captive insurance times

The primary source of global captive insurance news and analysis

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Class action suit alleges huge captive insurance conspiracy

A group of plaintiffs seeking class status has filed a suit against a group of defendants, including Artex Risk Solutions and Arthur J Gallagher & Co, accusing them of being part of a massive captive insurance strategy conspiracy.

The suit, filed today in the US District Court for the District of Arizona–Phoenix Division, alleged that the defendants conspired to design, promote, sell, implement, and manage illegal tax-advantaged captive insurance strategies.

The group of defendants includes Artex, Arthur J. Gallagher & Co, TSA Holdings, TBS, Epsilon Actuarial Solutions, AmeRisk Consulting, Provincial Insurance, and various employees of the companies.

According to the defendants, the strategies provided highly rated insurance and at the same time legally reduced taxes, however, this was not the stance of the Internal Revenue Service (IRS), who determined they were illegal and abusive tax shelters.

The IRS then disallowed the tax benefits and assessed the plaintiffs with substantial back taxes, interest, and penalties. The plaintiffs seek recovery of damages associated with their participation in the strategies.

Additionally, the suit alleges that, unbeknownst to plaintiffs, the defendants entered into undisclosed business arrangements with each other and a nationwide referral network of investment, accounting, and legal advisors, to funnel clients to them.

It says that through these arrangements, the defendants systematically identified potential or existing clients who had substantial income in a particular tax year.

The complaint accuses the defendants of unlawfully abused their positions of trust, confidence, and prestige by fraudulently inducing those clients to pay substantial fees for insurance, legal, accounting, tax, and actuarial advice, and services in connection with the strategies.

Furthermore, it is alleged that even after learning of US Tax Court decisions that disallowed deductions claimed through other captive strategies, the defendants continued to advise, promote, and encourage the plaintiffs to use captive strategies, which they assured plaintiffs complied with all applicable tax and insurance laws.

Specifically, the plaintiffs bring claims for breach of fiduciary duty, negligence, negligent misrepresentation, disgorgement, rescission, fraud, violations of the Racketeer Influenced and Corrupt Organisations Act (RICO), violations of Arizona's RICO statute, breach of contract/duty of good faith and fair dealing, civil conspiracy, and aiding and abetting breaches of fiduciary duty and fraud.

They seek actual, consequential, incidental, punitive, and treble damages; rescission and disgorgement; pre- and post-judgment interest at the highest legal rate allowed by law; and all attorneys' fees and costs in pursuing this matter.

David Deary, attorney for the plaintiffs, said that while particulars of captive strategies are complicated the defendants' motivation is quite ordinary.

Deary stated: "Greed. Plain and simple"

"The defendants sold products and services they knew were illegal and would be disallowed as abusive and illegal tax shelters, resulting in their client sustaining substantial damages, for the sole purpose of earning significant fees and commissions. And they did all this while they were supposed to be acting as loyal fiduciaries."

Deary added that the defendants' "predatory behaviour" had "gone on for too long".

He said: "We're asking the court to give these plaintiffs–and the potentially hundreds or thousands of other class members around the country–justice, and send a clear message to industry: these practices will not stand."

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Increase in European risk managers using captives for 'difficult risks'

The number of European risk managers using captives as part of their strategy for risks that are difficult to insure has risen by 4 percent, according to the 2018 Federation of European Risk Management Associations (FERMA) European Risk Manager survey.

The survey, which is the ninth biennial benchmarking survey conducted by FERMA in partnership with PwC, was completed by 734 respondents in 29 countries between May and July 2018.

The survey revealed that 38 percent of respondents use a captive as part of their strategy for risks that are difficult to insure, up from 34 percent in 2016.

Some 42 percent of the captives used by respondents were managed by their organisation, while 58 percent used a third party provider to manage their captive.

The survey also showed that 30 percent of respondents predicted an increase in the implementation or use of captive facilities as a result of the current financial and economic climate.

Respondents were also questioned on how important a role they predicted captives would play over the next two years in both traditional and non-traditional lines of coverage.

For traditional lines, 50 percent said captives would play an identical role, 38 percent said they would play a more important role, 5 percent said they would play a less important role, and 7 percent said they would not be covered.

For non-traditional lines, 56 percent said captives would play a more important role, 16 percent said they would play an identical role, 7 percent said they would play a less important role, and 21 percent said they would not be covered.

Illinois votes to override governor's veto of captive reform

The Illinois legislature has voted to override governor Bruce Rauner's amendatory veto of SB 1737, which proposes a reform of the state's captive insurance regulatory framework and a substantial drop in self-procurement tax.

The Illinois House voted to overturn the veto by an 89-20-1 majority on 27 November, following the Senate's unanimous vote to overturn it earlier in the month.

Despite supporting the proposed updates to the captive regulatory structure, the governor vetoed the bill in August due to the "concerning" regulatory barriers the legislation imposed on short-term limited-duration health plans and workers' compensation insurance.

SB 1737 was originally passed by the Illinois General Assembly on 31 May and will see Illinois follow in the footsteps of domiciles like Vermont, Hawaii, and South Carolina, in providing a substantially improved environment for companies looking for captive solutions.

It will give the Illinois director of insurance the broad authority to set minimum capital and surplus for captives licensed in the state, based on the amount of premium written, the type of assets held by the captive, the terms of reinsurance arrangements, the types of business covered in policies issued by the captive, the underwriting practices and procedures of the captive, and any other criteria that is deemed to have a signi cant impact by the director.

According to the bill, the capital and surplus requirements must not be less than $250,000 for pure captives, $500,000 for industrial insured captives, and $750,000 for association captives.

Additionally, the bill will substantially drop the premium tax rate of self-procured insurance from 3.5 percent to 0.5 percent of the gross premium.

Bermuda unlikely to be cannabis solution without US legalisation

Bermuda is unlikely to be able to provide a captive insurance solution for the US cannabis industry unless federal prohibition is lifted, according to Mike Parrish, senior vice president of Marsh Management Services Bermuda.

Speaking at the 2018 Bermuda Executive Forum in London, Parrish explained his words were his own opinion and did not reflect that of the Bermuda Monetary Authority.

Canada's national legalisation of cannabis means Bermuda may be able to provide captive solutions for the Canadian cannabis industry but the US federal stance has caused issues, Parrish said.

Parrish commented that discussions he had been part of on the topic suggested the US cannabis market could be an issue.

He explained: "The US federal prohibition of cannabis remains a problem for Bermuda on issuing policies."

Parrish added: "I can't see a situation where Bermuda would allow a company to issue a policy that is illegal under US federal law."

