captive insurance times

The primary source of global captive insurance news and analysis

ISSUE144 21 March 2018

Climate Change

JLT Re discuss how captives can help alleviate the fallout of climate change

Domicile Profile

Malta, an opportunity for further success

MICRO CAPTIVES FEATURE ON DIRTY DOZEN FOR FOURTH YEAR

Micro captives have been named on the Internal Revenue Service (IRS) 'Dirty Dozen' list of tax scams for the fourth consecutive year. The annually produced list outlines the tax scams that the IRS will be targeting over the coming year.

Under section 831(b) of the tax code, captive insurers that qualify as small insurance companies can elect to exclude limited amounts of annual net premiums from income, so that the captive pays tax only on its investment income.

Named as a type of "abusive tax shelter", the IRS suggested some micro captives may be used by promoters, accountants or wealth planners to persuade owners of closely-held entities to participate in schemes that lack many of the attributes of genuine insurance.

The micro-captives' coverages may insure implausible risks or duplicate commercial coverages with premiums that are significantly higher than those for comparable commercial coverage.

According to the IRS, their policies may be ambiguous and deceptive and fail to meet regulatory standards, while their claims processes may be insufficient or completely absent, and insureds may fail to file claims that are allegedly covered under the captive insurance.

The IRS added: "Micro captives may invest in illiquid or speculative assets or loans or otherwise transfer capital to or for the benefit of the insured, the captive's owners or other related persons or entities."

"Captives may also be formed to advance intergenerational wealth transfer objectives and avoid estate and gift taxes. Promoters, reinsurers and captive insurance managers may share common ownership interests that result in conflicts of interest."

The much-anticipated decision to name micro captives on the list for a fourth year follows the verdict of the Avrahami v. Commissioner US Tax Court case in August 2017.

The court found the micro-captive arrangement did not involve sufficient risk shifting, risk distribution, and insurance risk, or meet the commonly accepted notions of insurance and was therefore not 'insurance' under long-established decisional law principles.

Additionally, the court disallowed premium deductions claimed by the taxpayer through the section 831(b) micro-captive arrangement.

In November 2016, the IRS released Notice 2016-66 in which they labeled micro captives as 'transactions of interest' which have the potential for tax avoidance or evasion.

Micro-captive's have also caught the attention of the US Congress who, in the Protecting Americans from Tax Hikes Act, effective 1 January 2017, established stringent diversification and reporting requirements for captives.

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Published by Black Knight Media Ltd
Company reg: 0719464

Marsh appointed insurance manager of ILS vehicle NCM RE

Marsh Captive Solutions has been appointed as insurance manager to NCM Re, the first insurance-linked vehicle (ILS) approved and launched in the UK.

In January 2018, NCM Re completed the first UK ILS transaction, worth $72 million. The transaction, sponsored by specialist Lloyds and reinsurance company Neon Underwriting, saw NCM Re enter into a quota-share agreement with Neon's Syndicate 2468 to underwrite a portion of its property treaty reinsurance and facultative portfolios.

The launch of the vehicle and ILS transaction followed the establishment of new ILS legislation and regulation by the UK Government in 2017.

Brendan Roche, global leader of ILS/special purpose vehicle management services at Marsh, said he expected that the establishment of the legislation and regulations on ILS in the UK would "aid the growth of the ILS market and thus, in time, provide a means to help reduce the worldwide insurance coverage gap".

He continued: "In particular, the introduction of protected cell company legislation, as part of this new legislative process and which is only currently available to insurance special purpose vehicles in the UK, permits the growth of a collateralised reinsurance market in Europe."

"Traditionally Europe has been used a centre for the issuance of syndicated catastrophe bonds, mainly out of Dublin, and the collateralised market will bring a more cost-effective and timely process to the transfer of insurance risk to capital markets."

According to Roche, Marsh has a breadth of knowledge and experience in ILS as an insurance manager to similar ILS vehicles in Dublin, Cayman and Bermuda.

He said: "Currently, Marsh manages more than 90 special purpose vehicles. Our experience in managing ILS structures extends to more than 65 transactions. Our global network of offices enables us to provide comparable management services in all major, recognised, ILS domiciles and now includes the UK."

DC captive act sees first reading

A bill aimed at updating the captive insurance legislation in the District of Columbia has had its first reading at the District of Columbia Council.

The bill proposes the introduction of the Captive Insurance Agency Amendment Act 2017 which would amend the Medical Liability Captive Insurance Agency Establishment Act of 2008.

The proposed act would expand the insurance products that are available for purchase through the captive insurance agency by the chief risk officer and allow captive insurers to "procure liability, personal property and other policies of insurance for the district in order to reduce the risk of loss".

In addition, it defines a number of terms relating to captive insurance liability insurance, personal property insurance, personal property asset, and amends the definition of real property insurance.

A fiscal impact statement from Jeffrey DeWitt, CFO of the District of Columbia, concluded that there were sufficient funds in the fiscal year 2018 through fiscal year 2021 budget and financial plan necessary to implement the proposed bill.

One new captive for Gibraltar last year

Gibraltar licensed one new captive insurer last year, according to figures from the Gibraltar Financial Services Commission.

The commission's year-end figures also revealed that the new captive was a captive cell. No captives were closed, meaning as of 31 December 2017 there were 39 actives captives domiciled in Gibraltar.

Of those 39 active captives domiciled in the British territory, four were pure captives and three were protected cell companies comprising 35 captive cells.

R&Q issues adverse development cover to US-domiciled RRG

Randall & Quilter Investment Holdings (R&Q) has issued $70 million of adverse development reinsurance coverage to a US-domiciled risk retention group (RRG). The coverage was written by R&Q's wholly owned carrier, Accredited Surety and Casualty Company, and provided the RRG with coverage of medical professional liability and general liability risks to protect it from downside risk on its legacy insurance programme.

R&Q sold its captive operations to Davies Group in January 2018, in order to focus further on its core operations.

R&Q CEO and chairman, Ken Randall, commented: "This transaction adds to the continued development of exit solutions to RRGs within the US."

He added: "We are excited to expand our capabilities using Accredited Surety and Casualty Company, to assist in solving various issues that arise on legacy liabilities for RRGs, self-insurers, and corporates within the US."

EU highlights concerns around 'aggressive tax planning in Europe'

The European Commission has highlighted the "aggressive" tax practices of seven member states.

