

2023 Insurance Sector Webinar Programme

Bonds

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What we will cover

01 The Surety
Bond Market

02 Impact of new
technologies

03 Relevant case -
law

Your speakers today



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Brazil

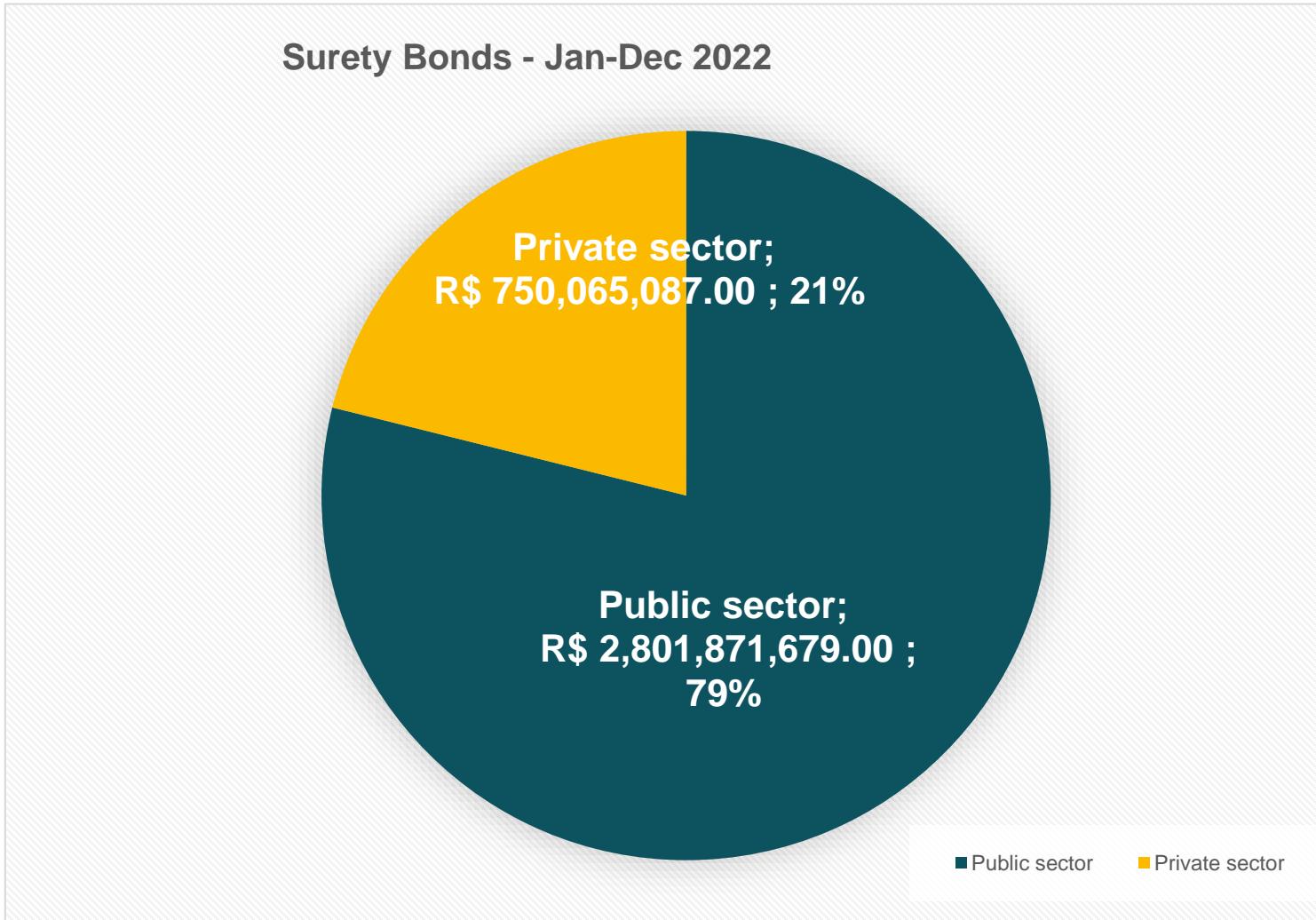
Brazilian Surety Market

- Surety bonds are a type of insurance
 - ≠ from other types of “in personam” securities (e.g., bank letter of credit, parent company guarantees, “aval”), etc.
 - Not a ‘first-demand’ type of guarantee
- 55 insurers are licensed to trade surety bonds in the country
 - 39 of them issued bonds in 2022
- Total written premium in 2022 in surety bonds amounted to BRL 3,551,936,766.00 (around US\$710 million / nearly € 600 million)
 - $\frac{1}{4}$ of the whole LatAm surety market
 - Yet it has a lot to grow