"It is unlikely that Bermuda can be a solution for those companies unless cannabis is legalised at the federal level," he concluded.

Culture change the main challenge for insurtech implementation

Changing company culture is one of the main challenges facing the implementation of insurtech, according to Liam Gray, head of research and partner management, Startupbootcamp InsurTech.

Speaking in London at the 2018 Bermuda Executive Forum, Gray warned the industry that "startups will really rock [their] boat" and they need to be accepting of that to bring actual innovation.

Gray explained: "What I have seen from my role trying to bring together startups and corporates is that sometimes there is a lot of resistance internally, especially when jobs are on the line."

"We are used to doing insurance and reinsurance a certain way, and sometimes it is hard to change the way we do it."

But he added: "If you realise that this is something that can augment what you are doing rather than replace you and that you will be able to do more value-add activities, as an organisation and an individual you will realise that technology and insurtech is something that can benefit everyone."

Gray explained that changing the culture of those in the industries is "one of the main challenges facing insurtech."

Marsh Management Services awarded first Abu Dhabi captive management licence

Marsh Management Services has been awarded the first captive insurance management licence in Abu Dhabi.

The licence was awarded by the Financial Services Regulatory Authority (FSRA) of Abu Dhabi Global Market's (ADGM), the international financial centre of the UAE.

The licence makes Marsh Management Services the first captive manager to be authorised by the FSRA.

Richard Teng, CEO of the FSRA, said the authority was delighted to welcome Marsh to the ADGM family.

Teng commented: "Marsh's global expertise and presence in ADGM will further add to the risk advisory and insurance solutions space in the region as well as enhance the captive insurance platform in ADGM."

"As a captive insurance manager, Marsh is poised to provide innovative and key services to companies in Abu Dhabi and the wider region. ADGM will continue to strengthen its captive insurance regime to provide users with strategic risk management and financial solutions to support their business ambition and growth locally and globally."

Gray, who brings together startups and corporates to produce insurtech solutions in his role at Startupbootcamp Insurtech, reassured delegates that "technology is not here to replace people, it is here to augment what they're already doing".

He continued: "Expertise on the insurance side is definitely needed in order to have the perfect outcome."

"We have seen startups try and come into the insurance industry thinking it will be easy and that they can just deploy their technology. That is just not the case."

"What they have realised is that they really need to work with the experts in the industry in order to work with that perfect product."

"What we are seeing now is very educated startup companies who need to work with insurance and reinsurance companies in the right way."

Underwriters key to development of insurtech, says Spry

Underwriters are key to the development of insurtech for specialty insurance and reinsurance, according to Jonathan Spry, CEO of Envelop Risk.

Speaking at the 2018 Bermuda Executive Forum, Spry explained that alongside its reinsurance partner MS Amlin, Envelop Risk was "underwriting using a combination of augmented intelligence, combining human expertise and the judgment of our underwriting team with artificial intelligence, particularly machine learning".

Spry expanded: "We are using expertise in parallel and in interaction with the artificial intelligence. We do not believe in the 'computer says no' or 'blackbox' models."

"We are operating in reinsurance and specialty insurance and I struggle with the idea that that will ever become fully automated."

He said that in relation to insurtech, "the underwriter is dead, long live the underwriter".

Bermuda regulator setting worldwide captive regulation standards

The Bermuda regulatory authority has set the standard for captive regulation worldwide, according to Tom McMahon, director of Citadel Reinsurance.

Speaking at the 2018 Bermuda Executive Forum, McMahon said over the last 25 years he had seen a growth in the domicile's captive regulation and noted that it was a global leader in the sector.

He commented: "I think the Bermuda regulatory authority has set the standard for captive regulation worldwide."

"I have no hesitation saying that because of the way I have seen it evolve over the last 25 years."

Also speaking at the event, Chiara Nannini, director of Conyers Bermuda, explained that there had been some subtle, yet important, changes in the Bermuda captive market recently.

Nannini explained: "Captives now can file an electronic filing statement for the purposes of filing their annual returns. That has been beneficial in that it allows the Bermuda Monetary Authority to more easily collect data on a captive and its filings. I understand that is relatively novel in that space."

"Insurance managers are required to file an annual return and are caught under the scope of the anti-money laundering regulations for financial institutions."

She said: "They're required to effectively have an anti-money laundering and anti-terrorism financing audit. That will extend to insurance brokers and agents next year as well."

Nannini added: "On top of that captives are now, like commercial insurers, prohibited from carrying on any business other than insurance business, unless it is auxiliary to that insurance business."

"There are definitely more changes coming with regard to the EU economic substance."

Mike Parrish, head of business development for Marsh Management Services Bermuda, stated: "The regulatory changes have made it more rigorous and the administration tougher but they have kept pace with the requirements on domiciles these days and the general overview that organisations have."

He concluded: "I think they have been a necessity and Bermuda has passed the test in that regard."

He added: "What we are seeing is the underwriter is key to the development of insurtech for commercial lines, specialty, and reinsurance. They just need a slightly different toolkit than they have."

According to Spry, the augmented intelligence strategy was proving "particularly helpful for cyber insurance and reinsurance".

He said: "We have a team of data scientists who are using tools that allow them to analyse huge amounts of data. We can use these models to bring us to conclusions we wouldn't necessarily arrive at."

"It is a bit of a myth that there is no data surrounding cyber. There's a huge quantity of data surrounding the cyber economy, there is just a lack of conveniently labelled claims data but that is a very different thing from having no data."

"What we are doing is using these techniques to overcome patches in claims data."

New Nordic and DARAG combine for Qudos run-off solution

New Nordic Advisors has placed its wholly-owned insurance subsidiary Qudos Insurance into liquidation and entered into multiple reinsurance treaties with DARAG to de-risk Qudos and provide a solution for policy holders.

The liquidation is effective immediately, following a comprehensive review of the insurance company's position.

New Nordic and DARAG are continuing to explore whether further solutions can be brought to bear for other portfolios in Qudos.

DARAG and New Nordic formed a strategic partnership in March and made their first joint transaction in May.

Nicolai Borcher Hansen, New Nordic CEO, commented: "Following a deep and comprehensive review of the company's position and open dialogue with the regulator, we have decided to place Qudos permanently into run-off and to liquidate the remaining assets."

"DARAG are consummate experts at legacy and claims handling and will assure the long-term, stable handling of the portfolios they are taking over."

Tom Booth, DARAG CEO, said: "We are pleased to have been able to work with New Nordic to provide a retrospective reinsurance solution for certain Qudos portfolios and to have the opportunity to explore others."