Speaking at the release of the European Semester Winter Package, Pierre Moscovici, commissioner of economic and financial affairs, taxation and customs, stressed the issue of problematic tax regimes in Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands.

Three of the member states highlighted, Ireland, Malta and Luxembourg, are amongst Europe's largest captive domiciles.

According to Moscovici, the tax practices of the seven member states referenced have "the potential to undermine fairness and the level playing field in our internal market, and they increase the burden on EU taxpayers".

He continued: "The related country reports are based on a relative review of their tax rules and corresponding factual economic indicators."

"We must ensure that fair taxation becomes a rule—a rule without exceptions inside and outside the EU."

Moscovici said the European Semester Winter Package, which is an annual analysis on the EU's economic and social situation in the EU, was necessary to "detect potential bubbles and imbalances and to avoid that they provoke or favor a national or collective crisis".

He added: "It is thus an exercise of prevention and not of punishment."

Panama MEF withdraws proposed captive insurance changes

The Panama Ministry of Economy and Finance (MEF) has withdrawn a proposal to change

DARAG completes acquisition of Sweden-based IKANO Group captive

German insurance and reinsurance company DARAG has completed the acquisition of IKANO Försäkring (IKANO), the Sweden-based captive insurer owned by IKANO Group.

The transaction was approved by the Swedish Financial Supervisory Authority (SFSA), in September 2017, and provides IKANO Group with legal and economic finality in relation to all insurance.

In a separate step, IKANO's non-life business is to be integrated into DARAG's German carrier.

Other operations, such as active and life business, have been transferred to transaction partners who worked closely with DARAG to provide the IKANO with a bespoke legacy solution.

It is a landmark deal for DARAG, who has now signed 25 run-off transactions with a volume in excess of €700 million since 2009.

Stuart Davies, DARAG executive chairman, said: "The operational and capital burdens following the implementation of Solvency II are driving companies, for which insurance is non-core to their overall business or strategy, to dispose of elements of their business that drain too much management time, operational resources and capital."

He added: "DARAG offers the expertise, scale and scope to provide the solutions such clients require. We are pleased that we can, once again, show that we are able to bring the right partners together and provide finality for the client."

IKANO Group, which was originally a part of IKEA, became an independent group of companies in 1988 and now focuses on areas such as finance, insurance, real estate and retail in Asia, with a head office in Luxembourg.

their captive insurance laws, according to Panamanian newspaper La Prensa.

La Prensa spoke to the Panama minister of Economy and Finance, Dulcidio De La Guardia, who confirmed that the proposal to alter the law had been withdrawn.

Presently, risks of a local nature are not insurable in Panama and captives based in the domicile can only cover international risks.

Plans had been in place to alter the law to allow captive insurers to cover local risks, which it was hoped would increase the attractiveness of the domicile, however, this proposal was withdrawn along with a number of other modifications proposed by the MEF.

The MEF has yet to respond to a request for comment.

AXA agrees acquisition of XL Group

AXA has agreed to acquire Bermuda-based property and casualty (P&C) company XL Group in a deal worth $15.3 billion.

The merger agreement has been unanimously approved by the boards of both AXA and XL Group, with the total value of the deal representing a premium of 33 percent to XL Group closing share price on 2 March 2018.

The combined entity now holds the number one global position in P&C lines with combined 2016 revenues of approximately €30 billion and total P&C revenues of approximately €48 billion.

Upon completion of the agreement, Greg Hendrick, currently president and COO of XL Group, will be appointed CEO of the combined entity and join AXA Group's management committee, reporting to AXA CEO Thomas Buberl.

Hendrick will lead the combined operations of XL Group, AXA Corporate Solutions and AXA Art upon the transaction's completion.

XL Group's current CEO, Mike McGavick, will become vice chairman of the combined

P&C commercial lines operation and special adviser to Buberl.

The competition of the deal, which is subject to approval by XL Group shareholders and other closing conditions, is expected to take place during H2 2018.

Buberl commented: "This transaction is a unique strategic opportunity for AXA to shift its business profile from predominantly life and savings business to predominantly P&C business, and will enable the group to become the number one global P&C commercial lines insurer based on gross written premiums."

He added: "The two companies share a common culture around people, risk management and innovation, positioning AXA uniquely for the evolving future of the P&C industry."

McGavick said: "With every confidence in how we have positioned XL Group for the future, it is a substantial testament to AXA's leadership and commitment to maintaining the XL Group brand and culture that we have come to an alignment."

Vermont legislation update to help streamline business

Updates to Vermont's legislation will help streamline processes and make doing captive insurance business in the state easier, according to Ian Davis, the state's director of financial services.

House Bill 694, which Governor Phil Scott signed the new legislation into law on 8 March 2018, includes regulatory enhancements for branch captives, as well as the standardisation of the state's annual filing date for annual reports and premium taxes.

Speaking at the 2018 Captive Insurance Companies Association (CICA) conference, Davis, suggested that even though the changes in the new legislation were small scale they were important to the domicile's continued success.

He said: "This year's legislation was really taking some minor tweaks to our laws to help streamline some processes and make the ease of doing business that much better. We worked collaboratively to develop a consensus bill that we think will help advance the industry while also helping to maintain some of our prudent regulatory standards."

The theme of the 2018 CICA conference was the "Challenge of Change" and Davis hailed the importance of the close and collaborative relationship in Vermont in allowing the domicile to continue to adapt and flourish.

He explained: "We are very fortunate in Vermont to have such a close working relationship with our governors and our legislature, and because of that we think it is important to constantly be working with them because it shows to the industry our commitment to continuous improvement and that is what it's all about for us."

"In Vermont we face challenges whether it be in the form of new competition, whatever it may be, but we always try and position ourselves to be amenable to that change and be ready to adapt to be successful in the future."

Davis said he expected 2018 to be a positive year for growth in the Vermont captive market: "We've already seen a lot of activity, we've licensed six companies so far in 2018."

He added: "We're very encouraged with some of the activity we are seeing in terms of redomestications. We are hopeful the tax law will be beneficial to the state. So we are looking forward to being able to position ourselves well for the marketplace."

EIS and ECIROA receive CICA awards at 2018 conference

The Captive Insurance Companies Association (CICA) has handed out two awards for contributions to the captive insurance industry at its conference in Arizona.