Brazilian Surety Market

- Judicial bonds are the most prevalent products
 - Nearly 80% of the whole public sector surety bonds
- Performance bonds come in a quite far second place
- Policies used to be standardised, but since January 2023 insurers have been free to provide the content of products and innovate

Categories of Surety Bonds: Public Sector x Private Sector

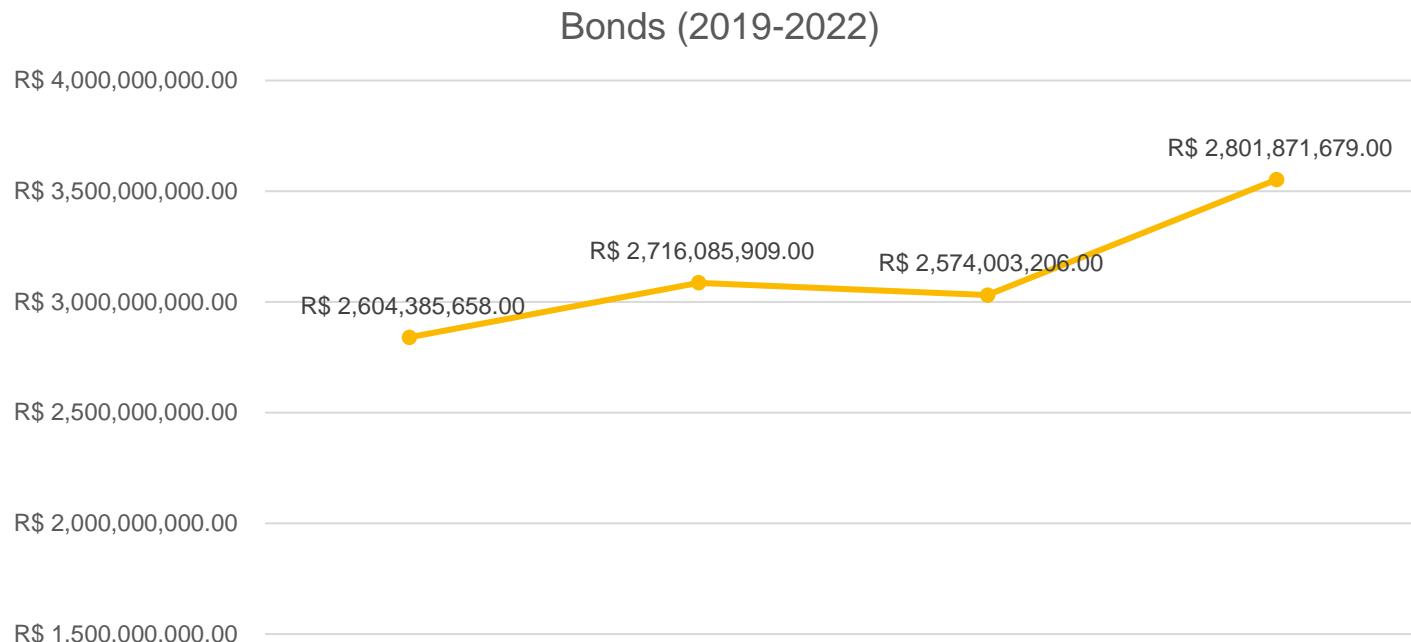


Top 10 Insurers in Surety Lines

Ranking	Insurer	Ultimate Origin	Market share (2022)
1 st	Pottencial	Brazil	17.5%
2 nd	Junto	Brazil	14.5%
3 rd	BMG Seguros	Brazil	9.1%
4 th	BTG + Too	Brazil	6.3%
5 th	Austral	Brazil	5%
6 th	Chubb	USA	4.6%
7 th	Swiss Re	Switzerland	4.4%
8 th	Fator	Brazil	4.4%
9 th	Tokio Marine	Japan	3.9%
10 th	Fairfax	Canada	3.6%