R&Q completes two new deals

Randall & Quilter Investment Holdings (R&Q) has completed two new transactions in the captive insurance and self-insurance space, the company has revealed.

The company will provide full finality to a California-based self-insurer by R&Q's wholly owned subsidiary, Accredited Surety and Casualty Company.

The transaction is R&Q's second with a self-insurer in California and the fifth across the US in the past two years.

Additionally, it has completed a novation of the workers' compensation and commercial auto liabilities of a Cayman-based group captive that provided coverage to trucking companies across the US.

The liabilities were novated into R&Q's segregated account company in Bermuda.

R&Q was able to provide a solution that provided the captive full finality on its older insurance years.

Ken Randall, chairman and CEO of R&Q, commented: "[The novation with another group captive] shows our continued focus on being the go-to counter-party for exit solutions in the captive market."

Randall continued:"We continue to provide solutions to the self-insurer space and this transaction shows our ability to build upon previous success and experiences with various states across the US."

Robus opens Malta office

Independent insurance management company Robus has opened an office in Malta as it continues to prepare for Brexit.

The new Malta operation will provide Robus clients with the ability to access the European single market following the UK's exit from the EU in March 2019.

Jonathan Abela, an insurance industry veteran, has been hired to head up Robus' Malta operation.

Downgraded
BUT NOT OUT

Citadel Risk saw its ratings unexpectedly downgraded by A.M. Best in November. Tony Weller and Mike Palmer discuss the cause of the downgrade, its impact, and the importance of a strong response

Citadel Risk was blindsided by the announcement in November that A.M. Best had downgraded the financial strength rating from A- (Excellent) to B++ (Good) and the long-term issuer credit rating from "a-" to "bbb+" of Citadel Reinsurance, but is determined to ensure the news is by no means a knockout blow.

The downgrade was a result of A.M. Best's new building block rating methodology, specifically the fact that the ratings agency now looks back over the last five years. Captive Insurance Times spoke to Citadel Risk group CEO, Tony Weller, and senior consultant, Mike Palmer, to get their reaction.

When did Citadel find out the rating had been downgraded?

Tony Weller: On Monday 19 November we got the notification that the downgrade was confirmed and it was a complete shock to us.

The rating committee met the Thursday before, but the decision had been passed to a more senior rating committee and we'd given them some further information on a contract we had won, which we were confident would nudge the rating back up.

It didn't and we were completely blindsided by that. We had no idea the downgrade was coming following a record year in 2017 and the stellar results we had to June in 2018. We weren't expecting it, particularly following 2016 when we had kept our A rating but made a loss.

Our A.M. Best analyst seemed surprised as well, but there is a new building block process, which I think has given A.M. Best different readings and some companies different ratings. This has been a shock to them too.

Before the ratings, you never really see the workings behind the Best's Capital Adequacy Ratio score and what has been presented to the committee. The committee is somebody that as a client you never meet, so, it was a complete surprise.

How will this rating downgrade effect Citadel on the whole?

Weller: We are looked upon as a niche company, so, to a certain extent, for some of our clients it just doesn't matter.

However, if we are a small participant on a slip where there are other Lloyd's syndicates, there may be a large broker who won't deal with anyone A- or less.

Those kind of programmes, where we have small participation, are the ones where there will be some problems if the ratings are essential. But with a lot of our programmes, they are not.

In some cases, a rating isn't important because the client is more concerned about the improved strength of our balance sheet.

But there are some committees that insist on a minimum rating and sometimes there is not much flexibility. In those cases, we will most likely lose some business.

There might be future business that we could have done that we won't do now and that we won't be able to quantify.

Mike Palmer: Our business falls into three categories. First, the business that is so niche and individual that the company or our client have come to us because they know our balance sheet security and our historic claims, allowing them to feel comfortable with us. In that case, the downgrade is not a problem.

There is a middle section where there is an expectation for an A- but it is down to client selection. Some of those will continue and some will not.

Finally, there is some business that is absolutely not going to happen. Fronting,for example. If we are fronting and offering an A- paper, that's not going to happen without another A- carrier.

So far, it is fair to say we have had zero losses.

We are not naive enough to think there won't be any negativity, but as of now, we haven't had one single client or broker's client that has said the business can't be renewed.

How does this impact your captive operations?

Weller: In terms of clients that we act as captive managers for, it makes no difference at all.

People are concerned about whether we are delivering accounts and advice to them on a timely basis, in that sense it makes no difference whether we are rated A- or B++.

Palmer: If we look at what Citadel is today compared to a week ago, it has exactly the same management, ownership, capital, risks, and level of risk management.

We aren't doing anything differently, we still use actuaries to analyse every risk, we still have the same in-house controls and we'd like to think that the service levels for our clients won't be affected by this.

Weller: If anything we have to try even harder. Now we can't just be complacent and rely on our A-, there is more much pressure to do even better.

> “We have to try even harder. Now we can't just be complacent and rely on our A-, there is more much pressure to do even better”

Tony Weller, group chief executive, Citadel Risk

What are Citadel's plans moving forward?

Palmer: We are reasonably confident that our end of 2018 results are going to follow our mid-year performance, which has been pretty stellar.

What we will be very keen to do is produce audited versions of those as quickly as possible and hope that we can submit those speedily to A.M. Best so that next year's review can happen a little earlier.

Weller: We will certainly have this rating for a year. A.M. Best has outlined a number of things that need to be done for the rating to go back up. If you lose your A rating it is harder to get back there, so it is a self-fulfilling prophecy, to a certain extent.

I was slightly mournful when it was confirmed, since then things have looked up. We haven't lost the clients that I feared and I am going to do my damndest to make sure that this is just a temporary setback for Citadel.

We find ourselves here at the end of November and there is nothing to suggest that there is anything surprising in our claims or any skeletons in the closet.

I think we should be able to provide a decent set of results for the end of 2018 and see A.M. Best's reaction.

Are those suggestions made by A.M. Best going to become a priority for Citdael or does the company feel if it keeps moving on, business as usual, those things will fall into place?

Weller: I think it's very much the latter. We can't sit around and focus on the few areas in which A.M. Best has suggested we can do things differently.

Having had it happen and having learned what their concerns are, I don't think there is much we can do because we were addressing all of them anyway. It is good to know what they are because we won't, in theory, be so blindsided next year.

Our problematic years were 2015 and 2016, primarily down to one programme, which is now down to nine claims left with less than a million dollars in total.

It is not a huge issue and we will run them off as best we can. Hopefully by next year those nine are down for three.