Energy Insurance Services (EIS) was awarded the outstanding captive award, while the European Captive Insurance and Reinsurance Owners' Association (ECIROA) won the distinguished service award. The outstanding captive award is presented to captive insurance companies or risk retention groups that show creative uses for a captive, have prevailed over difficult times, and have gained acceptance, recognition, and a positive reputation among rating agencies, regulators and colleagues in the captive industry.

Tommy Bolton, CFO at EIS, commented: "Receiving this prestigious award is confirmation that the concept of innovative, flexible and prescribed solutions, such as those provided by captive insurance, must form an essential part of any company's insurance and risk mitigation strategy."

"CICA has long been a leader in identifying and sharing groundbreaking concepts designed to effectively and efficiently manage risk."

He added: "EIS and its members are pleased to be recognized by CICA and hope to continue the tradition highlighted in the 2018 CICA conference theme of embracing and meeting the 'challenge of change'."

The distinguished service award is presented to a single individual or entity that has made a significant contribution to the captive insurance industry.

According to CICA, from its early days, ECIROA reached out to CICA to discuss collaborating on efforts to protect the captive industry, and its lobbying efforts were essential in protecting the captive insurance community in the Solvency II discussions.

Udo Kappes, chairman of ECIROA, said: "ECIROA is very appreciative of this award. We are fully committed to continue with the work we have done so far to support the best interest of all captives, but especially to our members which have given us their direct mandate as global players in industry, commerce, trade and finance."

Have a news story we should cover?

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A captive solution to climate change

Alexandra Gedge and Josh Darr of JLT Re discuss how captives can help alleviate the fallout of climate change

Josh Darr: From a science and policy perspective, there is growing understanding that the planet is witnessing an increase in extreme weather conditions.

The source of more extreme weather includes elements of climate change, sea level rise, and population growth. In conjunction, these factors are escalating the potential for outsized insured losses.

In the 2018 World Economic Forum's annual assessment on risks to the global economy, three of the top five risks across the global economy for impact and likelihood of occurrence included extreme weather events, natural disasters, and the failure of climate change mitigation and adaptation **(see exhibit 1).**

Since the 2008 World Economic Forum's Global Risk Report, environmental risks have moved higher up on the agenda. Where climate change was first rated as one of the largest global risks in 2011, in 2018 extreme weather events and natural disasters were rated as the top two biggest risks the world is facing, with the failure of climate change mitigation and adaptation rounding the list off in fifth place.

Exhibit 1: World Risk Review top risks: According to the 2018 statistics

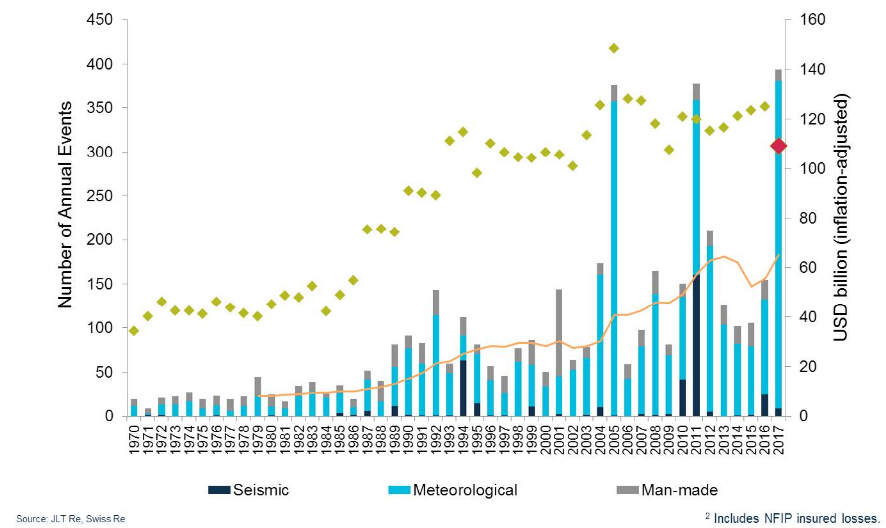
Top 5 Global Risks in Terms of Likelihood

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
1st	Asset price collapse	Asset price collapse	Asset price collapse	Storms and cyclones	Severe income disparity	Severe income disparity	Income disparity	Interstate conflict with regional consequences	Large-scale involuntary migration	Extreme weather events	Extreme weather events
2nd	Middle East instability	Slowing Chinese economy (<6%)	Slowing Chinese economy (<6%)	Flooding	Chronic fiscal imbalances	Chronic fiscal imbalances	Extreme weather events	Extreme weather events	Extreme weather events	Large-scale involuntary migration	Natural disasters
3rd	Failed and failing states	Chronic disease	Chronic disease	Corruption	Rising greenhouse gas emissions	Rising greenhouse gas emissions	Unemployment and underemployment	Failure of national governance	Failure of climate-change mitigation and adaptation	Major natural disasters	Cyberattacks
4th	Oil and gas price spike	Global governance gaps	Fiscal crises	Biodiversity loss	Cyber attacks	Water supply crises	Climate change	State collapse or crisis	Interstate conflict with regional consequences	Large-scale terrorist attacks	Data fraud or theft
5th	Chronic disease, developed world	Retrenchment from globalization (emerging)	Global governance gaps	Climate change	Water supply crises	Mismanagement of population ageing	Cyber attacks	High structural unemployment or underemployment	Major natural catastrophes	Massive incident of data fraud/theft	Failure of climate-change mitigation and adaptation

Categories

- Economic
- Environmental
- Geopolitical
- Societal
- Technological

Exhibit 2: US Climate Extremes



The problem

As measured by JLT Re, 2017 was the highest year of insured catastrophes globally, driven by North America **(see exhibit 2).**

Undoubtedly the series of Atlantic hurricane landfalls, along with historic wildfires in California, were the major drivers of losses. The increasing trend of severe thunderstorm losses is also evident across North America, with elements of changing weather patterns as well as expanding population centers driving the increased loss profile. The National Center for Environmental Information, a division of the National Oceanic and Atmospheric Administration, has tracked the occurrence of specific extreme events over time since 1910.

In most cases, extreme events are defined as lying in the outermost, "most unusual" 10 percent of a location's history. The current five-year period between 2013 and 2017 is the most extreme on record. Moreover, the US experienced a cost of $17 billion from weather and climate disasters in 2017 **(see exhibit 2)**, well above the 1980 to 2017 average of six events a year.

