ACTION GROUP

It is a regional intergovernmental organization that brings together 17 countries from South America, Central America and North America. It was created to prevent and combat money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction.

Web: <https://www.gafilat.org/index.php/es/>



OECD

ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

Founded in 1961, it is an international organization whose mission is to promote policies that favor prosperity, equality, opportunities and well-being for all people. In collaboration with governments, public policy makers and citizens, it works to establish international standards and propose solutions based on empirical data to various social, economic and environmental challenges. It currently has 38 member countries and its headquarters are in Paris, France.

Web: <https://www.oecd.org/>

II. Insurance Advisors Associations:



WFII WORLD FEDERATION OF INSURANCE INTERMEDIARIES

Founded in 1999, the WFII enables insurance intermediaries to speak with one voice to international institutions and regulators that affect their business worldwide. It enables the exchange of information on global issues and objectives that all national associations of intermediaries have in common. Its headquarters are in Brussels, Belgium. Its members are currently associations and/or federations from the 5 continents:

- | | | |
|--|--|---|
| 
Financial Intermediaries Association
of Southern Africa
<ul style="list-style-type: none"> ▪ FIA: Financial Intermediaries Association of South Africa (Africa).
Web: www.fia.org.za | 
Council of Asia Pacific Insurance Brokers Associations
<ul style="list-style-type: none"> ▪ CAPIBA: Council of Asia Pacific Broker Associations (Asia/Pacific Rim).
Web: www.niba.com.au | 
European Federation of Insurance Intermediaries (Europe).
Web: www.bipar.eu |
| 
CONFEDERACION PANAMERICANA DE PRODUCTORES DE SEGUROS
COPAPROSE
<ul style="list-style-type: none"> ▪ COPAPROSE: Pan-American Confederation of Insurance Producers (Latin America).
Web: www.copaprose.org | 
THE COUNCIL
of INSURANCE
AGENTS & BROKERS
<ul style="list-style-type: none"> ▪ CIAB: Council of Insurance Agents and Brokers (North America).
Web: www.ciab.com | 
The Trusted Choice®
<ul style="list-style-type: none"> ▪ IIABA: Independent Insurance Agents and Brokers of America (North America).
Web: www.iiaba.net |
| 
Votre meilleure assurance, c'est un courtier d'assurances / Your Best Insurance is an Insurance Broker
<ul style="list-style-type: none"> ▪ IBAC: Insurance Brokers Association of Canada (North America). Web: www.ibac.ca | | |



COPAPROSE PAN AMERICAN CONFEDERATION OF INSURANCE PRODUCERS

It is a non-profit organization that brings together the insurance producers' associations of Ibero-America, to provide a solid international representation, developing and maintaining communication, exchange and training platforms necessary to permanently motivate the professional development of the affiliates

of its 26 members from 18 countries. It was founded in 1967 and its headquarters are in Panama City, Panama. Currently, its members group approximately 7,000 legal entity insurance producers and approximately 57,500 natural person insurance producers. The current composition of the COPAPROSE Board of Directors is attached as Annex No. 1.

Web: www.copaprose.org

III. Local Associations in Latin America (COPAPROSE Members):



Asociación Argentina
de Productores
Asesores de Seguros

ARGENTINA

AAPAS

Argentine Association of Insurance Producers and Advisors

Web: <https://aapas.org.ar/>



FAPASA

Federation of Associations of Insurance Advisory Producers of Argentina

Web: <https://fapasa.org.ar/>



ABOCOSER
ASOCIACIÓN BOLIVIANA DE CORREDORES
DE SEGUROS Y RESEGUROS

BOLIVIA

ABOCOSER

Bolivian Association of Insurance and Reinsurance Brokers

Web: <https://abocoser.com/>



Colegio de
Corredores de Seguros &
Asesores Previsionarios
de Chile

CHILE

COLLEGE OF INSURANCE BROKERS

Web: <https://colegiodecorredores.cl/>



Asociación General
de Corredores de
Seguros de Chile A.C.

ACOSEG

Association of Insurance Brokers, AG.