Is this evidence that A.M. Best's methodology still requires some work?

Weller: Only A.M. Best can answer that one, but time should heal these wounds. If these years drop off and are no longer part of the five-year equation then in theory, we will go back to an A rating.

Palmer: We were told that if the analysis had been done on last year's set of rules we would've kept the rating.

The rules are the rules, we can't change them but it does seem like we have fallen foul to a new set of mechanisms, which we were told would have no impact

Although our current years are also profitable, across the five year piece we haven't achieved quite the same profitability, despite the fact that 2017 and 2018 marked a huge turnaround.

Weller: We have got to stand up and deal with it. We can make all the excuses we want and bleat on about how inequitable it is, but it did happen.

The question is: are we going to fight on and do the best we can to get it back? Well yes, that is exactly what we are going to do. **CIT**

> The rules are the rules, we can't change them but it does seem like we have fallen foul to a new set of mechanisms, which we were told would have no impact

Mike Palmer, senior consultant, Citadel Risk

Thinking ‘out-of-the-box’

Denise Kelly of Pentacle Data talks about her new ready-to-use insurance platform and highlights why it is important captives continue to innovate to meet client needs

Ned Holmes reports

What is the latest for Pentacle Data?

We are just about to launch an insurance software platform, which is designed specifically for the captive industry, risk retention groups (RRGs), and small insurance entities. It is an affordable ‘out-of-the-box’ system that will warehouse data and produce all the necessary documents, such as policy forms, declaration pages, invoices, renewal letters, mid-term adjustments and certificates of insurance (templates can be tailored for each client’s specific needs).

It will allow clients to move away from manual processes and excel spreadsheets. Excel has many benefits, but maintaining insurance data is not one of them. Maintaining ever-changing policy information through spreadsheets leaves clients prone to human error and ensuring underwriting profit is vital to the success of insurance companies.

Our passion is data integrity and finding solutions to workflow and data inefficiencies. As the old saying goes: garbage in, garbage out. Why not be guaranteed that what data you put into your system will give accurate reporting and be available to use across multiple processes. Our ‘out-of-the-box’ platform will provide that certainty and mitigate human error.

What was the motivation behind setting up Pentacle Data?

We believe there is a huge gap in the market for a simple, automated solution. While there are some alternate insurance software platforms out there today, there isn't a foundation model specifically tailored to the captive industry. Captives need an affordable option, along with something to help them become more efficient, in order to help grow their business.

I was an underwriter for many years both in the US and Europe, working in both captives and reinsurance. In my many years spent working with data, I saw there was an issue maintaining accurate data and it was very frustrating.

There are so many different spreadsheets and systems that are kept, and data is going in and out. It is hard to say whether data is accurate and up to date. Our product is going to solve that issue because it offers workflow efficiency and reliability of data.

It is affordable and it can function as their foundation. It is literally 'out-of-the-box' and ready to go.

What are your targets for the next year?

We are hoping to help captives, RRGs, self-insureds, and other small insurance entities with their workflow and data needs. Their success is our success, so we really want to see the captive industry become efficient and confident with their data, and to see us grow together.

With the emerging solutions offered by technology, do you think we are going to see more solutions that offer to move captives forward and out of excel spreadsheets?

We hope so. We are going to see that many of the people that have turned to the technology side of insurance have industry expertise–we are underwriters, we are accountants in the captive industry, we know the frustration.

The consumer is getting more tech savvy too.

Clients have started to voice their concerns to their service providers–that if they don't get out of spreadsheets they will go elsewhere for their data management needs. We need to constantly innovate and meet client needs.

Do you think 2019 could be a landmark year for insurtech?

Definitely. It has to be in order for the captive market to engage and keep up with technology developments.

It has to evolve with the times. The world is going that way, so captive insurance has to.

The captive market is ready to be receptive to this new technology but only if it is affordable. It has to be affordable.

What are your predictions for the captive market in 2019?

We are going to see a growth in captives, regardless of technology.

Cannabis is going to be an interesting topic, especially in the US. More states are making it legal.

One of our clients is providing medical malpractice for physicians who recommend cannabis to their patients, as the traditional carriers will often exclude this coverage.

We are going to see more emerging markets like cannabis and autonomous vehicles, creating a niche within the insurance world. Without a doubt, technology must be up to scratch. CIT

> "Captive insurance has to evolve with the times. The captive market is ready to be receptive to this new technology"

Denise Kelly, owner and principle, Pentacle Data

A bright forecast

In amongst the misty air of a winter Luxembourg, attendees at the 2018 European Captive Forum suggested that the forecast for captives may be bright if adverse conditions can be managed the right way

Ned Holmes reports

The European Convention Centre in Luxembourg played host to the 2018 European Captive Forum (ECF), welcoming attendees from around the globe despite the adverse weather conditions. In amongst the misty air, the ECF and its programme made it clear that the future remains bright for captive insurance.

This year marked the conference's return after a two-year gap in which the industry has not been without its own adverse conditions. In 2017 and 2018, captives have had to contend with the implementation of Solvency II, continued uncertainty on Brexit, tax issues, a softening of the market, and the growth of the industry.

ECF brought together some of the captive industry's top talent to discuss how to ensure that the future of the industry stays bright.

Weathing the Solvency II storm

Teresa Ready, senior supervisor of the insurance supervision division at the Central Bank of Ireland, said in the build-up to Solvency II's implementation, many captives faced the the decision of whether to take on the challenge of Solvency II and grow bigger or decide to leave the market altogether.

According to Ready, the regulation has been beneficial for companies that decided to stay in the market. She explained: "Those who stayed have grown their captive and now have more sophisticated strategies."

"Where the captives have decided to stay in the market, they have grown. They have taken Solvency II seriously and they have done a really good job."

Annick Felten, from the Luxembourg regulator, Commissariat aux Assurances, was in agreement with Ready and said Solvency II had helped captive owners to better understand the risks in their captives and makes them "more aware of the tool they have".

She said: "I know that it was enormous for the industry to come to that level, and we are thankful that it has gone that way. I think now captives are grown up."

A survey presented at the conference revealed that Solvency II's main issues with regards to data are considered to be quality, chosen by 36 percent of respondents, and collection, chosen by 21 percent. Other issues that respondents found were analysis (15 percent), audit track (14 percent), reporting (9 percent) and finally storage (5 percent). Additionally, the survey found that 65 percent of respondents didn't engage in a quality management programme

due to Solvency II. One panellist described the results as "disappointing" in terms of how advanced around data the captives and the corporates are. The panellist added that "there is a lot of progress to be made".