Alexandra Gedge: JLT's 2017 Natural Catastrophe: Year in Review 2017 notes "increasing acknowledgement by many policy groups that we are witnessing an increase in cat events and extreme weather globally".

As all of this data shows the world is experiencing changeable and extreme weather, with subsequent risk to people and to property, which businesses have to deal with. The havoc caused in the UK from the 'Beast from the East' and 'Storm Emma', which caused England's first-ever red weather warning to be issued, are an example of the risks that businesses need to be prepared to deal with.

Many risk managers are now utilising their captives to implement some of their risk management plans.

How can your captive alleviate these risks? The flexibility of a captive in writing unusual risks where the insurance market pushes back, the access to different markets (crucially for many, the reinsurance market), and risk management benefits all combine to give options for risk managers.

Accessing other markets

By owning your own insurance company, a business can access reinsurance markets.

This is crucial to access different, and in many cases, greater capacity. Accessing alternative capital markets mean risk managers can use different risk transfer options, like parametric insurance covers, to manage risks from extreme weather events.

Alleviating reliance on market

Take some risk in your own captive, so where prices may increase as markets are reporting huge losses (because large cat claims are hitting their books) you can smooth market fluctuations **(see exhibit 3).**

If there is reduced appetite from insurers for your risks and they either withdraw from this risk or become too expensive, plug this gap through your captive.

This can be done by either filling gaps in coverage, or incubating your risk in your captive to show a good risk profile before transferring to the market.

Munich Re found, in 2016, the protection gap (share of uninsured losses) was 70 percent, so approximately $50 billion. This means it sits on your balance sheet. Part of a lot of captive client business is exploration in new parts of the world, for example the mining industry. These areas are often hard to insure, or places where typically insurance isn't bought locally or is inadequate.

We have seen this pattern in some locations in Africa or Asia. These are places where there's a lot of extreme weather, and often these risks in markets are uninsurable. Equally, work in these places often includes local partners. A way of making sure your local partners in these areas have cover too is offering it through your captive. If your partners here don't have coverage, you will field a share in their losses.

Risk management: use your captive's data

Kimberly Roberts, vice president and meteorologist at JLT Re, said: "It is becoming more important to gather information on exposure for a specific location, and to map those that are vulnerable to hurricanes, tornadoes and hail."

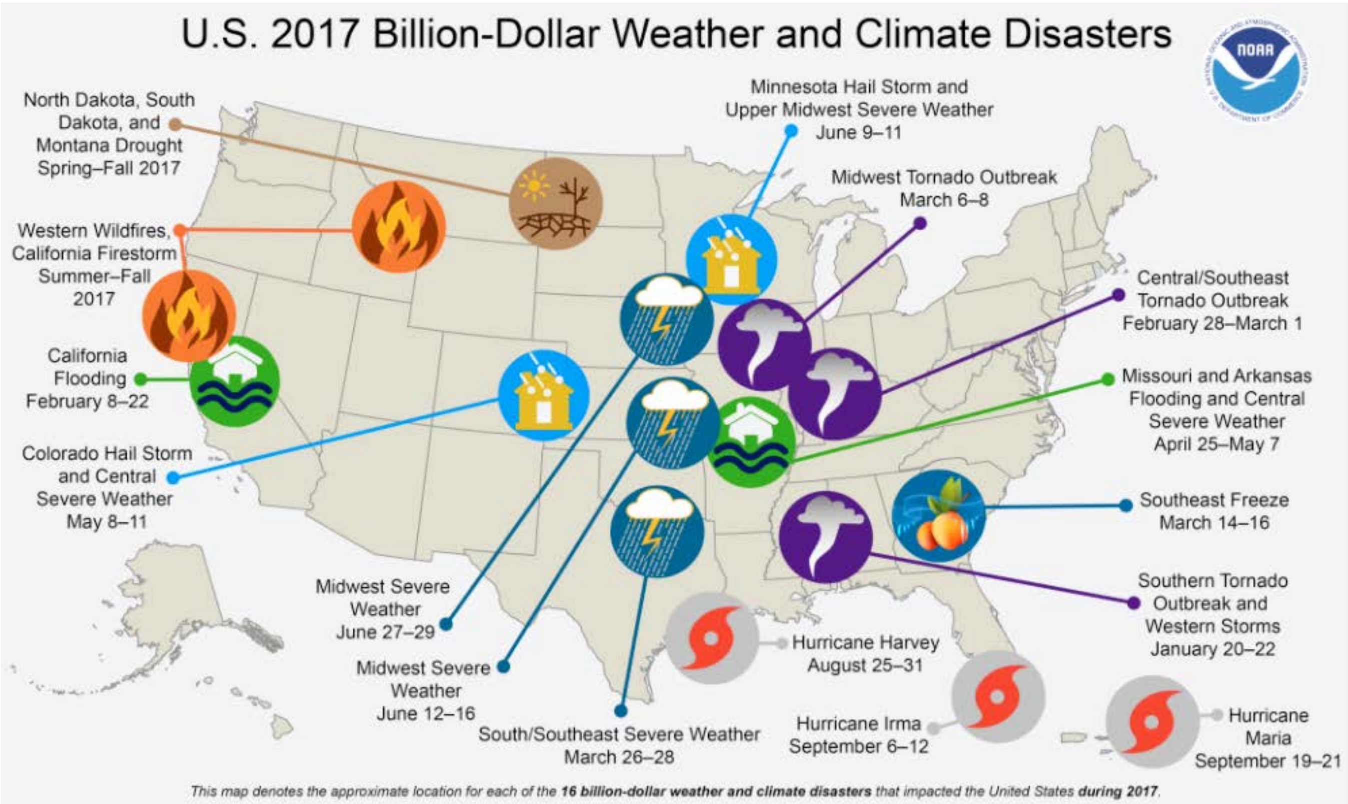
Your captive has a wealth of data on your business and the risks it faces. Even with sophisticated models, cat data is hard to model. As these are extreme weather conditions, there is limited data on tail end weather.

By deploying all the tools at your disposal to create a scientific approach, speaking to your captive manager, with support from cat modellers, and actuaries you can work out your largest exposures, dependencies in your supply chain, and storm and flood risks. If there are potential risks to your business, work with the market to find adequate contingency insurance covers, such as additional increased cost of working, or contingent business interruption cover.