Brazilian Surety Market

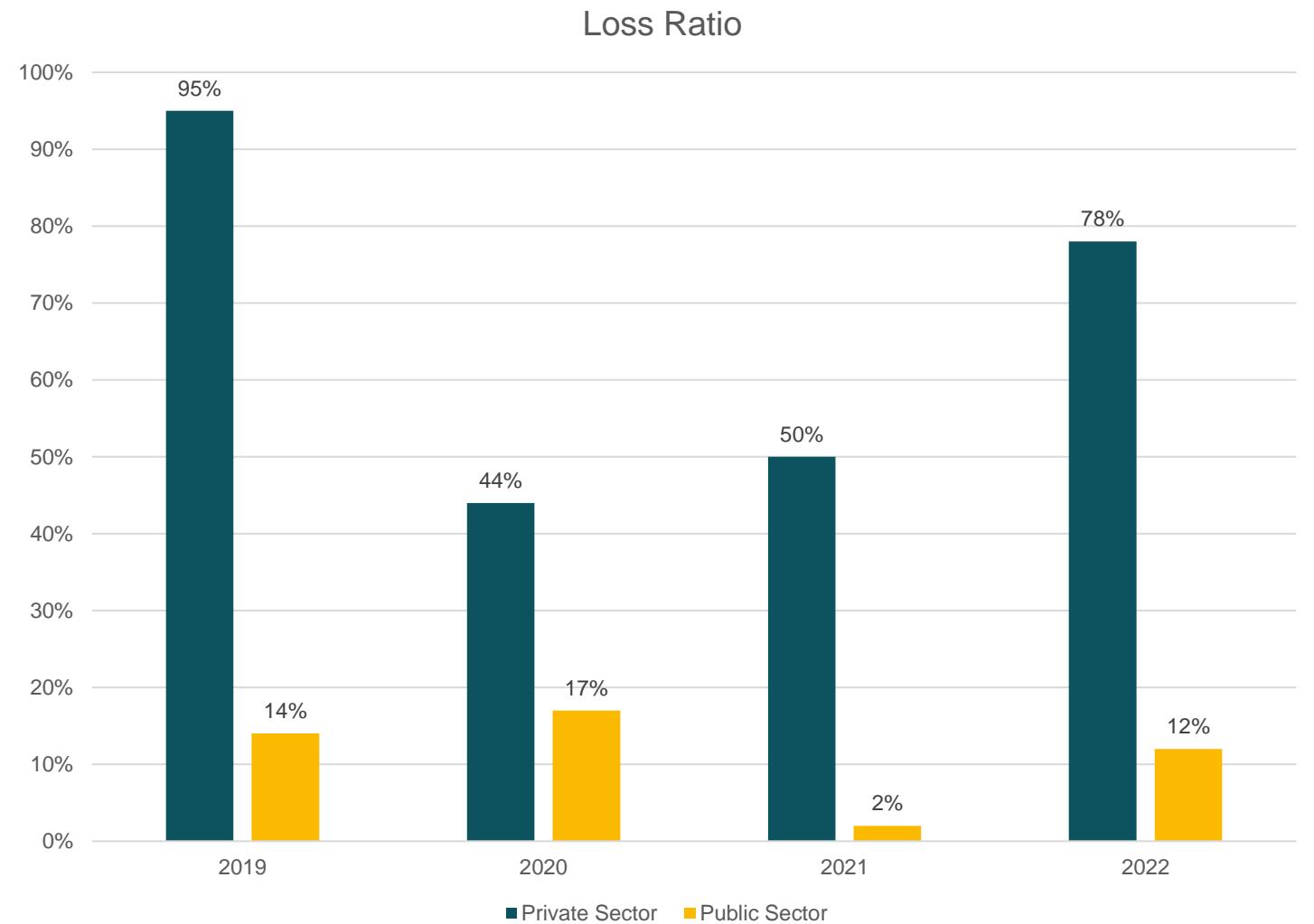
- Public Sector:
75-80% of premiums



- Private Sector:
20-25% of premiums

Loss Ratio of Surety Bonds

- Public Sector:
from **2%** to **17%**
- Private Sector:
from **44%** to **95%**