Cloudy with a chance of Brexit

The future appears especially foggy where Brexit is concerned. The session on the impact of Brexit took place merely hours before the UK cabinet approved Theresa May's draft withdrawal agreement, and roughly a day before the resignation of five government ministers, including former Brexit secretary Dominic Raab.

May's draft agreement did confirm panellists' predictions that the deal sought would focus on equivalence, and Adrien Collovray, associate director–international, captive consulting, Willis Towers Watson, suggested that an agreement that was equivalence focused would likely mean the UK's post-Brexit insurance regulations would be as near to Solvency II as possible.

He expanded: "I think it is very unlikely that the UK will soften Solvency II requirements because for access to the market the EU will require for the maintenance of that equivalency. I think Solvency II is viewed as the gold standard of regulation globally and it is unlikely that the UK will go it alone to create a harder solvency environment. So, I would expect the UK to keep as near equivalent to Solvency II as possible."

Collovray said that the expectation from his captive clients ahead of Brexit was that they should "expect the worst but hope for the best". He suggested that there "will be short-term pain and short-term cost in implementing what is required in order to comply with continued access with the EU".

OECD

The captive industry will be hoping that the difficulty caused by the Organisation of Economic Co-operation and Development's (OECD) misunderstanding of captives will be short-term too. Speaking in the keynote session at the 2018 European Captive Forum, Fabrice Frere, managing director of Aon's Global Risk Consulting Business and Günter Dröse, chairman at ECIROA, analysed slides composed by Tomas Balco, head of unity of the tax treaty, transfer pricing and financial transactions division at the OECD, who was unable to deliver the keynote as scheduled.

The slides revealed that the OECD intends to publish a second 'consensus' discussion draft on the transfer pricing aspects of financial transactions in late 2018 or early 2019, with the aim of reaching an agreement on the final guidance in 2019.

Section E of the first paper was focused specifically on captive insurance, the first time an OECD paper had featured a section designated specifically to captives, according to Frere. He also noted that the OECD's biggest area of concern for OECD members is "the circumstances in which captive insurance transactions qualify as insurance transactions".

He said: "Apparently they're very nervous about the fact that we might be doing non-genuine insurance transactions, which seems a little strange in a heavily-regulated environment."

Dröse commented that he hoped the OECD would take on board the 1000 plus pages of public comments received on the first discussion draft and revise their view of captives.

He stated: "Our wish is to reduce the OECD's position on captives so that we are no longer viewed as the bad guys. So the OECD understands that in the captive industry, as in all industries, there might be some black sheep but that they should try and identify those and not attack all captives."

In another of the OECD focused sessions, Jenny Coletta, tax partner at Ernst & Young, suggested that "the misunderstanding of captives really goes to the heart of a lot of the tax authority challenges we're seeing across the OECD".

In the same session, Praveen Sharma, managing director and global practice leader, insurance regulatory and tax consulting at Marsh, said that the OECD's consultation document didn't recognise some of the commercial rationale and reasoning behind what a captive owner faces.

Sharma explained that the OECD kept asking if there should be some indicators that need to be introduced to judge whether a captive is a commercially viable proposition.

On the topic, Coletta concluded that "there is a lot to do in getting that chapter right and getting the captive representation correct. I don't believe captives should be singled out, but if the OECD want to do that, they need to get it right."

The industry now awaits the OECD's second discussion draft, but Frere said that the response to the first paper represented "a perfect example of industry collaboration" as "everyone went out of their way to respond for the best of the industry".

Emerging tech

Collaboration was a hot topic at ECF, and panellists suggested it is key to unlocking benefits of blockchain technology. Guglielmo Maggini of Allianz Risk Transfer Group said the new technology could offer "innovation through collaboration".

He commented: "We wanted to see whether blockchain can make our lives simpler. It does, but only by working together and putting our clients at the centre."

Helene Stanaway, XL Catlin, AXA XL Division, who is involved with AP Moller-Maersk's insurance blockchain platform, Insurwave, the first of its type in the insurance market, said emphasising the importance of collaboration was an "important message".

She noted that a blockchain insurance platform like Insurwave "only makes sense if you collaborate with peers".

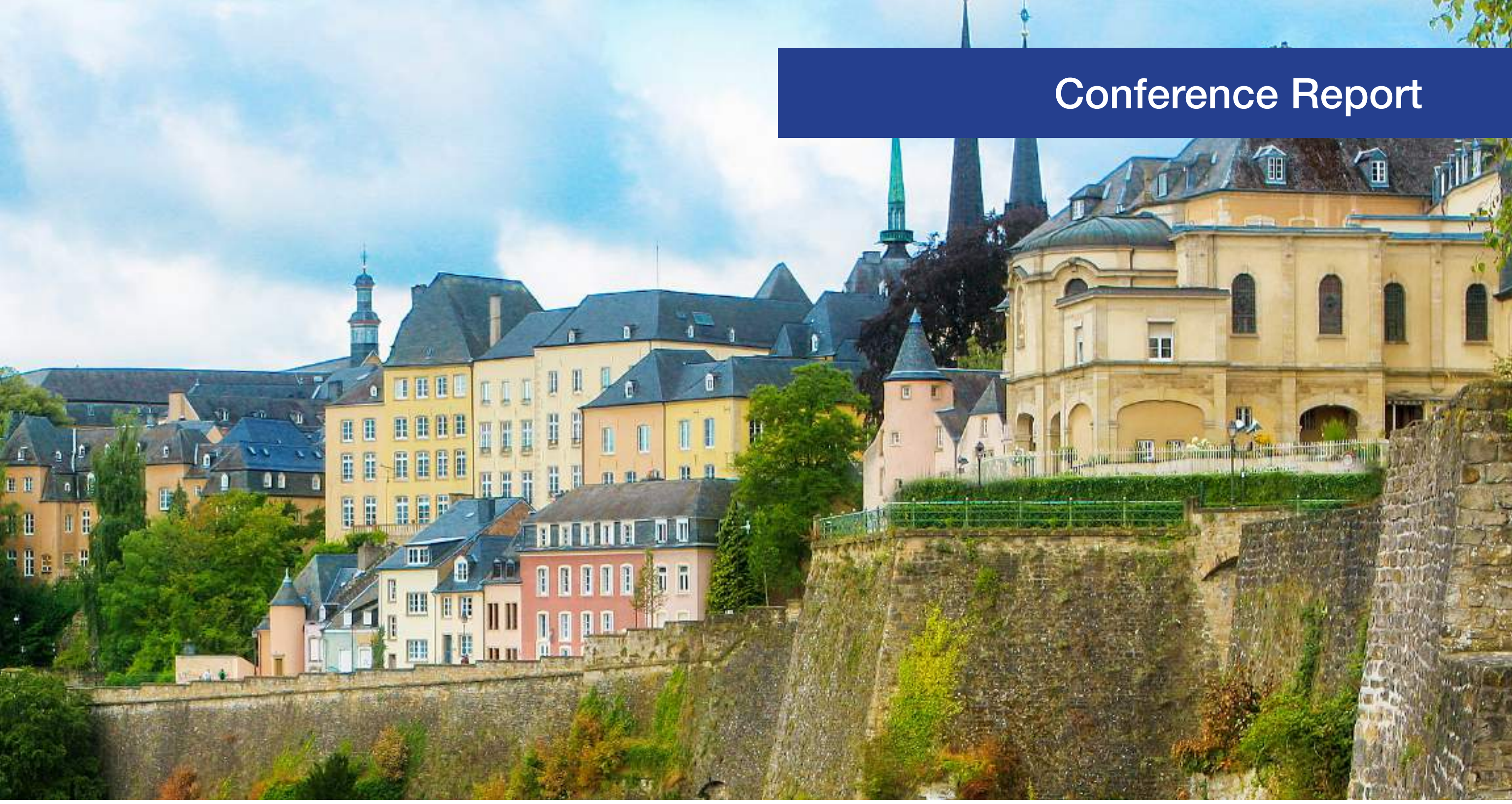
"We put the client at the centre and worked together to make this solution."