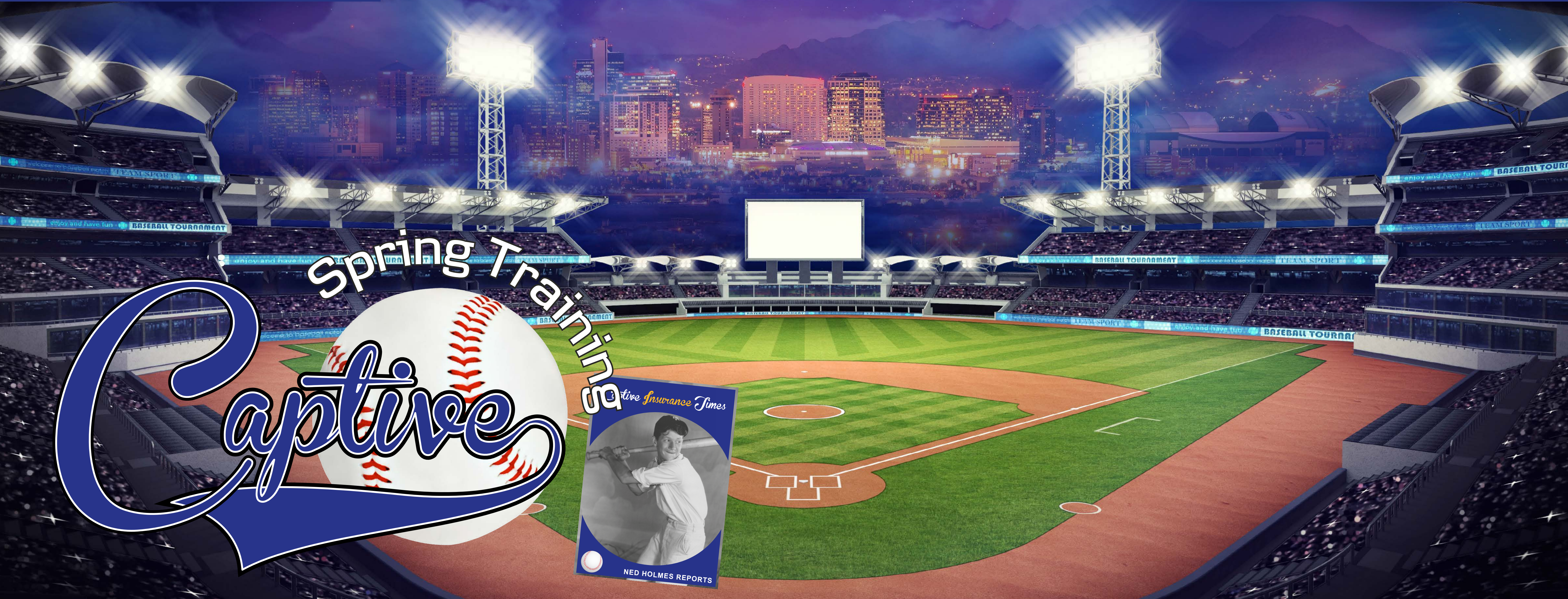
Use this data to implement a global risk management process. Extreme weather adds new risks in new locations with different regulatory environments.

An adequate risk fund can support your strategy, and any changes in regulation that arise as a result of the variable weather and environmental risks and changes, like the commitment to the reduction in CO_2 in shipping, as discussed during the Maritime Cyprus conference in 2017. Your captive, if running well, can sit centrally to your risk management strategy, and be an essential tool for your business to deal with variable weather and subsequent damage to the business. Ultimately, your captive can assist to keep your business and—importantly—your people safe. CIT

Exhibit 3: Global insured cat losses



Conference Report



Over 500 delegates from 16 countries and 43 US states gathered in Scottsdale, Arizona, for the 2018 CICA conference, which brought together some of the industry's greatest minds to prepare for the 'challenge of change'

March in Arizona means Spring Training, Major League Baseball's annual descent on the state to take advantage of the hot weather and amongst other things, build a sense of cohesion within the teams.

The 2018 Captive Insurance Companies Association (CICA) conference arrived in Scottsdale on 11 March with similar ambitions.

The official theme may have been 'Challenge of Change' but what seemed most prominent throughout the conference was the need for collaboration to help the industry not only adapt to change, but in the words of CICA president Dan Towle, "turn today's challenges into tomorrow's successes".

The need for cooperation was reflected in the keynote speech given by cultural-explorer Chris Bashinelli, who emphasised to the delegates that they were "more powerful together than they ever could be on their own".

Bashinelli described CICA as the "captive insurance stoop", a connecting place and a mixing pot of ideas and beliefs, which can help bridge the gap and change "them" into "us".

This idea was reflected by Towle, who suggested that the conference functioned as a catalyst for the attending 555 delegates from 16 countries and 43 states to aid the sharing of ideas and fostering of collaboration.

In his opening speech, Towle said: "By bringing together some of the most innovative and creative captive leaders in the world CICA can help our industry find new approaches for using captives to manage risks improve business results."

In the spirit of collaboration, Julie Mix McPeak became the first the National Association of Insurance Commissioners (NAIC) president to attend CICA.

In her speech in the conference's opening session, Mix McPeak, spoke of her pride at her involvement in the captive insurance industry and at watching "the evolution of the risk management programmes which have been successfully incorporated into captives".

She added: "The future of captive insurance is so bright because of the entrepreneurial spirit that the industry celebrates."

Stepping up to the plate

The importance of better education on captives was also a central theme at CICA, with Towle suggesting in his opening speech that education represents a "cornerstone of promoting and protecting the often misunderstood captive industry".

The role improved education can play in counteracting the impending talent crisis was also emphasised by professors

Michael Zuckerman and Zachary Finn, both of whom led panel discussions at the conference.

The US Bureau of Labor Statistics reported in 2016 that they expected 400,000 insurance professionals to retire over the next few years, leaving a huge worker shortage.

Finn, a professor and director of Davey Risk Management and Insurance Programme at Butler University, explained that educating millennials on why people in the industry do what they do and how it affects society could be vital to solving this “existential talent crisis”.