Trends in the Brazilian Surety Bonds Market

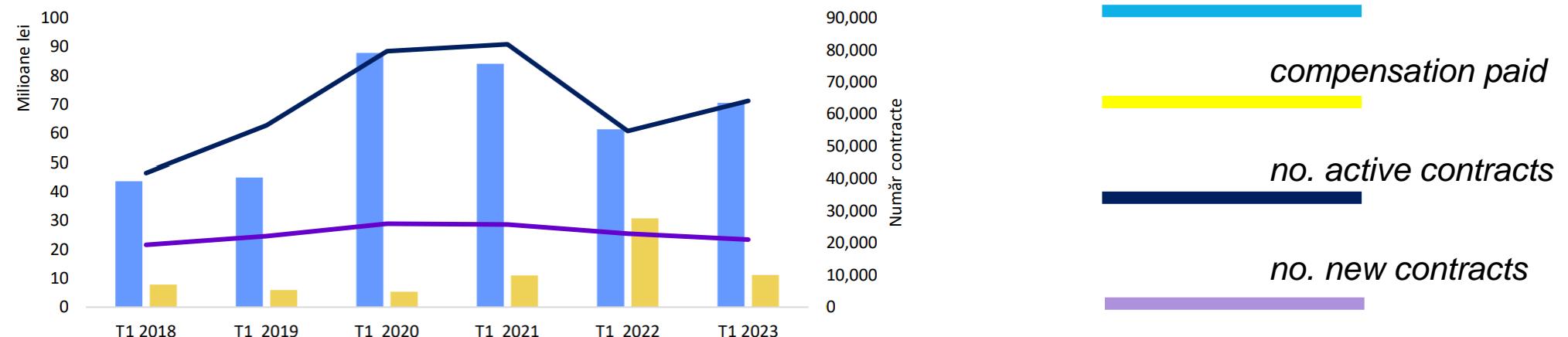
- Decommissioning of oil and gas installations is currently a key target of performance bond sureties
- Scalability: Expansion of the market towards the SME segment
 - Online underwriting via sureties' digital hubs
 - Fastrack loss adjustment processes
- New Public Procurement Act (Law no. 14,133, in force as from 30 Dec 2023)
 - Sizeable Engineering Projects (i.e., in excess of BRL 200 million / USD40 million) may require the contractor to post performance bonds up to 30% of the initial contract price
 - Step-in rights
 - Specific performance of the contract (completion) shall be the primary remedy
 - The surety may opt to pay the full insured sum instead

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Romania

Surety bonds in Romania – general information

- Surety bonds – a fairly regulated insurance product in Romania;
- small % of the market of insurance products (0.43%), but good potential for growth':
 - ✓ Q1 2023: volume of gross underwritten premium 70.5 ml RON (approx. 14.1. ml EUR), representing a 15% increase over the same period in 2022



Surety bonds in Romania – general information (ii)

- Active insurers on the Romanian surety bonds market:

Nr. crt.	Societate	Cota de piață
1	ONIX ASIGURARI S.A.	28,88%
2	EXIM ROMANIA S.A.	21,99%
3	ABC ASIGURARI - REASIGURARI S.A.	18,87%
4	EUROINS ROMANIA ASIGURARE REASIGURARE S.A.	6,81%
5	GROUPAMA ASIGURARI S.A.	5,66%
TOTAL (1-5)		82,20%
6	ALLIANZ - TIRIAC ASIGURARI S.A.	5,57%
7	OMNIASIG VIG S.A.	4,90%
8	ASIROM VIENNA INSURANCE GROUP S.A.	3,95%
9	ASITO KAPITAL S.A.	3,12%
10	ALLIANZ-TIRIAC UNIT ASIGURARI S.A.	0,25%
TOTAL (1-10)		99,98%
Alte societăți		0,02%
TOTAL		100,00%

Surety bonds in Romania – general information (iii)

- Surety bonds market dominated by smaller insurers (82% of the market):
 - Onix Asigurari – a subsidiary of the French Group Groupama;
 - ABC Asigurari – owned by Romanian State-owned Hidroconstructia SA and other construction companies (Iridex Group SRL, Energoconstructia SA, Stizo SA, Frigotehnica SA);
 - Exim Asigurari – dedicated to companies operating in construction, manufacturing, transport, exports and IT
- Larger (multinational) insurers (Allianz, Vienna Insurance Group) taking smaller positions;
- Market heavily disrupted by City Insurance bankruptcy in 2020 and, more recently, Euroins bankruptcy in 2023;