According to Stanaway, in contrast to the accusations of some in the captive insurance industry that blockchain was a "solution looking for a problem", Insurwave "has proven that blockchain does "solve a range of problems".

In addition to its advantages, growing global digitalisation has also brought a number of important considerations for businesses. Mark Camillo, head of cyber for Europe, the Middle East and Africa, AIG, suggested that cyber should be viewed as a peril rather than just an insurance product.

Speaking on the 'cyber risks and captives' panel, Camillo said companies needed to look at the impact cyber could have across the whole organisation and all the lines of business it covers.

Camillo commented: "At AIG, we aren't viewing cyber as an insurance product, we are viewing it as a peril. It can impact all lines of business."



"If you're looking at cyber, look beyond a traditional cyber insurance policy. You need to understand the risk and exposure of cyber across your organisation and make sure insurance portfolio can respond to them."

Captive headwinds

The general consensus from ECF attendees seemed to be that the captive market and industry remained healthy.

There is, however, the risk of potential storms ahead. Dan Towle, president of CICA, said that US home states trying to apply unlawful and unnecessary taxes is the biggest threat to captives.

Towle referenced the cases involving Microsoft and Johnson & Johnson and clarified that he was referring specifically to home states, not the domiciliary states.

He explained: "The home states in the US trying to apply taxes unnecessarily and unlawfully is the biggest threat to captives at the moment. Whether it is the self-procurement tax or some other tax I think that is throwing a lot of caution to the wind with captives and I think that is going to cause some problems for years to come."

David Provost, deputy commissioner of the Captive Insurance Division of the Vermont Department of Financial Regulation, was in agreement with Towle, and highlighted the growing number of captive domiciles as another issue facing the captive industry.

He commented: "Domicile proliferation is another threat. The risk of having so many options in terms of captive domiciles is that the talent is dispersed and thinned out."

Jason Flaxbeard, executive director of captive management and consulting at Beecher Carlson, argued that the industry could overcome the threats currently opposing it.

He explained: "The headwinds opposing captives aren't insurmountable. I think the captive industry is very rosy and with the help of integrated risk programmes, captives are going to run the insurance industry in the next 10 years."

Also taking a positive stance on captives' future, Todd Cunningham, head of strategic risk solutions at Zurich North America, said global emerging risks represented an area in which captives could have a huge impact.

Cunningham commented: "Emerging risks are opportunities. It is incumbent on captive managers to own those emerging risk markets, such as cyber and supply chain, and to work with partners and carriers to succeed."

The forecast

Dröse said the organisers (ECIROA and CICA) were happy with the success of the conference, particularly the performances of the speakers and the support of the sponsors.

He said feedback from delegates had been good, with many referencing the high quality of the meetings they had with other industry professionals in comparison to previous years.

This increased industry collaboration appears likely to be vital to ensuring that, regardless of the turbulent conditions it may face, the forecast for the captive insurance industry remains bright. **CIT**

Emerging Talent

Showcasing the new generation of captive professionals

Lawrence Kemp, assistant manager, Crowe

Personal bio

I'm originally from Falkirk in Scotland. I eventually escaped the rain and the cold and moved to the Cayman Islands in 2015 via a three-year stint in the Channel Islands. Most weekends you'll either find me by the pool or on the beach enjoying the Caribbean life.

Professional profile

I completed a joint-honours degree in Accountancy and Business Law at the University of Stirling. After completing my studies, I worked for PwC in Guernsey, the Cayman Islands, and London. In February 2018 I returned to the UK as a part of KPMG's private equity team in Scotland. I returned to the Cayman Islands in October 2018 to join Crowe's captive insurance practice.

How did you end up in the captive industry?

During my time in Guernsey, Gordon Proctor was the lead audit senior on the insurance team. What started off as a favour to help him out on a few engagements quickly turned into working alongside him on a number of captive engagements.

That experience helped me to secure my original move to the Cayman Islands with PwC and then my move into my current role at Crowe. I'm looking forward to being part of Neil Maynard's team and helping to build the captive practice.

What is your impression of the industry?

Many people outside of the captive industry misunderstand it. Everyone in the industry has the obligation to educate those who know little about captives in order to combat the misinformation that is being spread. In tabloid newspapers and online blogs' quest to generate the most readers, I often see sensationalised stories that bare little fact to what is actually going on. We as an industry need to change that.

What are your aspirations for your career in the captive industry?

My aspiration is to grow the captive insurance business at Crowe in Cayman and to eventually take over the running of that part of the business. In addition to this, I'd like to get involved more in the industry down in Cayman with the Insurance Managers Association of Cayman, promoting and driving the Cayman Captive industry.

What advice do you have for someone considering a role in the industry?

Get to know as many people as you can in the industry. Sharing points of view with others and listening to their thoughts has benefited me hugely in understanding captives.

Although a lot can be learnt from studying, listening to real life stories that people have been involved in has given me context as to the why things happen rather that how things happen.