Finn said: “The supply side is a major problem, compounded by the stereotypes of working in insurance. Those of you that feel you have a good young workforce, get ready because they’re about to get poached. The talent crisis is coming.”

“I think what is needed is more courses to describe what we do, but also more messaging about why we do what we do and how it helps society.”

Finn’s statistics showed the number of risk management and insurance graduates between 2017 and 2020 was estimated at just 15,072–a clear discrepancy between supply and demand.

He explained: “It’s really close to 2020. These figures sounded okay in 2012, but we’re getting there really fast, and the problem is really a big one.”

“There is going to be some rough years, there are carriers and brokers that have a world of pain coming.”

The issue, according to Finn, is that young people are not properly informed of what a role in the insurance industry entails.

He said: “It’s not that millennials have a problem with working in the insurance, captive or reinsurance industry, they just don’t know what that means. There isn’t knowledge of the problems we solve and the people we help. We aren’t giving millennials enough info to make that informed career decision.”

Finn’s programme at Butler educates students through experiences, each student has to complete two internships for academic credit and are involved with operating the nation’s first student run captive insurance company.

Zuckerman, professor of risk, insurance and healthcare management at Temple University, expressed similar views and suggested that offering millennials “adventure” within the captive industry is key to solving the talent crisis.

According to Zuckerman, attracting young talent and keeping it in the industry is vital.

He said: “Offering adventure will help attract millennials and keep them in the industry. Millennials want to be challenged and they want to have different experiences, they don’t want to be doing the same thing day in day out.”

“We need to communicate the importance of what we do for our clients and what that means for their stakeholders—this needs to be the focus of our message to get serious students interested in our industry.”

Zuckerman added: “There has to be a more streamlined path into the industry. We have to develop a pathway, the brokers have developed it and the underwriters have developed this pathway and I think the captive industry has to figure that out.”

“Mentoring can be the key to unlocking a career of adventures for young talent in the captive industry.”

Another member of the panel, Erin Fleischman, a student from Temple, said the benefits of working in the captive industry need to be better advertised to students.

She said: “We are looking for a good work-life balance, good company culture and the opportunity for growth and I believe the captive industry can offer all of those things.”

“Millennials just want companies to be transparent, we want to understand what we are getting ourselves into, understand the industry and understand the day to day experience.”

Zuckerman emphasised the importance of a good work-life balance for millennials and suggested captive companies would need to adapt and become more flexible.

He said: “Flexibility is important more than ever, the industry is going to have to get more creative. I think millennials want to be very productive. The more flexible the company can be, in a very proactive and productive way will translate into a more resilient organisation and a more profitable organisation. They will get more out of the young talent.”

Playing hardball with the IRS

The Internal Revenue Service (IRS) and its post-Avrahami approach to captives was a large talking point CICA. According to John Dies, managing director of tax controversy at alliantgroup, playing hardball by standing up to the IRS may be the right answer for good captives.

Speaking at the conference, Dies suggested the impact of winning a case against the IRS could be felt across the captive industry.

He said: “It is great for the industry when a captive stands up to the IRS, wins and creates a precedent that the industry can use. We have seen the impact in cases where outsiders thought there was not a chance a captive could win and they made changes in the industry–and I believe that is positive for the industry.”

According to Dies, in the right context, fighting the case is the correct move for a good captive.

He explained: “In many cases, great captives that are well done and could have minor flaws are being treated with the same approach as those with glaring issues.”

“The problem is that some folks with good captives give up because they are tired or uncomfortable with the process and are very often drawn to accept offers and resolutions that are not fair, not appropriate and in many cases not best for them economically.”

Dies added: “I’ve seen a number of instances where I could go to court, win some issues, and finish substantially better for the client than if they took the deal that is being offered in the exam.”

“It is very rare in tax to see a situation where offers in exam and appeals are not as good as the offer a taxpayer could get from a judge or a jury and for me that is why the decision to pick the fight on the righteous cases is an important one.”

He concluded: “If the best deal is going to come from that venue, and you have the ability to do it because the finances are available to you, especially in this climate, I would.”

Leftfield risks

There was an emphasis at CICA on the importance of addressing the challenges presented by some of the more unusual, leftfield emerging risks. Blockchain, cryptocurrencies, cyber risk and terrorism coverage were all covered in conference sessions.

As was the potential for captives in the cannabis industry. Joe Holahan, attorney at Morris, Manning & Martin, suggested the flexibility offered by captive insurance makes it a tailor made solution for the cannabis industry.

Holahan said that while it is no secret that the cannabis industry is “big business now”, with an estimated $9.7 billion in legal cannabis sales in 2017, its unique risks can make insurance problematic.

He explained: “These are unique risks, risks that are hard to place and when they are placed with more traditional carriers they can be subject to strict limits and exclusions.”

“The captive industry has grown up around those kinds of risks.”

“If ever there was an industry that could benefit from captive insurance, it is the cannabis industry.”

According to Holahan, giving the insureds the power to shape their own coverage could provide the cannabis industry with more appropriate and cost effective cover.

He said: “The cannabis industry involves risks where your risk management is especially important to the risk profile and again that is an area where captives excel.”

“The owners of the captives are the insureds and they can come together and develop good risk management guidelines and procedures where they can share their risk, and they’re the best qualified to know what the risk is and how to insure it.”

He added: “Captives really excel at this kind of thing. Until the industry grows and matures, the traditional market has as low incentive to get involved because the underwriting is difficult and the risk is difficult to assess, and that is where captives have a valuable role to play.” **CIT**

Primed for expansion

After a year of continued growth for Malta, the uncertainty surrounding Brexit looks set to provide the domicile with an opportunity for further success

Ned Holmes reports

Malta's insurance market continued its growth last year with the total number of insurance undertakings increasing by five percent, from 60 to 63 (without counting the individual cells), while total gross premiums reached nearly €4 billion. The Malta Financial Services Authority (MFSA) statistics show that as of 31 December 2017 there were 10 captives, eight pure captives and two protected cell companies (PCC). Captive statistics can, however, be misleading in Malta as the restrictive definition of a pure captive means many of the PCCs and cells are not recognised as captives.

Ian-Edward Stafrace, chief risk and compliance officer at Atlas Insurance, explained: "The definition of a pure captive is very narrow, and the difference in licence conditions is minimal while third-party writers get more flexibility and therefore prefer the wider license."