Web: <https://acoseg.cl/>



Asociación Colombiana
de Corredores de Seguros

COLOMBIA

ACOAS

Colombian Association of Insurance Brokers

Web: <https://acoas.com.co/>



Asociación Colombiana
de Intermediarios de Seguros

ACOIS

Colombian Association of Insurance Intermediaries

Web: <https://acois.com.co/>



CÁMARA DE
INTERMEDIARIOS
DE SEGUROS DE
COSTA RICA

COSTA RICA

CIS

Chamber of Insurance Intermediaries of Costa Rica

Web: <https://www.ciscostarica.com/>


 ANACSE
ECUADOR

ANACSE

National Association of Insurance Producing Advisors

Web: <https://www.anacse.org.ec/>

**EL SALVADOR**

ASPROS

Salvadoran Association of Insurance Producers

**SPAIN**

GENERAL COUNCIL OF COLLEGES OF INSURANCE BROKERS

Web: <https://mediadores.info/>

**ADECOSE**

Association of Insurance and Reinsurance Brokers

Web: <https://www.adecose.com/>

**GUATEMALA**

ACORDES

Association of Insurance Brokers

Web: <https://acordesguatemala.org/>

**HONDURAS**

AHPROINSE

Honduran Association of Professional Insurance Intermediaries

Web: <https://www.ahproinse.hn/>

**MEXICO**

AMASFAC

Mexican Association of Insurance and Surety Agents

Web: <https://www.amasfac.org/>

**PANAMA**

CAPECOSE

Panamanian Chamber of Insurance Brokerage

Web: https://www.facebook.com/capecose/?locale=es_LA

**CONALPROSE**

National College of Insurance Producers

Web: https://www.facebook.com/conalprose/?locale=es_LA



APROSEPA
Association of Insurance Producers of Panama
Web: <https://aprosepa.com/>



PARAGUAY
AASP
Association of Insurance Agents of Paraguay
Web: <https://www.aasp.com.py/>



PERU
APECOSE
Association Peruvian Insurance Brokers
Web: <https://apecose.com/>



PORTUGAL
APROSE
National Association of Insurance Agents and Brokers
Web: <https://www.aprose.pt>



DOMINICAN REPUBLIC
ADOCOSE
Dominican Association of Insurance Brokers
Web: <https://www.adocose.org/>



ANAPROSE
Dominican Association of Professional Insurance Agents and Promoters
Web: https://www.facebook.com/anaprose.seguros.7/?locale=es_LA



URUGUAY
APROASE
Association of Professional Insurance Advisors
Web: <https://aproase.com.uy/>



CUAPROSE
Uruguayan Chamber of Professional Insurance Advisors
Web: <https://cuaprose.com.uy/>



VENEZUELA
CAVECOSE
Venezuelan Chamber of Insurance Brokerage Companies

IV. Other Related Organizations:



GFIA **GLOBAL FEDERATION OF INSURANCE ASSOCIATIONS**

It is made up of 42 member associations and 2 observer associations, representing the interests of insurers and reinsurers from 70 countries (with a share of 89% of global premiums). Its objectives include representing the interests of member associations before international regulatory associations, standard setters and governments, in order to increase the effectiveness of the industry; contributing to international dialogue on issues of common interest by formalising contact, cooperation and communication between national and regional insurance associations; and sharing non-commercially sensitive research.

Web: <https://www.gfiainsurance.org/>



FIDES **INTERAMERICAN FEDERATION OF INSURANCE COMPANIES**

It is a non-profit organization that represents 20 countries in Latin America, the United States and Spain. Its objective is to promote the development of insurance and reinsurance, supporting, disseminating and promoting the great benefits that the sector brings to the economies and people in the twenty member countries it represents.

Web: <https://fideseguros.com/>



AIDA **International Insurance Law Association**

Founded in 1960, it is one of the world's leading and most respected insurance organisations, with delegated sections in, among other countries, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Cuba, Czech Republic, Denmark, France, Germany, Great Britain, Greece, Hungary, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, Morocco, Netherlands, Hong Kong, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, Russia, South Africa, Serbia, Singapore, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey, United States of America, Uruguay and Venezuela.

Web: <https://aidainsurance.org/>



CILA-AIDA IBERO-LATIN AMERICAN COMMITTEE OF AIDA

It brings together insurance law associations from Spain, Portugal and the Ibero-Latin American countries and fosters relations between these sections through the exchange of experiences, information and academic work in the field of insurance law. The countries that currently comprise it are: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Spain, Guatemala, Honduras, Mexico, Panama, Paraguay, Portugal, Peru, Puerto Rico, Uruguay and Venezuela.

Web: <https://www.facebook.com/cilaaida1/>