Surety bonds in Romania – general information (iii)

- Surety bonds products applicable primarily in public procurement procedures, to secure:
 - ✓ bid bond (participation in public procurement procedure) – max 2% of the estimated value of the contract to be awarded;
 - ✓ performance bond (contractor's execution of the contract once awarded) – max 10% of the value of the contract awarded;
 - ✓ advance payment bond (contractor's appropriate spending of advance) – full amount of advance
- Competing with other security instruments (e.g. bank letters of guarantees);
- However, potential for growth due to:
 - ✓ increasing costs of bank letters of guarantee (and associated collateral requirements);
 - ✓ new markets opening up (October 2023 – new gambling legislation allows surety bonds as an instrument securing gambling operators' payment obligations to the State budget; previously only bank letters of guarantee allowed, but conditions increasingly difficult, as banks reluctant to provide security to the industry due to AML risks);

Surety bonds in Romania – regulations

- Norm no. 32/2021 of the Romanian Financial Supervisory Authority
 - ✓ framework legislation regulating surety bonds (both legal and/or contractual) and minimum prudential requirements for underwriting such risks;
 - ✓ types of surety bonds:
 - ❖ *conditional bonds* – insurer pays subject to the condition that the occurrence of insured risk is ascertained by the insurer through its own methods, as per terms of insurance;
 - ❖ *unconditional bonds* [typically required in public procurement procedures] – payable on first demand, based on beneficiary's written request, accompanied by statement as to the policyholder's default under the contract & method of computation of the amounts enforced);
 - ✓ for unconditional bonds, insurers required by law to request collateral from policyholder (equal to the insured amount).

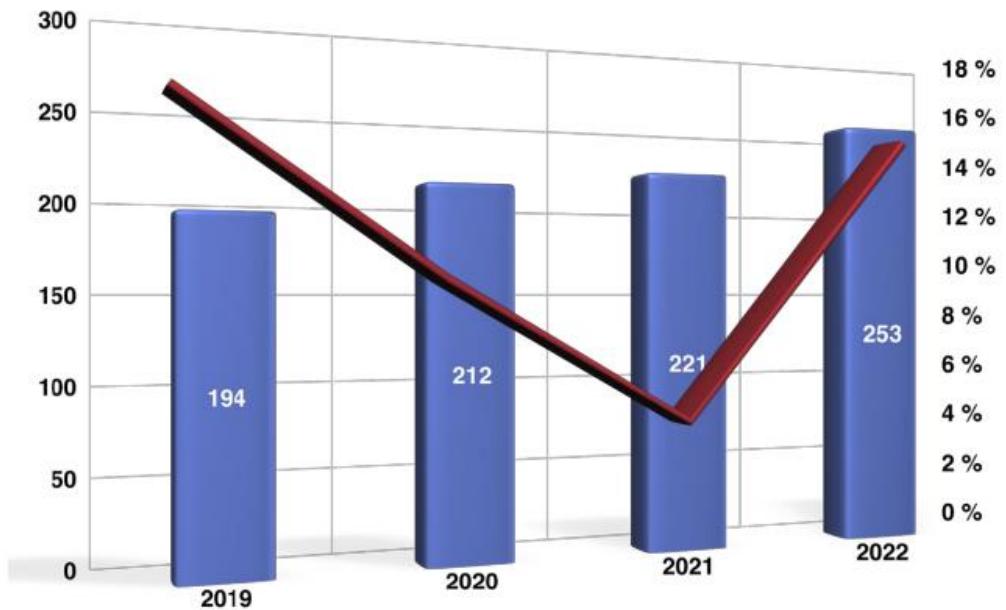


3 Spain

Surety bonds market in Spain (i)

- Volume of premiums in 2022: EUR 253.012.504
- Volume of premiums in 2021: EUR 220.992.151
- Growth of 14.5 %
- 0.6 % of share in the Spanish Insurance market
- 16 Spanish Insurance entities operating in surety plus 1 branch of third country insurer)
- 5 insurers concentrate the 90% of the premiums
- 28% growth on public work tenders due to Next Generation EU Funds
- 14.7% growth on the sales of homes