Domicile Profile

The domicile continues to see the benefits of its position as the only full EU member state with PCC legislation and an EU single market passport, which helps avoid the need for external fronting insurers.

A large part of the growth in 2017 came via PCCs, and with Gibraltar, the only other EU domicile with PCC legislation, likely to lose EU passporting rights post-Brexit this growth is expected to carry on.

Continued importance of PCC legislation

In 2014, Malta's PCC legislation was extended to cover securitisation cell companies (SCC), making them the first EU member state to adapt cell structures for insurance-linked securities (ILS) transactions.

According to Edmond Zammit Laferla, partner at Mamo TCV Advocates, the positive effects of the legislation is still being felt in Malta.

He said: "We are seeing increased interest in the local PCC market. New cells are being taken up potentially as a more cost-effective alternative to users of the standalone captives because a cell structure is cheaper to run in terms of cost and in terms of captive requirements are even more efficient."

Zammit Laferla predicts a potential shift across Europe, with captive owners moving away from the use of standalone captives and toward cells, which he says could be beneficial for Malta.

"Right now we are seeing the shift from the standalone captive to the cell."

"The new horizon is captives that can be used for non-traditional risks, such as cyber risk or employee benefits and I think Malta could stand to gain there because these are new risks which are falling within the captive insurance markets."

Stafrace says the SCC legislation is an example of Malta's positive regulatory environment and the way in which the "government and regulators keep creating and enhancing regulations aimed at enabling rather than stifling innovation, without sacrificing stakeholder protection".

Brexit

Looking ahead, it is impossible to ignore Brexit and the gargantuan impact it will have on Malta's insurance market.

If the UK were to leave the single market during Brexit, it seems likely it will lose its EU passporting rights while companies based in Malta, as an EU member state, will no longer be able to sell insurance into the UK market.

As a British overseas territory, Gibraltar-based insurers will still be able to write insurance for the UK market post-Brexit, meaning we are likely to see movement between the two domiciles as insurers look to ensure continued access to their target market.

Nigel Feetham, partner at Hassans, refers to this potential movement of insurers as a "two way Brexit strategy".

According to Feetham: "The UK Government has publicly confirmed the continuation of the common market between the UK and Gibraltar post-Brexit."

"This should preserve passporting rights for Gibraltar-based companies writing business into the UK and therefore provides a Brexit solution that say a Maltese (or indeed other EU company) would not have."

He continued: "At the same time there are Gibraltar-based insurers that write into the EU (non-UK business) that need an EU-based post-Brexit solution and Malta can be an attractive domicile for them."

One such relocation has already taken place. In December 2017, St Julians Insurance Company (St Julians), a UK-focused motor insurer, redomiciled from Malta to Gibraltar to ensure access to the UK market post-Brexit, and Zammit Laferla from Mamo TCV, suggested more movement may be on the way.

He said: "The traffic is increasing. Many companies based in Gibraltar have included the option of redomiciling to Malta as part of their hard-Brexit contingency plan."

"From my contacts in the local market, I know that there are other companies based in Gibraltar are doing the same. Malta is the closest to Gibraltar in terms of the applicable legal framework, corporate environment, political scenario and has many of the main attractive factors, so I think Gibraltar-based companies would prefer moving to Malta other than moving to larger jurisdictions such as Luxembourg."

"We haven't seen any captives as yet being directly affected by Brexit, most probably because the risks they insure are international. As yet we haven't seen any major movements out of Malta for captives."

While there may be increased movement away from Malta, according to Romina Bonnici, senior manager of regulatory and compliance at Mamo TCV Advocates, the potential benefits of Brexit are undeniable.

Bonnici said: "There are opportunities for Malta post-Brexit. The 29 March 2019 is fast approaching and UK entities are now pressed towards taking a more concrete decision about their future."

"Insurance undertakings which undertake cross-border business in the EU see Malta as a potential jurisdiction for setting up a newly domiciled-entity and a number of them have already made that decision including discussing branch options with the Prudential Regulation Authority encouraged by their December consultation paper."

Stafrace had a similar view on the issue and suggested the ambiguity around the Brexit terms represents an opportunity for Malta.

He said: "The uncertainty behind Brexit, particularly on what market access UK and Gibraltar will be granted, is an opportunity for Malta to provide support and solutions. In the medium term, Malta will likely be the only member of the EU single market with insurance protected cell legislation."

"Should a hard Brexit become a reality, companies could maintain direct access to 30 member states of the European Economic Area (EEA), through Maltese Cells. Such could retain or reinsure back the risks."

"On the flip side, access to the UK market for EU based entities will possibly be hindered and the two year implementation period proposed in December 2017 is yet to be fully agreed.

Some Malta-based companies and cells cover UK risks and therefore would commence triggering their Brexit contingency plans due to the remaining uncertainties."

ILS

One potential avenue for growth in Malta is the ILS market, and according to Zammit Laferla, the sector is primed for expansion despite the domicile having been "the last kid on the block".

Zammit Laferla explained: "From an international perspective the ILS insurance market is growing exponentially and it is now tapping into the non-traditional areas such as the health and the life insurance markets."

"Malta could be the ideal jurisdiction because our legal infrastructure is based on the different ILS legislative frameworks from around the world and we have taken the best aspects of all of those."

"Now it is a question of attracting high profile names because one high profile name will attract the others, that's how the market works."

"All of the local players are pushing ILS and firmly believe in our framework. It would be very advantageous to make use of the ILS structure, and I think it's a question of getting the first couple of big companies here."

Emerging technologies

After their slow uptake of ILS, the Maltese Government are determined not to be the last kids on the blockchain and have targeted emerging technologies as an area of expansion.
Stafrace explained: "The Government has made making Malta the blockchain capital of Europe a priority. These are exciting times with our financial services community merging with the tech start-up community to shape the future of this new sector."

According to Stafrace, work is underway between the government and regulators to identify the changes in the domicile's legislative and administrative framework that are necessary to become a leader in blockchain.

He added: "Technology has the potential of transforming the entire insurance value chain including product development, customer acquisition, underwriting and claims management."

"With the increasing purchasing power of millennials and digital natives, more insurance is being purchased directly online. With full access to the EU single market, cells based in Malta can be ideal digital insurers."