Lawrence Kemp

"In the short space of time Lawrence Kemp has been with Crowe, he has already made a great impression on colleagues and clients alike. In addition to being technically excellent, Kemp is a very personable guy and he will play an integral role in serving our current clients and continuing to grow our Cayman captive insurance practice."

Neil Maynard, audit partner, Crowe

Top of the PoCs

On the back of the release of its first commercial proof of concept, Piprate CEO Stan Nazarenko talks about the important potential of blockchain in the captive and reinsurance space

Ned Holmes reports

What is Piprate?

Piprate is a Dublin-based insurtech company. We solve the insurance industry's fundamental data sharing problems in a way that creates trust, accountability, and transparency. We do this by providing blockchain-backed data wallets and application programming interfaces (APIs) to enable secure transfer and complete data traceability between business partners. A data wallet is basically a full list of data artefacts the company possesses. Our solution makes insurance data sharing more secure and efficient.

We have recently completed our first commercial proof of concept (PoC) with leading reinsurance players RenaissanceRe and TigerRisk, providing secure exposure management and exchange capability.

The main focus of the PoC was to streamline the process of exchanging the deal exposure data between a reinsurance broker and a reinsurer and confirm the suitability of a distributed ledger backed solution for this use case.

What are the main advantages of your platform?

It almost doesn't matter where we are on the insurance value chain, we still see it is a widespread practice to use a combination of spreadsheets, file shares and emails to transfer data. It's insecure and incredibly inefficient at times. Our platform provides an instant and secure way to share data, which retains full provenance of the data so that at any point in time, any party involved can confirm where the data came from and what kind of permissions they have to use the data.

As a result, the parties won't have to repeat the same amount of validation and verification, reducing unnecessary duplication of efforts across the industry. By having the most accurate and trusted data at their fingertips, we enable insurance professionals to spend less time and money sharing data, and more time analysing it and writing business.

Is the platform directly transferable into the captive insurance industry?

I believe it is very relevant to captive insurance. More than that, captive insurance is an attractive case for using blockchain solutions because in a typical captive setup, interests of all the parties are more aligned and the relationship is very heavily process driven.

Therefore, we can gain efficiencies much faster than in a general insurance company use case. If we consider the way data flows in a captive business, it takes time to capture the relevant information, collate it and pass it over to the insurance value chain, and the regulator.

By adding trust and transparency, we can streamline both underwriting and risk transfer processes and ensure that all the parties have access to the most detailed and up-to-date information about the underlying risk at all times. This is where we make a difference. At Piprate, we go one step beyond providing a capability to share data. By using our proprietary technology, we connect the client's internal data with providers of third-party data, analytics and insights.

Ultimately, we facilitate building the most comprehensive view of risk and bring it closer to capital.

When will we properly start to see the impact of blockchain in the captive industry?

This year has been a turning point for blockchain in insurance. We have seen announcements about Insurwave, and big progress has been made by other companies in the field. In 2019, we will leverage on that success and see more and more real implementation of blockchain in the captive space.

Do you think blockchain-backed platforms are going to become an integral part of the industry, making the current methods for transferring data look very outdated?

I think this way of capturing and packaging data through the value chain is going to be transformative for the industry. As we have seen in the past, once a couple of major players adopt this mechanism, the others will follow reasonably quickly.

Has Piprate got any movements into the captive space planned?

Yes, we do indeed. We are currently working with a partner in the captive space. I can't disclose many details just yet but watch this space in the second quarter of 2019. We are hoping to go public with all the information then.

I know you are close with Strategic Risk Solutions and Stuart King, have you got anything planned with them in the captive space?

I know Stuart King very well and we have regular conversations about our shared passion, the role of blockchain in insurance. I think there may be opportunities in the future.

There seems to be an emerging hub of insurtech in Dublin, why do you think that is?

I believe one of the major drivers is Brexit, and the second one is the availability of highly skilled technical talent. We are observing an influx of insurance businesses to Ireland, with a heightened appetite for innovation and partnerships with insurtech companies. The number of indigenous insurtech startups is growing and there have been conversations about creating our own acceleration programme for insurtech, and maybe more than one. I believe this will happen soon. It has been a very positive development for the country and I can only see it growing in the next couple of years. **CIT**

> This year has been a turning point for blockchain in insurance ... In 2019, we will leverage on that success and see more and more real implementation of blockchain in the captive space

Stan Nazarenko,
CEO,
Piprate

Don’t miss your copy of Captive Insurance Times

World Captive Forum	CICA 2019 International Conference
Miami, FL	Arizona
February	March
30-01	10-12
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Bermuda Captive Conference	VCIA Annual Conference
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June	August
10-12	05-08
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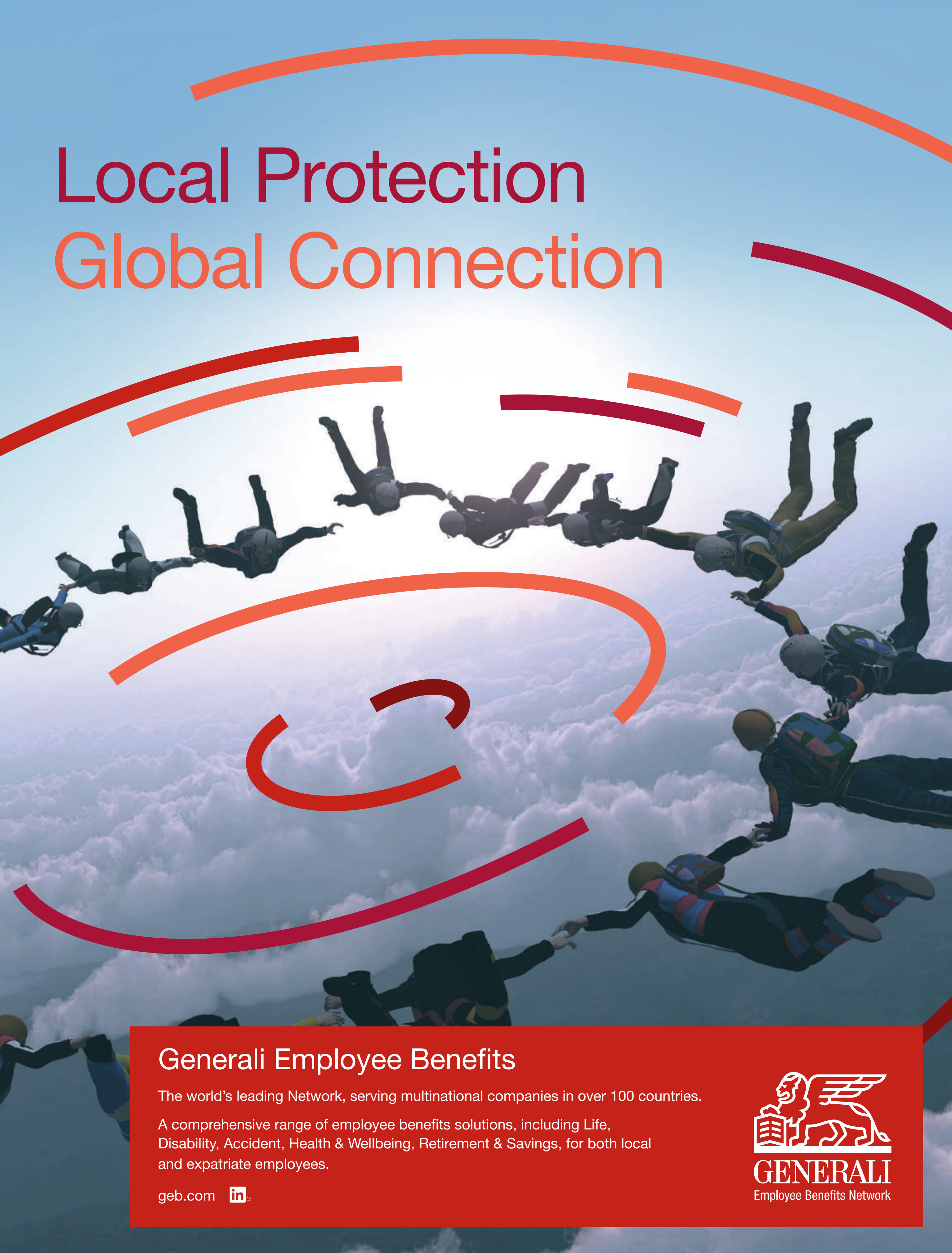
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Comings and goings at Berkley Accident and Health, Allianz and more