Surety bonds market in Spain (ii)



Blue: Premiums
Red: Premiums variation

- Descending trend on claims/losses
- Consolidated as an alternative to bank bonds
- Relevant role of the Insurance intermediaries
- Relevant number of guarantees granted in the past in photovoltaic projects
- Forecasted growth on the issuance of guarantees derived from the deferrals of tax payments, Social Security debts and Court bonds
- Conclusion: Spanish market huge opportunity

Surety bonds market in Spain (iii)

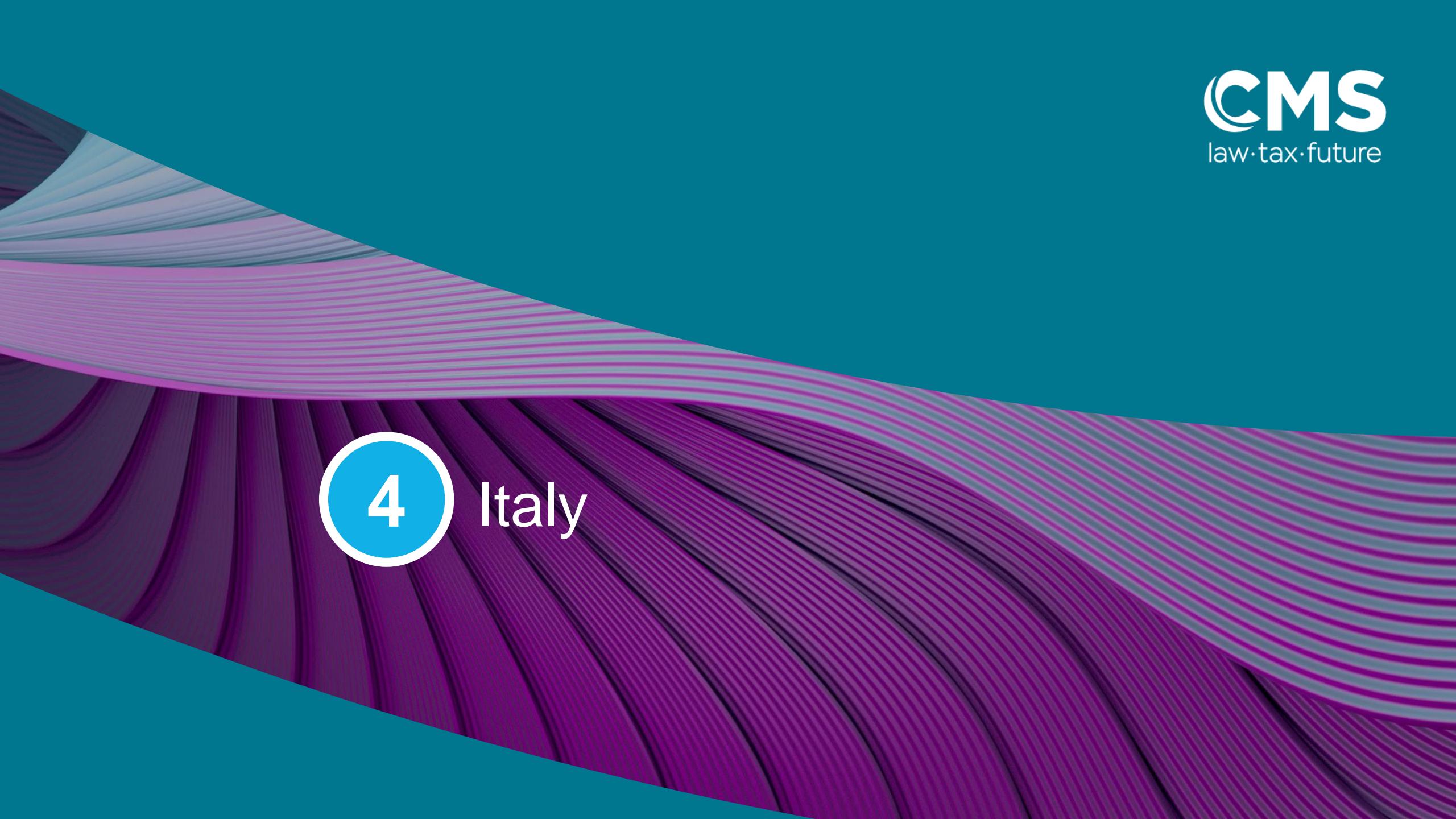
- Offer/Tender Guarantee (provisional);
- Performance guarantee (definitive);
- Advance payment guarantee;
- Quality guarantee;
- MEFF Guarantees
- Customs transit guarantee (legal obligation);
- Judicial guarantee (bail);
- Tax deferral guarantee;
- Network Access – Conexion point - Photovoltaic