Zammit Laferla said: "This year it is looking like Malta will develop a regulatory framework to govern the use of blockchain technology, which I think would shall place Malta on the map in this new digital era and shall push forward the application of this innovative technology in different sectors including the insurance industry, which continues to experience an intriguing transformation of the traditional underwriting, claims handling and fraud prevention processes for the direct benefit of policyholders."

Warning signs

Malta's promising future is somewhat shrouded by some recent criticisms from the European Commission. It was one of seven member states highlighted by Pierre Moscovici, European commissioner of economic and financial affairs, taxation and customs, as having "aggressive" tax regimes.

The 2018 European Semester Country Report on Malta accused its tax rules of having the potential to "facilitate aggressive tax planning" and said the current anti-avoidance provisions in place were "not detailed or strong enough".

Moscovici said the tax practices were problematic due to their "potential to undermine fairness and the level playing field in our internal market and to increase the burden on EU taxpayers".

He warned that the European Commission "must ensure that fair taxation becomes a rule—a rule without exceptions inside and outside the EU". **CIT**

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Comings and goings at Risk Partners, CICA, WTW and more

Gary Osborne has joined Risk Partners, a risk management and insurance company owned by Holman Group.

In his role as vice president, Osborne will assist Risk Partners with their Tennessee-domiciled captive insurance company and cell as well as helping to develop alternative risk solutions.

Osborne, who left his position as president of USA Risk Group in January after 22 years at the company, will be reuniting with Risk Partners' president Rob Bartholomew, who he worked with at USA Risk Group.

Risk Partners, a subsidiary of USA Risk Group until 2005, were acquired by Holman Group in 2016.

Osborne said the new role represented the change he was looking for when he left USA Risk Group.

He added: "I was looking for a new horizon and it was the time for a different opportunity at this stage in my career. It seemed like a good chance to do something different for the last few years of my career."

"We are looking to potentially develop a captive management practice and I am going to help develop more sophisticated products including alternative risk solutions around the new clientele the company are getting from the convergence of their insurance and fleet management products."

"I'm hoping this will be a chance to build something again. I'd like to be there for a while and hopefully we can succeed in growing this and making it a major player in our space."

Joel Chansky of Milliman has been elected chair of the board of directors for the Captive Insurance Companies Association (CICA).

Chansky, who serves as a principal and consulting actuary in Milliman's Boston office, specialises in alternative market issues.

He also works as a faculty member of the International Center for Captive Insurance Education, and a former board member of the National Risk Retention Association, the Arizona Captive Insurance Association, and the Captive Insurance Council of the District of Columbia.

In addition, Chansky frequently speaks on topics such as captives, risk retention groups, and alternative risk financing.

Commenting on his appointment, Chansky said: “Our board has charted a strong course for CICA’s future. I look forward to our continued growth and increasing CICA’s presence and collaboration with our international partners.”

The board has also elected Steve McElhiney as vice chair and Lance Abbot as secretary/treasurer.

McElhiney serves as president of EWI Re, while Abbot works as president of BevCap Management, director of BevCap Captive Group and director of BevCap’s sponsored cell captive.

Board members McElhiney and Fredrik Finnman, who serves as group risk manager at Sandvik Group, located in Sweden, were re-elected to three-year terms.

Returning CICA board members include Courtney Claflin, Carol Frey, Michael Scott, Audrey Rudberg and Sarah Pacini.

Pacini, who works as CEO of the Cooperative of American Physicians, was elected CICA board chair last year.

Willis Towers Watson has appointed Paul Bailie as the new head of its Bermuda Captive practice.

A captive industry veteran with over 30 years experience, Bailie has held a variety of leadership roles in the industry, including with JLT Insurance Management in Bermuda.

Most recently he served as an independent director on a number of boards, including a start-up health reinsurer.

Bailie will take responsibility for business development and delivering the company’s value proposition around designing, forming, managing and providing strategic guidance to Bermuda captive and insurance management clients.

Additionally, his new role will see him collaborate across the company’s global businesses and product lines to deliver risk financing solutions for clients across a variety of portfolios.

He will report to Paul Owens, managing director of Willis Towers Watson Global Captive practice.

Owens said: “Paul Bailie brings tremendous expertise and market credibility to this role, and he is well positioned to help us lead our captive business in this important domicile.”

He added: “As traditional and nontraditional sources of capital influence market dynamics, and new and emerging risks fuel growth in the captive marketplace, Willis Towers Watson is committed to delivering solutions to help organizations succeed in this environment.”

Guernsey Finance has appointed Dorothy Kwok as its new permanent representative in Hong Kong.

In her new role, Kwok will act as Guernsey Finance’s main point of contact in the region, interacting with clients interested in Guernsey, and the services offered by the agency. She will also host and arrange meetings or events for Guernsey businesses visiting Hong Kong. Kwok, who is fully qualified with the Society of Trust and Estate Practitioners, brings eight years of experience in the trust and corporate services industry.

Kwok stated: “I am looking forward to playing my part in ensuring that our offering is known more widely and that Guernsey is recognised for its expertise.”

The appointment of Kwok is part of a push to raise the awareness of the full range of financial services offered by Guernsey Finance in Hong Kong.The agency’s increased reputation in Hong Kong will also help support its work in the Chinese market, which began more than a decade ago.

Kate Clouston, deputy CEO of Guernsey Finance, who will lead three Guernsey industry delegations to Hong Kong and China in 2018, said Guernsey Finance’s increased presence will help it to better inform Hong Kong’s intermediaries about the opportunity to work with Guernsey service providers.

Clouston said: “My main aims will be to increase our contact with trust and private client intermediaries, to build stronger relationships with fund managers and to build on the progress we have made with our insurance offering to date in the region. There is opportunity for everyone in Asia and we are looking at all sectors, and Dorothy Kwok’s trust background and fiduciary network will be especially helpful.”

Julie Page has been promoted to CEO of Aon UK, taking over from Dominic Christian, who has been appointed global chairman of Aon Benfield.

Page, who will continue in her current role as CEO of Aon Risk Solutions UK concurrently, will take responsibility for the management and oversight of Aon UK, including strategies on meeting client needs, liaising with the UK board and delivering on the firm’s UK regulatory commitments.

Page’s promotion to CEO of Aon UK, which is subject to regulatory approval, will see her report to Michael O’Connor, global CEO of Aon Risk Solutions. **CIT**