Berkley Accident and Health has appointed Brad Nieland as president and CEO.

A WR Berkley Corporation subsidiary, Berkley Accident and Health, underwrites insurance and reinsurance products in four primary areas: medical stop-loss, managed care, special risk, and group captives.

Nieland succeeds Chris Brown as president, who has been named as Berkley Accident and Health chairman after nine years in his previous role.

Nieland has more than 15 years of experience in the healthcare, and accident and health insurance sectors.

He joins from Sun Life Financial, where he spent over six years in the roles of assistant vice president and vice president of stop loss. Prior to Sun Life, Nieland held multiple positions at Cigna.

Robert Berkley, president and CEO of WR Berkley Corporation, commented: “We have been extremely fortunate to have Chris Brown lead our team at Berkley Accident and Health for nearly a decade, building it from a relatively new start-up into an important part of our business.”

“He and his team have done an outstanding job in establishing the company as a leading provider of accident and health insurance products and services, and we are excited that he will continue to participate in its ongoing success.”

Berkley added: “Brad Nieland brings a wealth of experience in all aspects of the business, as well as an excellent analytic approach that will create opportunities for additional growth and profitability for years to come.”

Allianz Global Corporate and Specialty (AGCS), Allianz Group’s specialist corporate insurer, has appointed Sinead Browne as UK CEO and Tracey Hunt as deputy UK CEO.

Alongside their new roles, Browne and Hunt will continue in their roles as chief regions and markets officer and regional head of energy for regional unit London, respectively.

AGCS reshaped its alternative risk transfer business as part of a growth strategy in the alternative risk market in November.

Hunt succeeds current AGCS UK CEO Brian Kirwan, who will leave at the end of 2018, and will report directly to Browne.

Hunt will have oversight across all of AGCS' lines of business and will oversee key client and broker relationships in the UK.

She joined AGCS as head of growth markets, energy, in September 2012 and took up her current position of regional head of energy since 2015.

Browne joined Allianz Group in 1993 and has held senior roles in underwriting, organisational and strategy development and operations at Allianz Ireland, Allianz SE and Allianz Re.

She joined the AGCS board in 2012 as COO, before moving to her current chief regions and markets officer role earlier this year.

Browne thanked Kirwan for his contributions and wished him the best for his future.

She commented: "Under Brian Kirwan's leadership AGCS UK is positioned strongly for the future."

Browne added: "I'm very pleased to welcome Tracey Hunt to the position of deputy CEO for the UK."

"With over 20 years of working in insurance, her wide-ranging market experience across underwriting, broking, claims, and consultancy is an ideal fit for the role."

"We will work closely together in partnership with clients and brokers to drive the business forward and continue to deliver innovative solutions to help our customers navigate the complex world of current and emerging business risks."

Mike Reynolds has stepped down as CEO of JLT Re.

JLT Re has given no indication of the motivation behind Reynolds departure, but it appears JLT Re will be integrated with Guy Carpenter, following the completion of the acquisition of Jardine Lloyd Thompson (JLT) Group by Marsh and McLennan, Guy Carpenter's parent company.

The acquisition remains subject to the receipt of certain antitrust and financial regulatory approvals.

Dominic Burke, JLT Group CEO, commented: "On behalf of everyone at JLT, I should like to thank Mike Reynolds for the enormous contribution he has made as CEO of JLT Re, and wish him the very best for the future."

Guy Carpenter has named Ross Howard as its new vice chairman, effective upon the completion of Marsh and McLennan (MMC)'s acquisition of Jardine Lloyd Thompson (JLT) Group.

Guy Carpenter is a wholly owned subsidiary of MMC and will be integrated with JLT Re once the acquisition deal, which remains subject to the receipt of certain antitrust and financial regulatory approvals, is completed.

Currently, chairman of JLT Re, Howard will play a key role in executing the integration of JLT Re with Guy Carpenter.

He will also become a member of Guy Carpenter's executive committee and will be responsible for developing new business opportunities and assisting with client relationships to aid the growth of the combined reinsurance business.

In his new role, Howard will report to Guy Carpenter CEO and president Peter Hearn.

Hearn said he was "very pleased" to welcome Howard to the leadership team.

He added: "I have known Ross Howard in the market over the years and believe he will play a pivotal role in the success of the combined organisation, driving growth and global collaboration, while further differentiating our client value proposition."

"We are very excited to take the first steps in bringing together these two great reinsurance businesses."

Howard commented: "I am delighted at the prospect of joining Guy Carpenter's industry-leading executive team and look forward to adding a complementary perspective and diversity of thought that will deliver greater value and profitable growth to clients." **CIT**