Relevant case law on surety

- Judgment of the Spanish Supreme Court dated 25 July 2023
- Photovoltaic projects
- Breach by the public administration of the term granted to execute guarantees/sureties has no consequences
- Non application of the 2 years statute of limitations term set out in the Spanish Insurance Contract Law
- Consequences? Legal uncertainty, unlimited freedom of the Public administration...

Use of new technologies in surety

- Bonds granted to secure the rent payment obligations of a tenant
- Bonds granted to secure the success of scoring given to clients of the insured
- Use of algorithm to score the clients and anticipate who and who will not comply with payment obligations
- Use of chat bots and artificial intelligence to automatise the underwriting of the policies
- Automatic issuance of bonds if the tenants obtain certain scoring



4 Italy

Surety market in Italy - 1

Total volume of premiums 2022	Total volume of premiums 2021
EUR 705,500,000.00	EUR 644,000,000.00

+ 9.5% compared to 2021

Newly underwritten premiums 2022 (55.8% of the total):

EUR 394,000,000.00 (+ 6.5% compared to 2021)

Surety market in Italy - 2

Insured guarantees	Trends
Contract performance (mainly public)	+14.7%
Waste management	+17.2%
Contract related (e.g. license and permit)	+2.2%
Public funding	+9.1%
Custom operations / duties	+4.9%
Agriculture funds	+4.8%
Payment bonds	- 11.5%
Tax refunds	-22.3%

Surety market in Italy - 3

Market share - 42 companies operating in the sector

Large companies (from 1st to 5th place)	42.5%
Medium-large companies (from the 6th to the 10th position)	26.7%
Medium-small companies (from the 11th to the 15th position)	16.3%
Small companies (beyond the 15th position)	14.5%

Impact of new technologies

Project: Fideiussioni digitali (digital surety bonds)

Backed by Banca d'Italia and Ivass

Development of blockchain surety bonds to:

- facilitate the coordination of the various market players
- reduce the phenomenon of fraud of approximately 30%
- dematerialise surety
- provide certified and timely information to all players in the chain

make surety management more efficient

Relevant case-law

Supreme Court decision n. 3839/2021

In the event of the contractor's default following the performance, the Beneficiary can enforce the surety, only **within the limits of the actual damage suffered**, for which it is required to provide evidence.

It is expressly allowed to act for the recovery of any additional expenses incurred, but not to retain amounts exceeding the amount of expenses incurred and damages suffered.

Necessity of a proper motivation and evidence regarding the suffered damage.

Counter-Guarantee Agreements and Enforcement

Counter-Guarantee Agreements (CGAs) - BRAZIL

- Surety's subrogation rights against the policyholder and any guarantors
- Unregulated
 - Surety is free to negotiate whether to make a CGA with the policyholder (or its guarantor) and content
 - Ancillary in nature to the surety bond
- Reinsurers may require CGAs (and specific collateral security) as a condition precedent to grant reinsurance coverage for sureties that exceed a given threshold or to named policyholders
- Brazilian Congress has just passed a law (pending Presidential sanction) raising the CGAs into an executory instrument – Bill of Law no. 4,188-C/2021

Enforcement of Counter-guarantees in Spain

- If the document complies with certain requirements (granted before a Notary) is enforceable
- When enforceable, filing of enforcement proceedings instead of ordinary proceedings
- Autonomous guarantee
- If admitted, Court immediately to issue a ruling ordering the payment of the amounts plus interests plus legal costs
- Court immediately order the seizure of bank accounts, assets, etc.
- Defendant can only oppose following payment
- Restricted opposition grounds (mainly formal grounds)
- In case of not payment, legal interest plus 2 points accrue
- 3 months to 1 year (in case there is opposition) vs 1 to 2 years in ordinary proceedings
- Ensures the reimbursement of the amounts paid



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